

PUBLIC LAW 109-280—AUG. 17, 2006

PENSION PROTECTION ACT OF 2006

Public Law 109-280
109th Congress

An Act

Aug. 17, 2006
[H.R. 4]

Pension
Protection Act
of 2006.

29 USC 1001
note.

To provide economic security for all Americans, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Pension Protection Act of 2006”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act (other than so much of title XIV as follows section 1401) is as follows:

Sec. 1. Short title and table of contents.

**TITLE I—REFORM OF FUNDING RULES FOR SINGLE-EMPLOYER DEFINED
BENEFIT PENSION PLANS**

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

- Sec. 101. Minimum funding standards.
- Sec. 102. Funding rules for single-employer defined benefit pension plans.
- Sec. 103. Benefit limitations under single-employer plans.
- Sec. 104. Special rules for multiple employer plans of certain cooperatives.
- Sec. 105. Temporary relief for certain PBGC settlement plans.
- Sec. 106. Special rules for plans of certain government contractors.
- Sec. 107. Technical and conforming amendments.

Subtitle B—Amendments to Internal Revenue Code of 1986

- Sec. 111. Minimum funding standards.
- Sec. 112. Funding rules for single-employer defined benefit pension plans.
- Sec. 113. Benefit limitations under single-employer plans.
- Sec. 114. Technical and conforming amendments.
- Sec. 115. Modification of transition rule to pension funding requirements.
- Sec. 116. Restrictions on funding of nonqualified deferred compensation plans by employers maintaining underfunded or terminated single-employer plans.

**TITLE II—FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT
PLANS AND RELATED PROVISIONS**

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

- Sec. 201. Funding rules for multiemployer defined benefit plans.
- Sec. 202. Additional funding rules for multiemployer plans in endangered or critical status.
- Sec. 203. Measures to forestall insolvency of multiemployer plans.
- Sec. 204. Withdrawal liability reforms.
- Sec. 205. Prohibition on retaliation against employers exercising their rights to petition the Federal Government.
- Sec. 206. Special rule for certain benefits funded under an agreement approved by the Pension Benefit Guaranty Corporation.

Subtitle B—Amendments to Internal Revenue Code of 1986

- Sec. 211. Funding rules for multiemployer defined benefit plans.
- Sec. 212. Additional funding rules for multiemployer plans in endangered or critical status.

- Sec. 213. Measures to forestall insolvency of multiemployer plans.
Sec. 214. Exemption from excise taxes for certain multiemployer pension plans.

Subtitle C—Sunset of Additional Funding Rules

- Sec. 221. Sunset of additional funding rules.

TITLE III—INTEREST RATE ASSUMPTIONS

- Sec. 301. Extension of replacement of 30-year Treasury rates.
Sec. 302. Interest rate assumption for determination of lump sum distributions.
Sec. 303. Interest rate assumption for applying benefit limitations to lump sum distributions.

TITLE IV—PBGC GUARANTEE AND RELATED PROVISIONS

- Sec. 401. PBGC premiums.
Sec. 402. Special funding rules for certain plans maintained by commercial airlines.
Sec. 403. Limitation on PBGC guarantee of shutdown and other benefits.
Sec. 404. Rules relating to bankruptcy of employer.
Sec. 405. PBGC premiums for small plans.
Sec. 406. Authorization for PBGC to pay interest on premium overpayment refunds.
Sec. 407. Rules for substantial owner benefits in terminated plans.
Sec. 408. Acceleration of PBGC computation of benefits attributable to recoveries from employers.
Sec. 409. Treatment of certain plans where cessation or change in membership of a controlled group.
Sec. 410. Missing participants.
Sec. 411. Director of the Pension Benefit Guaranty Corporation.
Sec. 412. Inclusion of information in the PBGC annual report.

TITLE V—DISCLOSURE

- Sec. 501. Defined benefit plan funding notice.
Sec. 502. Access to multiemployer pension plan information.
Sec. 503. Additional annual reporting requirements.
Sec. 504. Electronic display of annual report information.
Sec. 505. Section 4010 filings with the PBGC.
Sec. 506. Disclosure of termination information to plan participants.
Sec. 507. Notice of freedom to divest employer securities.
Sec. 508. Periodic pension benefit statements.
Sec. 509. Notice to participants or beneficiaries of blackout periods.

TITLE VI—INVESTMENT ADVICE, PROHIBITED TRANSACTIONS, AND FIDUCIARY RULES

Subtitle A—Investment Advice

- Sec. 601. Prohibited transaction exemption for provision of investment advice.

Subtitle B—Prohibited Transactions

- Sec. 611. Prohibited transaction rules relating to financial investments.
Sec. 612. Correction period for certain transactions involving securities and commodities.

Subtitle C—Fiduciary and Other Rules

- Sec. 621. Inapplicability of relief from fiduciary liability during suspension of ability of participant or beneficiary to direct investments.
Sec. 622. Increase in maximum bond amount.
Sec. 623. Increase in penalties for coercive interference with exercise of ERISA rights.
Sec. 624. Treatment of investment of assets by plan where participant fails to exercise investment election.
Sec. 625. Clarification of fiduciary rules.

TITLE VII—BENEFIT ACCRUAL STANDARDS

- Sec. 701. Benefit accrual standards.
Sec. 702. Regulations relating to mergers and acquisitions.

TITLE VIII—PENSION RELATED REVENUE PROVISIONS

Subtitle A—Deduction Limitations

- Sec. 801. Increase in deduction limit for single-employer plans.
Sec. 802. Deduction limits for multiemployer plans.

Sec. 803. Updating deduction rules for combination of plans.

Subtitle B—Certain Pension Provisions Made Permanent

Sec. 811. Pensions and individual retirement arrangement provisions of Economic Growth and Tax Relief Reconciliation Act of 2001 made permanent.

Sec. 812. Saver's credit.

Subtitle C—Improvements in Portability, Distribution, and Contribution Rules

Sec. 821. Clarifications regarding purchase of permissive service credit.

Sec. 822. Allow rollover of after-tax amounts in annuity contracts.

Sec. 823. Clarification of minimum distribution rules for governmental plans.

Sec. 824. Allow direct rollovers from retirement plans to Roth IRAs.

Sec. 825. Eligibility for participation in retirement plans.

Sec. 826. Modifications of rules governing hardships and unforeseen financial emergencies.

Sec. 827. Penalty-free withdrawals from retirement plans for individuals called to active duty for at least 179 days.

Sec. 828. Waiver of 10 percent early withdrawal penalty tax on certain distributions of pension plans for public safety employees.

Sec. 829. Allow rollovers by nonspouse beneficiaries of certain retirement plan distributions.

Sec. 830. Direct payment of tax refunds to individual retirement plans.

Sec. 831. Allowance of additional IRA payments in certain bankruptcy cases.

Sec. 832. Determination of average compensation for section 415 limits.

Sec. 833. Inflation indexing of gross income limitations on certain retirement savings incentives.

Subtitle D—Health and Medical Benefits

Sec. 841. Use of excess pension assets for future retiree health benefits and collectively bargained retiree health benefits.

Sec. 842. Transfer of excess pension assets to multiemployer health plan.

Sec. 843. Allowance of reserve for medical benefits of plans sponsored by bona fide associations.

Sec. 844. Treatment of annuity and life insurance contracts with a long-term care insurance feature.

Sec. 845. Distributions from governmental retirement plans for health and long-term care insurance for public safety officers.

Subtitle E—United States Tax Court Modernization

Sec. 851. Cost-of-living adjustments for Tax Court judicial survivor annuities.

Sec. 852. Cost of life insurance coverage for Tax Court judges age 65 or over.

Sec. 853. Participation of Tax Court judges in the Thrift Savings Plan.

Sec. 854. Annuities to surviving spouses and dependent children of special trial judges of the Tax Court.

Sec. 855. Jurisdiction of Tax Court over collection due process cases.

Sec. 856. Provisions for recall.

Sec. 857. Authority for special trial judges to hear and decide certain employment status cases.

Sec. 858. Confirmation of authority of Tax Court to apply doctrine of equitable recoupment.

Sec. 859. Tax Court filing fee in all cases commenced by filing petition.

Sec. 860. Expanded use of Tax Court practice fee for pro se taxpayers.

Subtitle F—Other Provisions

Sec. 861. Extension to all governmental plans of current moratorium on application of certain nondiscrimination rules applicable to State and local plans.

Sec. 862. Elimination of aggregate limit for usage of excess funds from black lung disability trusts.

Sec. 863. Treatment of death benefits from corporate-owned life insurance.

Sec. 864. Treatment of test room supervisors and proctors who assist in the administration of college entrance and placement exams.

Sec. 865. Grandfather rule for church plans which self-annuitize.

Sec. 866. Exemption for income from leveraged real estate held by church plans.

Sec. 867. Church plan rule.

Sec. 868. Gratuitous transfer for benefits of employees.

TITLE IX—INCREASE IN PENSION PLAN DIVERSIFICATION AND PARTICIPATION AND OTHER PENSION PROVISIONS

Sec. 901. Defined contribution plans required to provide employees with freedom to invest their plan assets.

- Sec. 902. Increasing participation through automatic contribution arrangements.
- Sec. 903. Treatment of eligible combined defined benefit plans and qualified cash or deferred arrangements.
- Sec. 904. Faster vesting of employer nonelective contributions.
- Sec. 905. Distributions during working retirement.
- Sec. 906. Treatment of certain pension plans of Indian tribal governments.

TITLE X—PROVISIONS RELATING TO SPOUSAL PENSION PROTECTION

- Sec. 1001. Regulations on time and order of issuance of domestic relations orders.
- Sec. 1002. Entitlement of divorced spouses to railroad retirement annuities independent of actual entitlement of employee.
- Sec. 1003. Extension of tier II railroad retirement benefits to surviving former spouses pursuant to divorce agreements.
- Sec. 1004. Requirement for additional survivor annuity option.

TITLE XI—ADMINISTRATIVE PROVISIONS

- Sec. 1101. Employee plans compliance resolution system.
- Sec. 1102. Notice and consent period regarding distributions.
- Sec. 1103. Reporting simplification.
- Sec. 1104. Voluntary early retirement incentive and employment retention plans maintained by local educational agencies and other entities.
- Sec. 1105. No reduction in unemployment compensation as a result of pension roll-overs.
- Sec. 1106. Revocation of election relating to treatment as multiemployer plan.
- Sec. 1107. Provisions relating to plan amendments.

TITLE XII—PROVISIONS RELATING TO EXEMPT ORGANIZATIONS

Subtitle A—Charitable Giving Incentives

- Sec. 1201. Tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 1202. Extension of modification of charitable deduction for contributions of food inventory.
- Sec. 1203. Basis adjustment to stock of S corporation contributing property.
- Sec. 1204. Extension of modification of charitable deduction for contributions of book inventory.
- Sec. 1205. Modification of tax treatment of certain payments to controlling exempt organizations.
- Sec. 1206. Encouragement of contributions of capital gain real property made for conservation purposes.
- Sec. 1207. Excise taxes exemption for blood collector organizations.

Subtitle B—Reforming Exempt Organizations

PART 1—GENERAL REFORMS

- Sec. 1211. Reporting on certain acquisitions of interests in insurance contracts in which certain exempt organizations hold an interest.
- Sec. 1212. Increase in penalty excise taxes relating to public charities, social welfare organizations, and private foundations.
- Sec. 1213. Reform of charitable contributions of certain easements in registered historic districts and reduced deduction for portion of qualified conservation contribution attributable to rehabilitation credit.
- Sec. 1214. Charitable contributions of taxidermy property.
- Sec. 1215. Recapture of tax benefit for charitable contributions of exempt use property not used for an exempt use.
- Sec. 1216. Limitation of deduction for charitable contributions of clothing and household items.
- Sec. 1217. Modification of recordkeeping requirements for certain charitable contributions.
- Sec. 1218. Contributions of fractional interests in tangible personal property.
- Sec. 1219. Provisions relating to substantial and gross overstatements of valuations.
- Sec. 1220. Additional standards for credit counseling organizations.
- Sec. 1221. Expansion of the base of tax on private foundation net investment income.
- Sec. 1222. Definition of convention or association of churches.
- Sec. 1223. Notification requirement for entities not currently required to file.
- Sec. 1224. Disclosure to State officials relating to exempt organizations.
- Sec. 1225. Public disclosure of information relating to unrelated business income tax returns.
- Sec. 1226. Study on donor advised funds and supporting organizations.

PART 2—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS

- Sec. 1231. Excise taxes relating to donor advised funds.
 Sec. 1232. Excess benefit transactions involving donor advised funds and sponsoring organizations.
 Sec. 1233. Excess business holdings of donor advised funds.
 Sec. 1234. Treatment of charitable contribution deductions to donor advised funds.
 Sec. 1235. Returns of, and applications for recognition by, sponsoring organizations.

PART 3—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS

- Sec. 1241. Requirements for supporting organizations.
 Sec. 1242. Excess benefit transactions involving supporting organizations.
 Sec. 1243. Excess business holdings of supporting organizations.
 Sec. 1244. Treatment of amounts paid to supporting organizations by private foundations.
 Sec. 1245. Returns of supporting organizations.

TITLE XIII—OTHER PROVISIONS

- Sec. 1301. Technical corrections relating to mine safety.
 Sec. 1302. Going-to-the-sun road.
 Sec. 1303. Exception to the local furnishing requirement of the tax-exempt bond rules.
 Sec. 1304. Qualified tuition programs.

TITLE XIV—TARIFF PROVISIONS

- Sec. 1401. Short title; table of contents.

TITLE I—REFORM OF FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

SEC. 101. MINIMUM FUNDING STANDARDS.

(a) REPEAL OF EXISTING FUNDING RULES.—Sections 302 through 308 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082 through 1086) are repealed.

(b) NEW MINIMUM FUNDING STANDARDS.—Part 3 of subtitle B of title I of such Act (as amended by subsection (a)) is amended by inserting after section 301 the following new section:

29 USC 1082.

"SEC. 302. MINIMUM FUNDING STANDARDS.

"(a) REQUIREMENT TO MEET MINIMUM FUNDING STANDARD.—

"(1) IN GENERAL.—A plan to which this part applies shall satisfy the minimum funding standard applicable to the plan for any plan year.

"(2) MINIMUM FUNDING STANDARD.—For purposes of paragraph (1), a plan shall be treated as satisfying the minimum funding standard for a plan year if—

"(A) in the case of a defined benefit plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which, in the aggregate, are not less than the minimum required contribution determined under section 303 for the plan for the plan year,

"(B) in the case of a money purchase plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which are required under the terms of the plan, and

(B) STATEMENT.—Paragraph (2) of section 6724(d) of such Code is amended by striking “or” at the end of subparagraph (AA), by striking the period at the end of subparagraph (BB), and by inserting after subparagraph (BB) the following new subparagraph:

26 USC 6724.

“(CC) section 6050U (relating to charges or payments for qualified long-term care insurance contracts under combined arrangements).”

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of such chapter 61 of such Code is amended by adding at the end the following new item:

“Sec. 6050U. Charges or payments for qualified long-term care insurance contracts under combined arrangements.”

(e) TREATMENT OF POLICY ACQUISITION EXPENSES.—Subsection (e) of section 848 of such Code (relating to classification of contracts) is amended by adding at the end the following new paragraph:

“(6) TREATMENT OF CERTAIN QUALIFIED LONG-TERM CARE INSURANCE CONTRACT ARRANGEMENTS.—An annuity or life insurance contract which includes a qualified long-term care insurance contract as a part of or a rider on such annuity or life insurance contract shall be treated as a specified insurance contract not described in subparagraph (A) or (B) of subsection (c)(1).”

(f) TECHNICAL AMENDMENT.—Paragraph (1) of section 7702B(e) of such Code (as in effect before amendment by subsection (c)) is amended by striking “section” and inserting “title”.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to contracts issued after December 31, 1996, but only with respect to taxable years beginning after December 31, 2009.

(2) TAX-FREE EXCHANGES.—The amendments made by subsection (b) shall apply with respect to exchanges occurring after December 31, 2009.

(3) INFORMATION REPORTING.—The amendments made by subsection (d) shall apply to charges made after December 31, 2009.

(4) POLICY ACQUISITION EXPENSES.—The amendment made by subsection (e) shall apply to specified policy acquisition expenses determined for taxable years beginning after December 31, 2009.

(5) TECHNICAL AMENDMENT.—The amendment made by subsection (f) shall take effect as if included in section 321(a) of the Health Insurance Portability and Accountability Act of 1996.

Applicability.
26 USC 72 note.

SEC. 845. DISTRIBUTIONS FROM GOVERNMENTAL RETIREMENT PLANS FOR HEALTH AND LONG-TERM CARE INSURANCE FOR PUBLIC SAFETY OFFICERS.

(a) IN GENERAL.—Section 402 of the Internal Revenue Code of 1986 (relating to taxability of beneficiary of employees’ trust) is amended by adding at the end the following new subsection:

“(1) DISTRIBUTIONS FROM GOVERNMENTAL PLANS FOR HEALTH AND LONG-TERM CARE INSURANCE.—

“(1) IN GENERAL.—In the case of an employee who is an eligible retired public safety officer who makes the election

described in paragraph (6) with respect to any taxable year of such employee, gross income of such employee for such taxable year does not include any distribution from an eligible retirement plan to the extent that the aggregate amount of such distributions does not exceed the amount paid by such employee for qualified health insurance premiums of the employee, his spouse, or dependents (as defined in section 152) for such taxable year.

“(2) LIMITATION.—The amount which may be excluded from gross income for the taxable year by reason of paragraph (1) shall not exceed \$3,000.

“(3) DISTRIBUTIONS MUST OTHERWISE BE INCLUDIBLE.—

“(A) IN GENERAL.—An amount shall be treated as a distribution for purposes of paragraph (1) only to the extent that such amount would be includible in gross income without regard to paragraph (1).

“(B) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which an amount is treated as a distribution for purposes of subparagraph (A), the aggregate amounts distributed from an eligible retirement plan in a taxable year (up to the amount excluded under paragraph (1)) shall be treated as includible in gross income (without regard to subparagraph (A)) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all eligible retirement plans were treated as 1 contract for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) ELIGIBLE RETIREMENT PLAN.—For purposes of paragraph (1), the term ‘eligible retirement plan’ means a governmental plan (within the meaning of section 414(d)) which is described in clause (iii), (iv), (v), or (vi) of subsection (c)(8)(B).

“(B) ELIGIBLE RETIRED PUBLIC SAFETY OFFICER.—The term ‘eligible retired public safety officer’ means an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the employer who maintains the eligible retirement plan from which distributions subject to paragraph (1) are made.

“(C) PUBLIC SAFETY OFFICER.—The term ‘public safety officer’ shall have the same meaning given such term by section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(9)(A)).

“(D) QUALIFIED HEALTH INSURANCE PREMIUMS.—The term ‘qualified health insurance premiums’ means premiums for coverage for the eligible retired public safety officer, his spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in section 7702B(b)).

“(5) SPECIAL RULES.—For purposes of this subsection—

“(A) DIRECT PAYMENT TO INSURER REQUIRED.—Paragraph (1) shall only apply to a distribution if payment of the premiums is made directly to the provider of the

accident or health insurance plan or qualified long-term care insurance contract by deduction from a distribution from the eligible retirement plan.

“(B) RELATED PLANS TREATED AS 1.—All eligible retirement plans of an employer shall be treated as a single plan.

“(6) ELECTION DESCRIBED.—

“(A) IN GENERAL.—For purposes of paragraph (1), an election is described in this paragraph if the election is made by an employee after separation from service with respect to amounts not distributed from an eligible retirement plan to have amounts from such plan distributed in order to pay for qualified health insurance premiums.

“(B) SPECIAL RULE.—A plan shall not be treated as violating the requirements of section 401, or as engaging in a prohibited transaction for purposes of section 503(b), merely because it provides for an election with respect to amounts that are otherwise distributable under the plan or merely because of a distribution made pursuant to an election described in subparagraph (A).

“(7) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—

The amounts excluded from gross income under paragraph (1) shall not be taken into account under section 213.

“(8) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—The amounts excluded from gross income under paragraph (1) shall not be taken into account under section 162(l).”

(b) CONFORMING AMENDMENTS.—

(1) Section 403(a) of such Code (relating to taxability of beneficiary under a qualified annuity plan) is amended by inserting after paragraph (1) the following new paragraph: 26 USC 403.

“(2) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE.—To the extent provided in section 402(l), paragraph (1) shall not apply to the amount distributed under the contract which is otherwise includible in gross income under this subsection.”

(2) Section 403(b) of such Code (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by inserting after paragraph (1) the following new paragraph:

“(2) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE.—To the extent provided in section 402(l), paragraph (1) shall not apply to the amount distributed under the contract which is otherwise includible in gross income under this subsection.”

(3) Section 457(a) of such Code (relating to year of inclusion in gross income) is amended by adding at the end the following new paragraph:

“(3) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE.—In the case of a plan of an eligible employer described in subsection (e)(1)(A), to the extent provided in section 402(l), paragraph (1) shall not apply to amounts otherwise includible in gross income under this subsection.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 2006. 26 USC 402 note.