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| Taylor (MS) | Valentine | Wheat |
| Taylor (NC) | Vander Jagt | Wilson |
| Thomas (CA) | Vento | Wise |
| Thomas (GA) | Visclosky | Wolf |
| Thomas (WY) | Volkmer | Wolpe |
| Thornton | Vucanovich | Wyden |
| Torres | Walker | Wyllie |
| Torricelli | Walsh | Yates |
| Towns | Waters | Yatron |
| Traficant | Waxman | Young (AK) |
| Traxler | Weber | Young (FL) |
| Unsoeld | Weiss | Zeliff |
| Upton | Weldon | Zimmer |

Thereupon, Mr. DERRICK, Chairman, announced that 414 Members had been recorded, a quorum.

The Committee resumed its business. After some further time,

19.10 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment in the nature of a substitute, as modified, submitted by Mr. ARCHER:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Growth and Job Creation Act of 1992".

SEC. 2. TABLE OF TITLES.

- TITLE I—ENHANCED ECONOMIC RECOVERY ACT OF 1992
- TITLE II—FEDERAL INSURANCE ACCOUNTING ACT OF 1992
- TITLE III—PENSION SECURITY ACT OF 1992
- TITLE IV—ELIMINATE THE STATUTE OF LIMITATIONS ON THE COLLECTION OF DEFAULTED GUARANTEED STUDENT LOANS
- TITLE V—EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES

TITLE I—ENHANCED ECONOMIC RECOVERY ACT OF 1992

SECTION 101. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "Enhanced Economic Recovery Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 SHALL NOT APPLY.—Except as otherwise expressly provided, no amendment made by this title shall be treated as a change in rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—

TABLE OF CONTENTS

TITLE I—ENHANCED ECONOMIC RECOVERY ACT OF 1992

Sec. 101. Short title, etc.

Subtitle A—Provisions Relating to Capital Gains

Sec. 111. Reduction in capital gains tax for noncorporate taxpayers.

Sec. 112. Recapture under section 1250 of total amount of depreciation.

Subtitle B—Provisions Relating to Passive Losses and Depreciation

Sec. 121. Passive loss relief for real estate developers.

Sec. 122. Special allowance for equipment acquired in 1992.

Sec. 123. Elimination of ACE depreciation adjustment.

Subtitle C—Provisions Relating to Real Estate Investments by Pension Funds
Sec. 131. Real property acquired by a qualified organization.

Sec. 132. Special rules for investments in partnerships.

Subtitle D—Provisions Affecting Homebuyers

Sec. 141. Credit for first-time homebuyers.
Sec. 142. Penalty-free withdrawals for first home purchase.

Subtitle A—Provisions Relating to Capital Gains

SEC. 111. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) DEDUCTION ALLOWED FOR CAPITAL GAINS.—

"(1) IN GENERAL.—If, for any taxable year, a taxpayer other than a corporation has a net capital gain, an amount equal to the sum of the applicable percentages of the applicable capital gain shall be allowed as a deduction.

"(2) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under paragraph (1) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by income beneficiaries (other than corporations) as gain derived from the sale or exchange of capital assets.

"(b) APPLICABLE PERCENTAGES.—For purposes of this subsection, the applicable percentages shall be the percentages determined in accordance with the following table:

The applicable percentage is:

| | |
|-------------------|----|
| 1-year gain | 15 |
| 2-year gain | 30 |
| 3-year gain | 45 |

"(c) GAIN TO WHICH DEDUCTION APPLIES.—For purposes of this section—

"(1) APPLICABLE CAPITAL GAIN.—The term 'applicable capital gain' means 1-year gain, 2-year gain, or 3-year gain determined by taking into account only gain which is properly taken into account on or after February 1, 1992.

"(2) 3-YEAR GAIN.—The term '3-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 3 years.

"(3) 2-YEAR GAIN.—The term '2-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by 3-year gain, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 2 years but not more than 3 years.

"(4) 1-YEAR GAIN.—The term '1-year gain' means the net capital gain for the taxable year determined by taking into account only—

"(A) gain from the sale or exchange of assets held more than 1 year but not more than 2 years, and

"(B) losses from the sale or exchange of assets held more than 1 year.

"(5) SPECIAL RULES FOR GAIN ALLOCABLE TO PERIODS BEFORE 1994.—For purposes of this section—

"(A) GAIN ALLOCABLE TO PERIODS BEGINNING ON OR AFTER FEBRUARY 1, 1992 AND BEFORE

1993.—In the case of any gain from any sale or exchange which is properly taken into account for the period beginning on February 1, 1992 and ending on December 31, 1992, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 3-year gain.

"(B) GAIN ALLOCABLE TO 1993.—In the case of any gain from any sale or exchange which is properly taken into account for periods during 1993, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 2-year gain and 3-year gain, respectively.

"(6) SPECIAL RULES FOR PASS-THROUGH ENTITIES.—

"(A) IN GENERAL.—In applying this subsection with respect to any pass-through entity, the determination of when a sale or exchange has occurred shall be made at the entity level.

"(B) PASS-THROUGH ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-through entity' means—

- "(i) a regulated investment company,
- "(ii) a real estate investment trust,
- "(iii) an S corporation,
- "(iv) a partnership,
- "(v) an estate or trust, and
- "(vi) a common trust fund.

"(7) RECAPTURE OF NET ORDINARY LOSS UNDER SECTION 1231.—For purposes of this subsection, if any amount is treated as ordinary income under section 1231(c) for any taxable year—

"(A) the amount so treated shall be allocated proportionately among the section 1231 gains (as defined in section 1231(a)) for such taxable year, and

"(B) the amount so allocated to any such gain shall reduce the amount of such gain."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m)) without regard to paragraph (3) thereof."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Section 56(b)(1) is amended by adding at the end thereof the following new subparagraph:

"(G) CAPITAL GAINS DEDUCTION DISALLOWANCE.—Except with respect to gains realized on the sale, exchange, or other disposition of

a direct or indirect interest in real estate or in a closely-held business, the deduction under section 1202 shall not be allowed."

(d) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3)(A) Subparagraph (B) of section 170(e)(1) is amended by inserting "the nondeductible percentage" before "the amount of gain".

(B) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), the term 'nondeductible percentage' means 100 percent minus the applicable percentage with respect to such property under section 1202(b), or, in the case of a corporation, 100 percent."

(4)(A) Paragraph (2) of section 172(d) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 221 (as redesignated by section 224(a) of this Act) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deductions for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 (as amended by section 224(c) of this Act) is amended by striking "reference" in the item relating to section 221 and inserting "references".

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for net capital gain) shall not be taken into account."

(8) Subparagraph (C) of section 643(a)(6) is amended—

(A) by inserting "(i)" before "there", and

(B) by inserting ", and (ii) the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account" before the period at the end thereof.

(9) Paragraph (4) of section 691(c) is amended by striking "1202, and 1211" and inserting "1201, 1202, and 1211".

(10) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without

regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(11) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(12)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking the last sentence.

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act of 1936, is amended by striking the last sentence.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Reduction in capital gains tax for noncorporate taxpayers."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after February 1, 1992.

(2) TREATMENT OF COLLECTIBLES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after February 1, 1993.

(B) SPECIAL RULE FOR 1992 TAXABLE YEAR.—In the case of any taxable year which includes February 1, 1992, for purposes of section 1202 of the Internal Revenue Code of 1986 and section 1(g) of such Code, any gain or loss from the sale or exchange of a collectible (within the meaning of section 1222(12) of such Code) shall be treated as gain or loss from a sale or exchange occurring before such date.

SEC. 112. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect to such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle. Notwithstanding any other provision of this chapter, in the case of a taxpayer other than a corporation, any amount treated as ordinary income under this subsection shall be subject to tax at a rate not in excess of 28 percent.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1968, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act

of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subsection (d) of section 1250 is amended by striking paragraph (10).

(4) 1250 is amended by striking subsections (e) and (f) and by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(5) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) RECAPTURE OF REDUCTION.—For purposes of section 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(6) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)".

(7)(A) Subsection (a) of section 291 is amended by striking paragraphs (1) and by redesignating paragraph (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(10) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 prop-

erty shall be treated as section 1245 property, and

“(2) any reduction under this section shall be treated as a deduction allowed for depreciation.”

(11) Paragraph (5) of section 7701(e) is amended by striking “(relating to low-income housing)” and inserting “(as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions made on or after February 1, 1992, in taxable years ending on or after such date.

Subtitle B—Provisions Relating to Passive Losses and Depreciation

SEC. 121. PASSIVE LOSS RELIEF FOR REAL ESTATE DEVELOPERS.

(a) TREATMENT OF REAL ESTATE DEVELOPMENT ACTIVITIES.—Subsection (c) of section 469 (relating to the limitation on passive activity losses and credits) is amended by adding at the end the following new paragraph:

“(7) REAL ESTATE DEVELOPMENT ACTIVITY.—The real estate development activity of a taxpayer shall be treated as a single trade or business activity that is not a rental activity.”

“(b) DEFINITION.—Subsection (j) of section 469 is amended by adding at the end thereof the following new paragraph:

“(13) REAL ESTATE DEVELOPMENT ACTIVITY.—

“(A) IN GENERAL.—The real estate development activity of a taxpayer shall include all activities of the taxpayer (determined without regard to subsection (c)(7) and this paragraph) in which the taxpayer actively participates and that consist of the performance of real estate development services and the rental of any qualified real property.

“(B) REAL ESTATE DEVELOPMENT SERVICES.—For purposes of this paragraph, real estate development services include only the construction, substantial renovation, and management of real property and the lease-up and sale of real property in which the taxpayer holds an interest of not less than 10 percent.

“(C) QUALIFIED REAL PROPERTY.—For purposes of this paragraph, the term ‘qualified real property’ means any real property that was constructed or substantially renovated in an activity of the taxpayer at a time when the taxpayer materially participated in such activity.

“(c) EFFECTIVE DATE.—The amendments made by this section are effective for taxable years ending on or after December 31, 1992.

SEC. 122. SPECIAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 is amended by adding at the end thereof the following new subsection:

“(j) SPECIAL RULE FOR EQUIPMENT ACQUIRED IN 1992.—

“(1) ADDITIONAL ALLOWANCE.—There shall be allowed, in addition to the reasonable allowance provided for by section 167(a), a depreciation deduction determined under paragraph (2) with respect to qualified equipment.

“(2) DETERMINATION OF ADDITIONAL ALLOWANCE.—

“(A) IN GENERAL.—The additional allowance shall equal 15 percent of the purchase price of the qualified equipment.

“(B) PURCHASE PRICE.—For purposes of paragraph (A), the purchase price of qualified equipment shall equal its cost to the taxpayer. In the case of self-constructed property that is qualified equipment under paragraph (4)(D), cost is determined on the date the property is placed in service.

“(3) WHEN ADDITIONAL ALLOWANCE MAY BE CLAIMED.—The additional allowance may be claimed in the tax year in which the qualified equipment is placed in service.

“(4) DEFINITIONS AND SPECIAL RULES.—

“(A) QUALIFIED EQUIPMENT.—For purposes of this subsection, the term ‘qualified equipment’ means property that—

“(i) is new property,

“(ii) is section 1245 property (within the meaning of section 1245(a)(3)),

“(iii) is—

“(I) acquired on or after February 1, 1992, but only if no binding contract for the acquisition was in effect before that date, or

“(II) acquired pursuant to a binding contract entered into on or after February 1, 1992, and before January 1, 1993,

“(iv) is placed in service before July 1, 1993, and

“(v) is not defined as disqualified property in regulations prescribed by the Secretary.

“(B) NEW PROPERTY.—For purposes of this paragraph, property is new property if the original use of the property commences with the taxpayer and commences on or after February 1, 1992. Except as otherwise provided in regulations, repaired or reconstructed property is not new property, regardless of the extent of the repairs or reconstruction.

“(C) ACQUIRE.—For purposes of this paragraph, a taxpayer is considered to ‘acquire’ property on the date the taxpayer obtains physical control or possession of the property, or on such other date as the Secretary may prescribe by regulations.

“(D) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—If a taxpayer manufactures, constructs, or produces property for the taxpayer’s own use, the property shall be treated as ‘qualified equipment’ only if—

“(i) the property meets the requirements of clauses (i), (ii), (iv), and (v) of paragraph (4)(A), and

“(ii) the taxpayer begins manufacturing, constructing, or producing the property on or after February 1, 1992, and before January 1, 1993.

“(E) COORDINATION WITH SECTION 280F.—In the case of a passenger automobile (within the meaning of section 280F(d)(5)) that is qualified equipment under this subsection, the Commissioner shall adjust the limitations of section 280F(a)(1) to take into account the additional allowance under this subsection. Consistent with the overall purpose of section 280F, such adjustments shall be based on the threshold cost at which the section 280F(a)(1) limitations begin to apply.

“(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.”

(b) BASIS ADJUSTMENTS.—Subsection (c) of section 167 is amended by adding at the end thereof the following new sentence: “If a taxpayer claims the additional allowance provided by section 168(j) with respect to qualified equipment in a taxable year, the basis of the qualified equipment is reduced under section 1016 by the amount of the additional allowance before the depreciation deduction under paragraph (a) is determined for that taxable year.”

(c) ALTERNATIVE MINIMUM TAX.—Paragraph (1) of section 56(a) is amended—

(1) by inserting “or (iii)” after “(ii)” in subparagraph (A)(i), and

(2) by adding at the end thereof the following new clause:

“(iii) The additional allowance provided by section 168(j) for certain equipment shall apply in determining the amount of alternative minimum taxable income. The basis adjustment required for the additional allowance provided by section 168(j) shall be made before the depreciation deduction allowable in determining alternative minimum taxable income under this paragraph is determined.”

(d) CROSS REFERENCE.—Subsection (e) of section 1016 is amended by adding at the end thereof the following new paragraph:

“(3) For the order in which basis adjustments should be made for depreciation in the case of property with respect to which the special additional allowance is claimed under section 168(j), see section 167(c).”

(e) EFFECTIVE DATE.—The amendments made by this section are effective February 1, 1992.

SEC. 123. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) GENERAL RULE.—Clause (i) of section 56(g)(4)(A) is amended to read as follows:

“(i) PROPERTY PLACED IN SERVICE AFTER 1989 AND PRIOR TO FEBRUARY 1, 1992.—The depreciation deduction with respect to any property placed in service—

“(I) in a taxable year beginning after 1989, and

“(II) prior to February 1, 1992,

shall be determined under the alternative system of section 168(g).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for property placed in service on or after February 1, 1992.

Subtitle C—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 131. REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) INTERESTS IN MORTGAGES.—The last sentence of subparagraph (B) of section 514(c)(9) is hereby transferred to subparagraph (A) of section 514(c)(9) and added at the end thereof.

(b) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

“(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—For purposes of section 514(c)(9)(B), except as otherwise provided by regulations, the following additional rules apply—

“(i) IN GENERAL.—

“(I) For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in clause (iii) or (iv) shall be disregarded if no more than 10 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

“(II) Clause (v) of subparagraph (B) shall not apply to the extent the financing is commercially reasonable and is on substantially the same terms as loans involving unrelated persons; for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary.

“(ii) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—In the case of a qualifying sale out of foreclosure by a financial institution, clauses (i) and (ii) of subparagraph (B) shall not apply. For this purpose, a ‘qualifying sale out of foreclosure by a financial institution’ exists where—

“(I) a qualified organization acquires real property from a person (a ‘financial institution’) described in sections 581 or 591(a) (including a person in receivership) and the financial institution acquired the property pursuant to a bid at foreclosure or by operation of an agreement or of process of law after a default on indebtedness which the property secured (‘foreclosure’), and the financial institution treats any income realized from the sale or exchange of the property as ordinary income,

“(II) the amount of the financing provided by the financial institution does not exceed the amount of the financial institution’s outstanding indebtedness (determined without regard to accrued but unpaid interest) with respect to the property at the time of foreclosure,

“(III) the financing provided by the financial institution is commercially reasonable and is on substantially the same terms as loans between unrelated persons for sales of foreclosed property (for this purpose, stand-

ards for determining a commercially reasonable interest rate shall be provided by the Secretary), and

“(IV) the amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property (‘participation feature’) does not exceed 25 percent of the principal amount of the financing provided by the financial institution, and the participation feature is payable no later than the earlier of satisfaction of the financing or disposition of the property.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt-financed acquisitions or real estate made on or after February 1, 1992.

SEC. 132. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 131 of this Act) is amended by adding at the end thereof the following new subparagraph:

“(H) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

“(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

“(I) investments in the partnership are organized into units that are marketed primarily to individuals expected to be taxed at the maximum rate prescribed for individuals under section 1.

“(II) at least 50 percent of each class of interests is owned by such individuals,

“(III) the partners that are qualified organizations owning interests in a class participate on substantially the same terms as other partners owning interests in that class, and

“(IV) the principal purpose of partnership allocations is not tax avoidance.

“(ii) EXCEPTION WHERE TAXABLE PERSONS OWN A SIGNIFICANT PERCENTAGE.—In the case of any partnership, other than a partnership to which clause (i) applies, in which persons who are expected (under the regulations to be prescribed by the Secretary), at the time the partnership is formed, to pay tax at the maximum rate prescribed in section 1 or 11 (whichever is applicable) through the term of the partnership own at least a 25 percent interest, the provisions of subparagraph (B) shall not apply if the partnership satisfies the requirements of subparagraph (E).”

(b) PUBLICLY TRADED PARTNERSHIPS; UNRELATED BUSINESS INCOME FROM PARTNERSHIPS.—Subsection (c) of section 512 is amended by striking paragraph (2) (relating to publicly traded partnerships), by redesignating paragraph (3) as paragraph (2), and by striking “paragraph (1) or (2)” in paragraph (2) (as so redesignated) and inserting “paragraph (1)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

Subtitle D—Provisions Affecting Homebuyers

SEC. 141. CREDIT FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—Subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new section:

“SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

“(a) ALLOWANCE OF CREDIT.—If an individual who is a first-time homebuyer purchases a principal residence (within the meaning of section 1034), there shall be allowed to such individual as a credit against the tax imposed by this subtitle an amount equal to 10 percent of the purchase price of the principal residence.

“(b) LIMITATIONS.—

“(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed \$5,000.

“(2) LIMITATION TO ONE RESIDENCE.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

“(3) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return under section 6013, the credit under this section is allowable only if both the husband and wife are first-time homebuyers, and the amount specified under paragraph (1) shall apply to the joint return.

“(4) OTHER TAXPAYERS.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and the sum of the amount of credit allowed to such individuals shall not exceed the lesser of \$5,000 or 10 percent of the total purchase price of the residence. The amount of any credit allowable under this section shall be apportioned among such individuals under regulations to be prescribed by the Secretary.

“(5) APPLICATION WITH OTHER CREDITS.—

“(A) GENERAL RULE.—The credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of any other credits allowable under this chapter.

“(B) CARRYFORWARD OF UNUSED CREDITS.—Any credit that is not allowed for the taxable year solely by reason of subparagraph (A) shall be carried forward to the succeeding taxable year and allowed as a credit for that taxable year. However, the credit shall not be carried forward more than 5 taxable years after the taxable year in which the residence is purchased.

“(6) YEAR FOR WHICH CREDIT ALLOWED.—Fifty percent of the credit allowed by subsection (a) shall be allowed in the taxable year in which the residence is purchased and the remaining fifty percent of the credit shall be allowed in the succeeding taxable year.

“(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) PURCHASE PRICE.—The term ‘purchase price’ means the adjusted basis of the principal residence on the date of the acquisition thereof.

“(2) FIRST-TIME HOMEBUYER.—

“(A) IN GENERAL.—The term ‘first-time homebuyer’ means any individual if such individual has not had a present ownership interest in any residence (including an interest in a housing cooperative) at any time within the 36-month period ending on the date of acquisition of the residence on which the credit allowed under subsection (a) is to be claimed. An interest in a partnership, S corporation, or trust that owns an interest in a residence is not considered an interest in a residence for purposes of this paragraph except as may be provided in regulations.

“(B) CERTAIN INDIVIDUALS.—Notwithstanding subparagraph (A), an individual is not a first-time homebuyer on the date of purchase of a residence if on that date the running of any period of time specified in section 1034 is suspended under subsection (h) or (k) of section 1034 with respect to that individual.

“(3) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—No credit is allowable under this section if—

“(A) the residence is acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), or

“(B) the basis of the residence in the hands of the person acquiring it is determined—

“(i) in whole or in part by reference to the adjusted basis of such residence in the hands of the person from whom it is acquired, or

“(ii) under section 1014(a) (relating to property acquired from a decedent).

“(d) RECAPTURE FOR CERTAIN DISPOSITIONS.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

“(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (determined without regard to subsection (e)) is less than the amount of credit claimed by the taxpayer under this section.

“(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—The provisions of paragraph (1) do not apply to—

“(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period to which reference is made under paragraph (1),

“(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

“(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence.

“(e) PROPERTY TO WHICH SECTION APPLIES.—

“(1) IN GENERAL.—The provisions of this section apply to a principal residence if—

“(A) the taxpayer acquires the residence on or after February 1, 1992, and before January 1, 1993, or

“(B) the taxpayer enters into, on or after February 1, 1992, and before January 1, 1993, a binding contract to acquire the residence, and acquires and occupies the residence before July 1, 1993.”

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new item:

“Sec. 23. Purchase of principal residence by first-time homebuyer.”

(c) EFFECTIVE DATE.—The amendments made by this section are effective on February 1, 1992.

SEC. 142. PENALTY-FREE WITHDRAWALS FOR FIRST HOME PURCHASE.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans), as amended by section 213 of this Act, is further amended by adding at the end thereof the following new subparagraph:

“(E) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR FIRST HOME PURCHASE.—A distribution to an individual from an individual retirement plan with respect to which the requirements of paragraph (7) are met.”

(b) DEFINITIONS.—Subsection (t) of section 72 is amended by adding at the end thereof the following new paragraph:

“(6) REQUIREMENTS APPLICABLE TO FIRST HOME PURCHASE DISTRIBUTION.—For purposes of paragraph (2)(E)—

“(A) IN GENERAL.—The requirements of this paragraph are met with respect to a distribution if—

“(i) DOLLAR LIMIT.—The amount of the distribution does not exceed the excess (if any) of—

“(I) \$10,000, over

“(II) the sum of the distributions to which paragraph (2)(E) previously applied with respect to the individual who is the owner of the individual retirement plan.

“(ii) USE OF DISTRIBUTION.—The distribution—

“(I) is made to or on behalf of a qualified first home purchaser, and

“(II) is applied within 60 days of the date of distribution to the purchase or construction of a principal residence of such purchaser.

“(iii) ELIGIBLE PLANS.—The distribution is not made from an individual retirement plan which—

“(I) is an inherited individual retirement plan (within the meaning of section 408(d)(3)(C)(ii)), or

“(II) any part of the contributions to which were excludable from income under section 402(c), 402(a)(7), 403(a)(4), or 403(b)(8).

“(B) QUALIFIED FIRST HOME PURCHASER.—For purposes of this paragraph, the term ‘qualified first home purchaser’ means the individual who is the owner of the individual retirement plan, but only if—

“(i) such individual (and, if married, such individual’s spouse) had no present ownership interest in a residence at any time within the 36-month period ending on the date for which the distribution is applied pursuant to subparagraph (A)(ii), and

“(ii) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

“(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from an individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i), except that—

“(i) section 408(d)(3)(B) shall not be applied to such contribution, and

“(ii) such amount shall not be taken into account—

“(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

“(II) for purposes of subclause (II) of subparagraph (A)(i).

“(D) PRINCIPAL RESIDENCE.—For purposes of this paragraph, the term ‘principal residence’ has the meaning given such term by section 1034.

“(E) OWNER.—For purposes of this paragraph, the term ‘owner’ means, with respect to any individual retirement plan, the individual with respect to whom such plan was established.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after February 1, 1992.

TITLE II—FEDERAL INSURANCE ACCOUNTING ACT OF 1992

SECTION 201. SHORT TITLE.

This Act may be cited as the “Federal Insurance Accounting Act of 1992”.

SEC. 202. INSURANCE ACCRUAL ACCOUNTING.

Title V of the Congressional Budget Act of 1974 is amended as follows:

(a) The title of title V is amended to read “TITLE V—CREDIT AND INSURANCE ACCOUNTING REFORM”.

(b) Following the title, insert “Subtitle A—Credit Accounting”.

(c) Substitute the word “subtitle” for “title” wherever it appears.

(d) Following section 507, insert the following:

“Subtitle B—Insurance Accounting

“SEC. 550. PURPOSES.

“The purposes of this subtitle are to—

“(1) measure more accurately the cost of Federal insurance programs;

“(2) place the cost of insurance programs on a budgetary basis equivalent to other Federal spending;

“(3) improve the allocation of resources among insurance programs and between insurance and other spending programs; and

“(4) encourage the provision of Federal insurance in a manner that adequately protects the insured at the least cost to the Federal Government.

“SEC. 551. EFFECTIVE DATES.

“The definitions and changes in budget treatment and accounting shall be effective as of the following dates:

“(a) October 1, 1991, for: the deposit insurance activities of the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the National Credit Union Administration; and the pension guarantee program of the Pension Benefit Guaranty Corporation;

“(b) October 1, 1992, for all other insurance programs.

“SEC. 552. DEFINITIONS.

“For purposes of this subtitle, with respect to any Federal insurance program—

“(1) the term ‘obligation’ means a binding agreement by a Federal agency to indemnify a nonfederal entity against specified losses in return for premiums paid. This term does not include loan guarantees as defined in Subtitle A or obligations of social security, Medicare, and other social and medical insurance programs;

“(2) the term ‘accrued cost’ means the net present value of the insurance liabilities outstanding on the effective date and at the end of each successive reporting period;

“(3) the term ‘accrual cost’ means the increase or decrease in accrued cost during a fiscal year or from the beginning of a fiscal year to the time of the insured event, if one occurs during the fiscal year. Alternatively, for programs for which it is possible to make actuarial estimates, the accrual cost may be the estimated long-term average loss per fiscal year for periods of comparable exposure to risk of loss;

“(4) the term ‘liquidating account’ means the budget account for the accrued cost, as estimated on the effective date specified in section 551;

“(5) the term ‘program account’ means the budget account for the accrual costs, for all costs of administering the insurance program, and balances;

“(6) the term ‘financing account’ means the non-budget account that receives cost payments from the program account and the liquidating account, makes payments to the program account, includes all cash flows to and from the Federal Government, and holds balances;

“(7) the term ‘insured event’ means an event that results in an obligation of the Federal Government; and

“(8) the term ‘Director’ means the Director of the Office of Management and Budget.

“SEC. 553. OMB, CBO, AND AGENCY ANALYSIS, COORDINATION, AND REVIEW.

“(a) DIRECTOR’S RESPONSIBILITIES.—For the Executive branch, the Director shall be responsible for the estimates required by this subtitle, in consultation with the agencies that administer insurance programs.

“(b) DELEGATION.—The Director may delegate to agencies authority to make estimates. The delegation of authority shall be

based upon written guidelines, regulations, or criteria consistent with the definitions in this subtitle.

“(c) COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

“(d) IMPROVING COST ESTIMATES.—The Director and the Director of the Congressional Budget Office shall coordinate the development of methods of estimating the costs of insurance programs. The Office of Management and Budget and the Congressional Budget Office shall have access to the agency data necessary to develop estimates of costs.

“(e) ACCOUNTING SUPPORT.—The Director shall coordinate the development by the Federal agencies that conduct insurance programs of such accounting methods and systems as are necessary to support accounting and budgeting for insurance programs on an accrual basis.

“SEC. 554. BUDGETARY TREATMENT.

“(a) BUDGET ACCOUNTING.—For any insurance program.—

“(1) Premiums and other income shall be credited to a finance account and available to finance program costs in the following priority:

“(A) administrative expenses, by reimbursement to the program account;

“(B) accrued costs, estimated as of the effective date specified in section 551, for insured events that occur during a fiscal year, before drawing on the resources of the liquidating account; and

“(C) accrual costs, before drawing on the resources of the program account.

“(2) Any balance of premiums and other income remaining after financing the program costs shall be paid to the program accounts.

“(3) All collections and payments by the financing accounts shall be a means of financing.

“(4) To the extent the accrued costs, estimated as of the effective date specified in section 551, for insured events that occur during a fiscal year, exceed the premiums and other income available in accordance with paragraph (1), an obligation equal to the amount of such excess shall be recorded in the insurance liquidating account. Such obligation shall be a charge, first, against any unobligated balances of the liquidating account and, second, against appropriations to the liquidating account for that year. Outlays from the liquidating account shall be made to the financing account at the time the insured event occurs. Any balances remaining in excess of accrued costs shall be transferred to the program account.

“(5) For any year in which there is an accrual cost that exceeds the premiums and other income available in accordance with paragraph (1), an obligation equal to such excess shall be recorded in the program account. Such obligation will be a charge, first, against any unobligated balances of the program account and, second, against appropriations to the program account for that year. An outlay in the amount of the obligation shall be made in the same fiscal year to the finance account for the program.

“(6) For the Bank Insurance Fund, any appropriations necessary under paragraphs (4) and (5) shall be repaid to the general fund from premiums and other income on a 15 year schedule as authorized under section 14 of the Federal Deposit Insurance Corporation Improvement Act of 1991. Premiums and other income available to the Bank Insurance Fund shall be available, first, to finance costs in the priority shown in paragraph (1) and, second, to finance these repayments.

“(b) MODIFICATIONS.—No action shall be taken to modify an insurance program in a

manner that increases its accrual cost unless budget authority for the additional accrual cost is appropriated in advance, or is available out of existing appropriations or from other budgetary resources.

“(c) ADMINISTRATIVE EXPENSES.—All obligations for an agency’s administration of an insurance program shall be displayed as distinct and separately identified subaccounts within the program account. To the extent that the administrative expenses of an insurance program are authorized to be financed by premiums and other income, the financing account shall reimburse the program account for administrative expenses. The administrative expenses of the Resolution Trust Corporation shall be financed as authorized by section 501 of Public Law 101-73, in a program account established for the purpose, separate from the RTC Revolving Fund.

“SEC. 555. AUTHORIZATIONS.

“(a) AUTHORIZATION OF APPROPRIATIONS FOR COSTS.—There are authorized to be appropriated to each Federal agency authorized to conduct insurance programs, such sums as may be necessary to pay the accrued and accrual costs associated with such insurance programs. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, such appropriations shall be considered discretionary spending if the spending for a program was classified as discretionary spending by that Act. If such spending was not classified as discretionary spending, it shall be considered direct spending (entitlement authority).

“(b) AUTHORIZATION TO ESTABLISH FINANCING ACCOUNTS.—In order to implement the accounting required by this subtitle, the President is authorized to establish such non-budgetary accounts as may be appropriate.

“(c) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the insurance financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above. The authorities described above shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate an insurance program. All of the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code. Cash balances of the program, financing, and liquidating accounts in excess of current requirements shall be maintained in a form of uninvested funds, and the Secretary of the Treasury shall pay interest on these funds.

“(d) ELIGIBILITY AND ASSISTANCE.—Nothing in this subtitle shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by, an insurance program.

“SEC. 556. EFFECT ON OTHER LAWS.

“(a) This subtitle shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this subtitle to the extent such provision is inconsistent with this subtitle. Nothing in this subtitle shall be construed to establish a limitation on any Federal insurance program.

“(b) The changes made by this subtitle shall be considered changes in budget concepts and definitions for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.”

SEC. 203. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3(2) of the Congressional Budget Act of 1974 is amended by adding “and accrual costs of insurance programs,” after “programs.”

(2) Section 1105(a) of title 31, United States Code, is amended by inserting at the end thereof the following:

“(29) the accrued and accrual costs of insurance programs.”.

(b) EFFECTIVE DATE.—These changes are effective upon enactment.

TITLE III—PENSION SECURITY ACT OF 1992

SECTION 301. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Pension Security Act of 1992”.

(b) TABLE OF CONTENTS.—

Subtitle A—Amendments to Pension Plan Funding Requirements

PART 1—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 311. Revision of additional funding requirements for plans that are not multiemployer plans.

Sec. 312. Correction to ERISA citation.

Sec. 313. Effective dates.

PART 2—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 321. Revision of additional funding requirements for plans that are not multiemployer plans.

Sec. 322. Effective dates.

Subtitle B—Amendments to Title IV of ERISA

Sec. 331. Limitation on benefits guaranteed.

Sec. 332. Enforcement of minimum funding requirements.

Sec. 333. Definition of contributing sponsor.

Sec. 334. Recovery ratio payable under Corporation’s guaranty.

Sec. 335. Elimination of the seventh revolving fund.

Sec. 336. Distress termination criteria for banking institutions.

Sec. 337. Variable rate premium exemption.

Subtitle C—Employer Liability, Lien, and Priority

PART 1—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 341. Employer liability lien and priority amount.

Sec. 342. Liability upon liquidation of contributing sponsor where plan remains ongoing.

PART 2—AMENDMENTS TO TITLE 11, UNITED STATES CODE

Sec. 351. Pension Benefit Guaranty Corporation permitted to be a member of an unsecured creditors’ committee.

Sec. 352. Clarification of priorities in conformity with the Employee Retirement Income Security Act of 1974.

Sec. 353. Notice required where federally-insured pension plan is administered by the debtor or its affiliate.

Subtitle A—Amendments to Pension Plan Funding Requirements

PART 1—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 311. REVISION OF ADDITIONAL FUNDING REQUIREMENTS FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.

(a) Section 412(a) of the Internal Revenue Code of 1986 (26 U.S.C. 412(a)) is amended by striking “the excess of the total charges to the funding standard account” through the end of that sentence, and inserting “the largest of—

“(1) the lesser of—

“(A) the excess of the total charges to the funding standard account for all plan years (beginning with the first plan year to which this section applies) over the total credits to such account for such years; or,

“(B) the excess of the total charges to the alternative minimum funding standard account for such plan years over the total credits to such account for such years; or,

“(2) if applicable, the underfunding reduction requirement under subsection (1); or

“(3) if applicable, the solvency maintenance requirement under subsection (o).”.

(b) Section 412(l) is revised to read as follows:

“(1) UNDERFUNDING REDUCTION REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

“(1) UNDERFUNDING REDUCTION REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the underfunding reduction requirement for such plan year is the sum of—

“(A) an amount equal to the product of the initial unfunded liability of the plan multiplied by the excess (if any) of (i) 30 percent, over (ii) the product of one quarter of one percent multiplied by the number of percentage points (if any) that the initial funding ratio of the plan exceeds 35 percent;

“(B) the charges to the funding standard account for normal cost under subparagraph (b)(2)(A) and for the amounts necessary to amortize any waived funding deficiencies under subparagraph (b)(2)(C);

“(C) the excess (if any) of—

“(i) the sum of charges to the funding standard account for plans years beginning after December 31, 1993, for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v) over—

“(ii) the sum of credits to the funding standard account for plan years beginning after December 31, 1993—

“(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

“(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 412(b)); and

“(D) the net of—

“(i) charges to the funding standard account for plan years beginning on or before December 31, 1993, for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v); and

“(ii) the sum of credits to the funding standard account for plan years beginning on or before December 31, 1993—

“(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

“(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 412(b)).

“(2) DEFINITIONS.—For definitions pertaining to this subsection, see subsection (o)(3).

“(3) APPLICATION TO SMALL PLANS.—For the application of this subsection to small plans, see subsection (o)(4).”.

(c) Section 412 is further amended by adding at the end thereof the following new subsection (o):

“(o) SOLVENCY MAINTENANCE REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

“(1) SOLVENCY MAINTENANCE REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the solvency maintenance requirement for such plan year is the sum of—

“(A) the sum of:

“(i) all disbursements from the plan for the plan year; and

“(ii) an amount equal to the initial unfunded liability of the plan multiplied by the interest rate used by such plan (determined under subparagraph (b)(5)(A));

“(B) the charges described in section 412(l)(1)(B);

“(C) the amount described in section 412(l)(1)(C); and

“(D) the amount described in section 412(l)(1)(D).

“(2) LIMITATION ON SOLVENCY MAINTENANCE REQUIREMENT.—For plan years commencing after December 31, 1993, the amount required under paragraph (1) shall not exceed the sum of—

“(A) the amount required under 412(l); and

“(B) the product of—

“(i) the excess (if any) of—

“(I) the amount required under paragraph 1

over

“(II) the amount required under subsection (1); multiplied by—

“(ii) the applicable percentage.

“(iii) For purposes of subparagraph (ii), the applicable percentage is:

| For plan years commencing after: | The applicable percentage is: |
|----------------------------------|-------------------------------|
| December 31, 1993 | 20 percent |
| December 31, 1994 | 40 percent |
| December 31, 1995 | 60 percent |
| December 31, 1996 | 80 percent |
| December 31, 1997 | 100 percent |

“(3) DEFINITIONS.—For purposes of this subsection and subsection (1)—

“(A) INITIAL UNFUNDED LIABILITY.—The term ‘initial unfunded liability’ means the excess (if any) of the amount necessary to satisfy the initial termination liability of the plan over the initial value of assets of the plan.

“(B) INITIAL FUNDING RATIO.—The term ‘initial funding ratio’ means the ratio of (i) the initial value of assets of the plan to (ii) the amount necessary to satisfy the initial termination liability of the plan.

“(C) INITIAL TERMINATION LIABILITY.—The term ‘initial termination liability’ means all liabilities with respect to employees and their beneficiaries under the plan in the meaning of section 401(a)(2) as of the first day of the plan year.

“(D) INITIAL VALUE OF ASSETS.—The term ‘initial value of assets’ means the value of the assets of the plan determined under section 412(c)(2) as of the first day of the plan year.

“(E) DISBURSEMENTS FROM THE PLAN.—

“(i) IN GENERAL.—The term ‘disbursements from the plan’ means benefit payments, including purchases of annuities or payment of lump sums in satisfaction of liabilities, administrative expenditures or any other disbursements from the plan or its trust.

“(ii) SPECIAL RULE FOR PURCHASES OF ANNUITIES AND PAYMENT OF LUMP SUMS.—In determining the applicable amounts attributable to purchases of annuities or the payment of lump sums under clause (i), the actual purchase or lump sum amounts paid by the plan or trust shall be multiplied by the excess (if any) of one over the initial funding ratio of the plan.

“(4) SPECIAL RULES FOR SMALL PLANS.—

“(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection and subsection 412(l) shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

“(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding year had no more than 150 participants, the additional amounts required by the underfunding reduction requirement under subsection (1) or the solvency maintenance

requirement under this subsection shall be equal to the product of—

“(i) the excess of such requirements (determined without regard to this subparagraph) over the funding deficiency (if any) under subsection 412(b), multiplied by—

“(ii) 2 percent for the highest number of participants in excess of 100 on any such day.

“(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer’s controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.”

(d) CONFORMING AMENDMENTS.—

(1) Section 412(b) is amended—

(A) by striking the last sentence of paragraph (2); and

(B) by striking “and for purposes of determining a plan’s required contribution under section 412(l)” in subparagraph (5)(B) and inserting “under section 412(c)(7)(B)”.

(2) Section 412(c) is amended by striking “has the meaning given such term by section 412(l)(7) and inserting “means all liabilities with respect to employees and their beneficiaries under the plan within the meaning of section 401(a)(2) (within such limitations as the Secretary may prescribe by regulation) determined by using the interest rate under section 412(b)(5)(B)”.

(3) Section 412(m)(4)(B) is amended by striking “section 412” in subparagraph (i) and inserting “section 412 (b) or (l), whichever is greater”.

(4) Section 401(a)(29) is amended—

(A) by striking “current liability” and “funded current liability percentage” and “unfunded current liability” and “412(l)” each time they appear and inserting instead, respectively, the terms “initial termination liability” and “initial funding ratio” and “initial unfunded liability” and “412(o)”.

(B) By striking everything after the word “except” in subparagraph (E) and inserting “that in computing initial unfunded liability there shall not be taken into account an amount equal to the initial unfunded liability of the plan as of the beginning of the first plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987), reduced by an amount equal to the product of the amount necessary to amortize such pre-1988 initial unfunded liability in equal annual installments over a period of 18 plan years (beginning with the first plan year beginning after December 31, 1988) multiplied by the number of years (but not more than 18) beginning since December 31, 1988.”.

(5) Section 404(a)(1)(D) is amended by striking “the unfunded liability determined under section 412(l).” at the end of the first sentence and inserting instead “the amount necessary to assure that the plan can satisfy all liabilities with respect to employees and their beneficiaries within the meaning of section 412(c)(7)(B) determined by using the interest rate under section 412(b)(5)(B).”

SEC. 312. CORRECTION TO ERISA CITATION.

(a) Section 404(g)(4) is amended by striking “enactment” and all that follows through the end of the paragraph and inserting “the transaction involved.”.

SEC. 313. EFFECTIVE DATES.

The amendments made by section 311 shall effective for plan years beginning after December 31, 1993. The amendment made by section 312 shall take effect one day after the date of enactment of title II.

PART 2—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 321. REVISION OF ADDITIONAL FUNDING REQUIREMENTS FOR PLANS THAT ARE NOT MULTIEmployer PLANS.

(a) Section 302(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(a)(2)) is amended by striking “the excess of the total charges to the funding standard account” through the end of that sentence, and inserting “the largest of—

“(A) the lesser of—

“(i) the excess of the total charges to the funding standard account for all plan years (beginning with the first plan year to which this section applies) over the total credits to such account for such years; or,

“(ii) the excess of the total charges to the alternative minimum funding standard account for such plan years over the total credits to such account for such years; or,

“(B) if applicable, the underfunding reduction requirement under subsection (d); or,

“(C) if applicable, the solvency maintenance requirement under subsection (g).”.

(b) Section 302(d) is revised to read as follows:

“(d) UNDERFUNDING REDUCTION REQUIREMENT FOR PLANS THAT ARE NOT MULTIEmployer PLANS.—

“(1) UNDERFUNDING REDUCTION REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the underfunding reduction requirement for such plan year is the sum of—

“(A) An amount equal to the product of the initial unfunded liability of the plan multiplied by the excess (if any) of (i) 30 percent, over (ii) the product of one-quarter of one percent multiplied by the number of percentage points (if any) that the initial funding ratio of the plan exceeds 35 percent;

“(B) the charges to the funding standard account for normal cost under subparagraph (b)(2)(A) and for the amounts necessary to amortize any waived funding deficiencies under subparagraph (b)(2)(C);

“(C) the excess (if any) of—

“(i) the sum of charges to the funding standard account for plan years beginning after December 31, 1993 for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v) over—

“(ii) the sum of credits to the funding standard account for plan years beginning after December 31, 1993—

“(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

“(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 302(b)); and

“(D) the net of—

“(i) charges to the funding standard account for plan years beginning on or before December 31, 1993 for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v); and

“(ii) the sum of credits to the funding standard account for plan years beginning on or before December 31, 1993—

“(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

“(II) amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 302(b)).

"(2) DEFINITIONS.—For definitions pertaining to this subsection, see subsection (g)(3).

"(3) APPLICATION TO SMALL PLANS.—For the application of this subsection to small plans, see subsection (g)(4)."

(c) Section 302 is further amended by—

(1) redesignating subsection (g) as (h); and
(2) inserting after subsection (f) the following:

"(g) SOLVENCY MAINTENANCE REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) SOLVENCY MAINTENANCE REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the solvency maintenance requirement for such plan year is the sum of—

"(A) the sum of:

"(i) all disbursements from the plan for the plan year, and

"(ii) an amount equal to the initial unfunded liability of the plan multiplied by the interest rate used by such plan (determined under subparagraph (b)(5)(A));

"(B) the charges described in section 302(d)(1)(B);

"(C) the amount described in section 302(d)(1)(C); and

"(D) the amount described in section 302(d)(1)(D).

"(2) LIMITATION ON SOLVENCY MAINTENANCE REQUIREMENT.—For plan years commencing after December 31, 1993, the amount required under paragraph (1) shall not exceed the sum of—

"(A) the amount required under section 302(d); and

"(B) the product of—

"(i) the excess (if any) of—

"(I) the amount required under paragraph 1 over

"(II) the amount required under section 302(d); multiplied by—

"(ii) the applicable percentage.

"(iii) For purposes of subparagraph (ii), the applicable percentage is:

| For plan years commencing after: | The applicable percentage is: |
|----------------------------------|-------------------------------|
| December 31, 1993 | 20 percent |
| December 31, 1994 | 40 percent |
| December 31, 1995 | 60 percent |
| December 31, 1996 | 80 percent |
| December 31, 1997 | 100 percent |

"(3) DEFINITIONS.—For purposes of this subsection and subsection (d)—

"(A) INITIAL UNFUNDED LIABILITY.—The term "initial unfunded liability" means the excess (if any) of the amount necessary to satisfy the initial termination liability of the plan over the initial value of assets of the plan.

"(B) INITIAL FUNDING RATIO.—The term "initial funding ratio" means the ratio of (i) the initial value of assets of the plan to (ii) the amount necessary to satisfy the initial termination liability of the plan.

"(C) INITIAL TERMINATION LIABILITY.—The term "initial termination liability" means all liabilities with respect to employees and their beneficiaries under the plan in the meaning of section 401(a)(2) of the Internal Revenue Code of 1986 as of the first day of the plan year.

"(D) INITIAL VALUE OF ASSETS.—The term "initial value of assets" means the value of the assets of the plan determined under section 302(c)(2) as of the first day of the plan year.

"(E) DISBURSEMENTS FROM THE PLAN.—

"(i) IN GENERAL.—The term "disbursements from the plan" means benefit payments, including purchases of annuities or payment of lump sums in satisfaction of liabilities, administrative expenditures or any other disbursements from the plan or its trust.

"(ii) SPECIAL RULE FOR PURCHASES OF ANNUITIES AND PAYMENT OF LUMP SUMS.—In deter-

mining the applicable amounts attributable to purchases of annuities or the payment of lump sums under clause (i), the actual purchase or lump sum amounts paid by the plan or trust shall be multiplied by the excess (if any) of one over the initial funding ratio of the plan.

"(4) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection and subsection (d) shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding year had no more than 150 participants, the additional amounts required by the underfunding reduction requirement under subsection (d) or the solvency maintenance requirement under this subsection shall be equal to the product of—

"(i) the excess of such requirements (determined without regard to this subparagraph) over the funding deficiency (if any) under subsection 302(b), multiplied by—

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day."

(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

(d) CONFORMING AMENDMENTS.—

(1) Section 302(b) is amended—

(A) by striking "and for purposes of determining a plan's required contribution under section 302(d)" in subparagraph (5)(B) in inserting "under section 302(c)(7)(B)";

(2) Section 302(c) is amended by striking "has the meaning given such term by subsection 302(d)(7) (without regard to subparagraph (D) thereof)" in subparagraph (7)(B) and inserting "means all liabilities with respect to employees and their beneficiaries under the plan within the meaning of section 401(a)(2) of the Internal Revenue Code of 1986 (within such limitations as the Secretary of the Treasury may prescribe by regulation) determined by using the interest rate under section 302(b)(5)(B)".

(3) Section 302(e)(4)(B) is amended by striking "section 412 of the Internal Revenue Code of 1986" in subparagraph (i) and inserting "section 412 (b) or (i) of the Internal Revenue Code of 1986, whichever is greater".

SEC. 322. EFFECTIVE DATES.

The amendments made by this part shall be effective for plan years beginning after December 31, 1993.

Subtitle B—Amendments to Title IV of ERISA
SEC. 331. LIMITATION ON BENEFITS GUARANTEED.

(a) Subsection (b)(1) of section 4022 of ERISA is amended by adding after "(7)" ", (8) and (9)".

(b) Subsection (b)(7) of section 4022 of ERISA is amended by—

(1) striking the period at the end and inserting in its place a semicolon; and

(2) by adding after paragraph (7) a new paragraph (8):

"(8)(A) Benefits under a new plan or any increase in benefits under a plan resulting from a plan amendment, which new plan or amendment was adopted or became effective after December 31, 1991, shall be disregarded unless:

"(i) The plan was fully funded for vested benefits for the plan year that the new plan or amendment was adopted or became effective, whichever is later, or became fully funded for vested benefits in a subsequent plan year; and

"(ii) The new plan or amendment was adopted or effective, whichever is later, at least one year prior to the date of plan termination.

"(B) For purposes of this section, a plan is 'fully funded for vested benefits' for any plan year if such plan has no unfunded vested benefits within the meaning of section 4006(a)(3)(E)(iii) as of the last day of such plan year.

"(C)(i) Except as provided in clause (ii), paragraph (7) and paragraphs (5)(B) and (5)(C) shall not apply to benefits described in subparagraph (A) of this paragraph.

"(ii) This paragraph shall not apply, and paragraph (7) and paragraphs (5)(B) and (5)(C) shall apply, to any new plan or plan amendment resulting from a collective bargaining agreement or amendment thereto entered and ratified on or prior to December 31, 1991."

(c) Subsection (b) of section 4022 of ERISA (as amended by subsection (b) of this section) is further amended by adding a new paragraph (9):

"(9)(A) Notwithstanding paragraph (8), any plan provision or amendment adopted or effective after December 31, 1991, that creates or increases unpredictable contingent event benefits shall not be guaranteed.

"(B) For purposes of this section, an 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(i) age, service compensation, death or disability, or

"(ii) an event which is reasonably and reliably predictable (as determined under regulations prescribed by the corporation)."

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective on December 31, 1991.

SEC. 332. ENFORCEMENT OF MINIMUM FUNDING REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 4003(c) of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303 (e)(1)) is amended by inserting after "title" the following: "and, in the case of a plan to which this title applies under section 4021, section 302 of this Act or section 412 of the Internal Revenue Code of 1986".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for installments and other payments required under section 302 of the Employee Retirement Income Security Act of 1974 or section 412 of the Internal Revenue Code of 1986 due on or after the date of the enactment of this Act.

SEC. 333. DEFINITION OF CONTRIBUTING SPONSOR.

(a) IN GENERAL.—Paragraph (13) of section 4001(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(13)) is amended to read as follows:

"(13) 'contributing sponsor' means, with respect to a single-employer plan, a person entitled to receive a deduction under section 404(a)(1) of the Internal Revenue Code of 1986 for contributions required to be made to the plan under section 302 of this Act or section 412 of such Code."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in section 9305 of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-351).

SEC. 334. RECOVERY RATIO PAYABLE UNDER CORPORATION'S GUARANTY.

(a) IN GENERAL.—Section 4022(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(c)(3)(B)) is amended—

(1) by redesignating clauses (i) and (ii) as clauses (ii) and (iii) respectively; and

(2) by inserting before clause (ii) (as so redesignated) the following new clause:

“(i) the outstanding amount of benefit liabilities does not exceed \$20,000,000.”.

(b) TERMINATIONS.—Clause (iii) of section 4022(c)(3)(B) of such Act (29 U.S.C. 1322(c)(3)(B)), as redesignated by subsection (a), is amended—

(1) by inserting “, or proceedings were instituted under section 4042,” after “provided”; and

(2) by striking “in which occurs the date of the notice of intent to terminate with respect to the plan termination”.

(c) CONFORMING AMENDMENTS.—Clause (i) of section 9312(b)(3)(B) of the Pension Protection Act is amended by—

(1) inserting “, or proceedings were instituted under section 4042,” after “provided”; and

(2) striking “1990” and inserting “1994”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 9312(b)(3) of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-362).

SEC. 335. ELIMINATION OF THE SEVENTH REVOLVING FUND.

(a) TRANSFER.—Effective September 30, 1992, all assets and liabilities of the fund described in section 4005(f)(1) of the Employee Retirement Income Security Act of 1974 (as in effect before the amendments made by this section) shall be transferred to the fund established pursuant to section 4005(a) of such Act with respect to basic benefits guaranteed under section 4022 of such Act.

(b) REPEAL.—Section 4005 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1305) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning after September 30, 1992.

SEC. 336. DISTRESS TERMINATION CRITERIA FOR BANKING INSTITUTIONS.

(a) IN GENERAL.—Subclause (I) of section 4041(c)(2)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)(B)(i)(I)) is amended by inserting “Federal law or” before “law of a State”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan terminations under section 4041 of the Employee Retirement Income Security Act of 1974 with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after the date of the enactment of this Act.

SEC. 337. VARIABLE RATE PREMIUM EXEMPTION.

(a) IN GENERAL.—Clause (v) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by striking all that follows “not less than” and inserting “the maximum amount that may be contributed without incurring an excise tax under section 4972 of the Internal Revenue Code of 1986”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

Subtitle C—Employer Liability, Lien and Priority

PART 1—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 341. EMPLOYER LIABILITY LIEN AND PRIORITY AMOUNT.

(a) REVISED LIMITATIONS ON LIEN AND TAX PRIORITY AMOUNT.—Section 4068(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1368(a)) is amended—

(1) by striking “If any person liable to the corporation” and inserting “(1) Subject to paragraphs (2) and (3), if any person liable to the corporation”;

(2) by striking “section 4062” and inserting “section 4062(a)(1)”;

(3) by striking the comma after “belonging to such person” and inserting a period;

(4) by striking “except that such lien” and inserting the following:

“(2) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation before January 1, 1992, the lien established under paragraph (1)”;

(5) by adding at the end the following paragraph:

“(3)(A) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation on or after January 1, 1992, the lien established under paragraph (1) may not be in an amount in excess of the sum of—

“(i) the amount of benefits attributable to the occurrence of unpredictable contingent events valued as of the date of plan termination arising at any time during the 3 years preceding the date of plan termination (to the extent not funded prior to plan termination), plus

“(ii) the greater of—

“(I) 30 percent of the collective net worth of all persons described in section 4062(a), or

“(II) the currently applicable percentage of the excess of the amount of unfunded benefit liabilities under the plan as of the date of plan termination over the amount described in clause (i).

“(B) For purposes of this paragraph—

“(i) the term ‘currently applicable percentage’ means—

“(I) with respect to plan terminations initiated in calendar year 1992, 10 percent,

“(II) with respect to plan terminations initiated in any calendar year after 1992 and before 2012, the percentage determined under this clause with respect to plan terminations initiated in the preceding calendar year, plus 2 percent, and

“(III) with respect to plan terminations initiated in calendar years after 2011, 50 percent.

“(ii) The term ‘amount of benefits attributable to the occurrence of unpredictable contingent events’ means, with respect to any plan, the present value of unpredictable contingent event benefits (within the meaning of section 302(d)(7)(B)(ii)), determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044.

“(C) In applying subparagraph (A), the corporation may disregard subclause (I) of clause (ii) thereof if the corporation determines, in its sole discretion, that disregarding such subclause (I) is cost-effective.”.

(b) CONFORMING AND CLARIFYING AMENDMENTS RELATING TO AMOUNT ENTITLED TO PRIORITY TREATMENT IN INSOLVENCY AND BANKRUPTCY CASES.—Section 4068(c)(2) of such Act (29 U.S.C. 1368(c)(2)) is amended by inserting “(A)” after “(2)” and by adding at the end the following new subparagraph:

“(B) Subparagraph (A) shall apply—

“(i) in the case of terminations described in paragraph (2) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (2), and

“(ii) in the case of terminations described in paragraph (3) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (3).”.

(c) CLARIFICATION OF BANKRUPTCY AND INSOLVENCY CLAIM.—Section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100-203,

101 Stat. 1330-361) is amended by adding at the end thereof the following new clause:

“(iii) Section 4068(c)(2) of ERISA (29 U.S.C. 1368(c)(2)) is amended—

“(I) by striking ‘the lien imposed under subsection (a)’ and inserting ‘the liability to the corporation under section 4062(a)(1), 4063, or 4064’; and ‘(II) by inserting ‘which is’ after ‘tax’, and by inserting ‘and assigned priority’ after ‘United States’.”.

(d) EFFECTIVE DATES.—

(1) Section 4068(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(i) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act before January 1, 1992.

(2) Section 4068(a)(3) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(ii) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act on or after January 1, 1992.

(3) The amendment made by subsection (a)(2) shall be effective as if included in the enactment of section 11011(a) of the Single-Employer Pension Plan Amendments Act of 1986 (Public Law 99-272; 100 Stat. 253).

(4) The amendment made by subsection (c) shall be effective as if included in the enactment of section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100-203, 101 Stat. 1330-361).

SEC. 342. LIABILITY UPON LIQUIDATION OF CONTRIBUTING SPONSOR WHERE PLAN REMAINS ONGOING

(a) IN GENERAL.—Section 4062 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1362) is amended by adding at the end the following new subsection:

“(f) LIABILITY ON LIQUIDATION OF CONTRIBUTING SPONSOR.—

“(1) IN GENERAL.—In any case in which all or substantially all of the assets of a person who is a contributing sponsor of a single-employer plan are liquidated in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision of a State, and in the course of such liquidation another member of such person’s controlled group remains a contributing sponsor of the plan or is liable for payment of contributions or installments under section 302(c)(11) of this Act or section 412(c)(11) of the Internal Revenue Code of 1986, such person shall be deemed liable under subsection (b) as if such plan had terminated under section 4041(c) in the course of such liquidation and as if the termination date were the date determined by the corporation as the date on which the liquidation was initiated.

“(2) APPLICABILITY OF OTHER PROVISIONS.—Any provision of this Act or any other provision of law that applies to liability under this section upon termination of a plan shall apply in the same manner and to the same extent to the liability established under this subsection. For purposes of this paragraph, the date referred to in paragraph (1) shall be deemed the date of plan termination.

“(3) TRANSFER OF LIABILITY PAYMENTS TO THE ONGOING PLAN.—The corporation shall pay to the plan amounts collected by the

corporation in satisfaction of any liability established under this subsection in connection with such plan.

(4) REGULATIONS.—The corporation may prescribe regulations under this subsection. Such regulations may—

(A) prescribe rules governing—

(i) the basis upon which the plan will continue as an ongoing plan maintained by other members of the controlled group.

(ii) the determination of whether a liquidation referred to in this subsection has occurred, and

(iii) the assignment of the corporation's claim to liability payments under this subsection to other members of the controlled group as a means of collecting such payments, subject to the transfer of such payments to the plan, and

(B) provide alternative arrangements for making liability payments under this subsection."

(b) CONFORMING AMENDMENT.—Section 4062(a)(1) of such Act (29 U.S.C. 1362(a)(1)) is amended by striking "subsection (b) and inserting "subsections (b) and (f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for liquidations initiated on or after the day following the date of enactment of title II.

PART 2—AMENDMENTS TO TITLE 11, UNITED STATES CODE

SEC. 351. PENSION BENEFIT GUARANTY CORPORATION PERMITTED TO BE A MEMBER OF AN UNSECURED CREDITORS' COMMITTEE.

(a) DEFINITION.—Section 101(41) of title 11 of the United States Code is amended by inserting "that guarantees pension benefits of the debtor or an affiliate of the debtor, or" after "governmental unit" the second time it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply with respect to cases commenced under title 11 of the United States Code before the day following the enactment of title II.

SEC. 352. CLARIFICATION OF PRIORITIES IN CONFORMITY WITH THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PRIORITY AS EXPENSES ARISING BEFORE COMMENCEMENT OF CASE.—

(1) in subparagraph (F), by striking "or" at the end;

(2) in subparagraph (G), by striking the period at the end and inserting a semicolon; and

(3) by adding after subparagraph (G) the following:

"(H) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period prior to the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; or

"(I) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is on or prior to the date of the filing of the petition.

"For purposes of subparagraph (I), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder."

(b) PRIORITY AS ADMINISTRATIVE EXPENSES ARISING AFTER COMMENCEMENT OF CASE.—Section 503(b) of such title 11 is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(7)(A) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period beginning on the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; and

"(B) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is after the date of the filing of the petition.

"For purposes of paragraph (7)(B), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder."

(c) EFFECTIVE DATE.—Sections 507(a)(7)(H) and 503(b)(1)(7)(A) of title 11 of the United States Code (as amended by this section) shall be effective as if included in section 9304(e) of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-348). Sections 507(a)(7)(I) and 503(b)(1)(7)(B) of such title (as amended by this section) shall be effective with respect to cases under such title which commence on or after the day following the date of the enactment of title II or cases under such title which are pending on the day following the date of the enactment of title II and in which claims for liability have not been resolved as of such date.

SEC. 353. NOTICE REQUIRED WHERE FEDERALLY INSURED PENSION PLAN IS ADMINISTERED BY THE DEBTOR OR ITS AFFILIATE.

(a) IN GENERAL.—Rule 2002(j) of the Bankruptcy Rules (11 U.S.C. Appendix) is amended by inserting before the period at the end the following: "; (5) to the Pension Benefit Guaranty Corporation in any case in which the debtor or an affiliate of the debtor maintains a pension plan to which title IV of the Employee Retirement Income Security Act of 1974 applies."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect one day after the date of enactment of title II.

TITLE IV—ELIMINATE THE STATUTE OF LIMITATIONS ON THE COLLECTION OF DEFAULTED GUARANTEED STUDENT LOANS

SEC. 401. Section 3(c) of the Higher Education Technical Amendments of 1991 (P.L. 102-26) is amended by striking out "that are brought before November 15, 1992".

TITLE V—EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES

SEC. 501. Chapter 83 of title 5, United States Code, is amended—

(1) in section 8342(a) by striking out "section 8343a or";

(2) by repealing section 8343a; and

(3) in the analysis by striking out the item relating to section 8343a.

SEC. 502. Chapter 84 of title 5, United States Code, is amended—

(1) by repealing section 8420a;

(2) in section 8424(a) by striking out "Except as provided in section 8420a, payment" and inserting in lieu thereof "Payment"; and

(3) in the analysis by striking out the item relating to section 8420a.

SEC. 503. The Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) is amended by repealing section 807(e).

SEC. 504. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is amended in part K of title II by repealing section 294.

It was decided in the { Yeas 166 negative } Nays 264

19.11 [Roll No. 28] AYES—166

Table with 3 columns: Name, Roll No. 28, and AYES-166. Lists names such as Allard, Allen, Archer, Arme, Baker, Ballenger, Barrett, Barton, Bateman, Bennett, Bentley, Bereuter, Bilirakis, Biley, Boehlert, Boehner, Brewster, Broomfield, Browder, Bunning, Burton, Callahan, Camp, Campbell (CA), Chandler, Clement, Clinger, Coble, Coleman (MO), Combest, Coughlin, Cox (CA), Cramer, Crane, Cunningham, Dannehey, Davis, DeLay, Doolittle, Dornan (CA), Dreier, Duncan, Edwards (OK), Emerson, English, Ewing, Fawell, Fields, Fish, Franks (CT), Gallegly, Gallo, Gekas, Gilchrist, Gillmor, Gilman, Gingrich, Goss, Gradison, Grandy, Gunderson, Hammerschmidt, Hancock, Hansen, Hastert, Hefley, Henry, Herger, Hobson, Holloway, Hopkins, Horton, Houghton, Hunter, Hutto, Hyde, Inhofe, Ireland, James, Johnson (CT), Johnson (TX), Kasich, Klug, Kolbe, Kyl, Lagomarsino, Leach, Lent, Lewis (CA), Lewis (FL), Livingston, Lowery (CA), Marlenee, Martin, McCandless, McCollum, McCreary, McDade, McEwen, McGrath, McMillan (NC), Meyers, Michel, Miller (OH), Miller (WA), Molinari, Moorhead, Moran, Morella, Morrison, Myers, Nichols, Orton, Owens (UT), Oxley, Packard, Pallone, Pastor, Paxon, Porter, Quillen, Ramstad, Ravenel, Rhodes, Riggs, Rinaldo, Ritter, Roberts, Rohrabacher, Ros-Lehtinen, Roth, Roukema, Sangmeister, Santorum, Schaefer, Schiff, Schulze, Sensenbrenner, Shaw, Shays, Shuster, Skeen, Smith (NJ), Smith (OR), Smith (TX), Solomon, Spence, Stearns, Stump, Sundquist, Tanner, Taylor (NC), Thomas (CA), Thomas (WY), Upton, Vander Jagt, Vucanovich, Walker, Walsh, Weber, Weldon, Wolf, Wylie, Young (AK), Zeliff, Zimmer.

NOES—264

Table with 3 columns: Name, Roll No. 28, and NOES-264. Lists names such as Abercrombie, Ackerman, Alexander, Anderson, Andrews (ME), Andrews (NJ), Andrews (TX), Annunzio, Anthony, Applegate, Aspin, Atkins, AuCoin, Bacchus, Barnard, Beilenson, Berman, Bevill, Bilbray, Blackwell, Bonior, Borski, Boucher, Boxer, Brooks, Brown, Bruce, Bryant, Bustamante, Byron, Campbell (CO), Cardin, Carper, Carr, Chapman, Clay, Coleman (TX), Collins (IL), Collins (MI), Condit, Conyers, Cooper, Costello, Cox (IL), Coyne, Darden, DeFazio, DeLauro, Dellums, Derrick, Dicks, Dingell, Dixon, Donnelly, Dooley, Dorgan (ND), Downey, Durbin, Dwyer, Dymally, Early, Eckart, Edwards (CA), Edwards (TX), Engel, Erdreich, Espy, Evans, Fascell, Fazio, Feighan, Flake, Foglietta, Ford (MI), Ford (TN), Frank (MA), Frost, Gaydos, Gejdenson, Gephardt, Geren, Gibbons, Glickman, Gonzalez, Goodling, Gordon, Green, Guarini, Hall (OH), Hall (TX).