

110TH CONGRESS  
1ST SESSION

# H. R. 1322

To amend title I of the Employee Retirement Income Security Act of 1974 to provide emergency protection for retiree health benefits.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2007

Mr. TIERNEY (for himself, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BERMAN, Mr. CONYERS, Mr. DELAHUNT, Mr. DOGGETT, Mr. DOYLE, Mr. ENGEL, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Mr. HINCHEY, Ms. HOOLEY, Ms. JACKSON-LEE of Texas, Mr. KAGEN, Mr. KENNEDY, Mr. KILDEE, Mr. KUCINICH, Mr. LANTOS, Ms. ZOE LOFGREN of California, Mrs. LOWEY, Mr. LYNCH, Mrs. MALONEY of New York, Mrs. MCCARTHY of New York, Ms. MCCOLLUM of Minnesota, Mr. McDERMOTT, Mr. MCGOVERN, Mr. MEEHAN, Mr. MICHAUD, Mr. GEORGE MILLER of California, Mr. MORAN of Virginia, Mr. MURTHA, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. ROTHMAN, Mr. SHERMAN, Ms. SLAUGHTER, Mr. STARK, and Mr. WEXLER) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title I of the Employee Retirement Income Security Act of 1974 to provide emergency protection for retiree health benefits.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Emergency Retiree  
3 Health Benefits Protection Act of 2007”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—The Congress finds the following:

6 (1) Retired participants of group health plans  
7 regulated by the Employee Retirement Income Secu-  
8 rity Act of 1974 (ERISA) have been severely  
9 harmed by the virtually unchecked practices of spon-  
10 sors of such plans involving the post-retirement can-  
11 cellation or reduction of health benefits which retir-  
12 ees counted on receiving for their lifetimes.

13 (2) Such widespread post-retirement reductions  
14 in retiree health benefits has led to a crisis in retiree  
15 health care in which retirees—

16 (A) have been unable to substitute indi-  
17 vidual coverage for the group coverage they  
18 lost, or, in order to obtain individual coverage,  
19 have jeopardized their economic security in re-  
20 tirement;

21 (B) because of preexisting medical condi-  
22 tions cannot obtain substitute coverage that  
23 they can afford without depleting their life sav-  
24 ings or have been unable to obtain adequate  
25 medical care or medical care they had relied on  
26 to deal with serious illness;

1 (C) have sustained catastrophic illnesses or  
2 injuries or otherwise experienced a marked de-  
3 terioration in their medical conditions or health  
4 as a result of post-retirement changes to their  
5 medical benefits;

6 (D) have been transferred indiscriminately  
7 into improperly or inadequately managed health  
8 maintenance organizations or other managed  
9 care entities, resulting in the worsening rather  
10 than improvement of prior medical conditions;  
11 and

12 (E) in many instances, have failed to ob-  
13 tain adequate relief in the courts due to highly  
14 restrictive judicial interpretations which are in-  
15 consistent with ERISA's underlying protective  
16 purposes.

17 (3) The crisis in retirees healthcare generated  
18 by the plan sponsor practice of post-retirement can-  
19 cellations or reductions of previously promised re-  
20 tiree health benefits has led to a widespread loss of  
21 confidence in the integrity of ERISA-regulated  
22 group health plans and the ability of ERISA itself  
23 to adequately protect retiree health benefits.

1           (4) A strong and dependable private sector re-  
2           tiree health system is necessary to the essential  
3           health of our Nation's senior citizens.

4           (b) PURPOSES.—The purposes of this Act are to en-  
5           sure that the reasonable health benefit expectations of re-  
6           tirees from ERISA-regulated group health plans are ful-  
7           filled, to minimize the incidence of prolonged legal dis-  
8           putes arising out of the post-retirement cancellation or re-  
9           duction of retiree health benefits from such plans, and to  
10          prevent further adverse effects on retiree health arising  
11          from such post-retirement changes. To this end, the pur-  
12          poses of this Act also include the following:

13           (1) to safeguard retired participants of group  
14          health plans subject to the Employee Retirement In-  
15          come Security Act of 1974 (29 U.S.C. 1001 et seq.)  
16          from loss or reduction of their health benefits from  
17          such plans by barring plan sponsors from canceling  
18          or reducing such benefits after the dates such par-  
19          ticipants retire and when they no longer are able to  
20          absorb such losses or reductions without experi-  
21          encing adverse effects on their health or finances;

22           (2) to establish an enforceable obligation on the  
23          part of sponsors of such group health plans to re-  
24          store health benefits previously taken away from re-  
25          tired participants of such plans to the extent such

1 benefits were canceled or altered after the dates  
2 such participants retired and the plan sponsor would  
3 not sustain substantial business hardship by restor-  
4 ing such benefits; and

5 (3) to establish an Emergency Retiree Health  
6 Loan Guarantee Program to assist sponsors of  
7 group health plans subject to the obligation to re-  
8 store retiree health benefits under this Act to obtain  
9 credit to assist them in discharging such obligations  
10 by providing retiree health loan guarantees that  
11 would encourage the availability of such credit.

12 **SEC. 3. AMENDMENT OF EMPLOYEE RETIREMENT INCOME**  
13 **SECURITY ACT OF 1974 TO PROVIDE RETIREE**  
14 **HEALTH BENEFIT PROTECTIONS IN GROUP**  
15 **HEALTH PLANS.**

16 (a) IN GENERAL.—Subtitle B of title I of the Em-  
17 ployee Retirement Income Security Act of 1974 is amend-  
18 ed by adding at the end a new part 8 as follows:

19 **“PART 8—EMERGENCY RETIREE HEALTH**  
20 **BENEFIT PROTECTIONS**  
21 **“SEC. 801. PROHIBITION AGAINST POST-RETIREMENT RE-**  
22 **DUCTIONS OF RETIREE HEALTH BENEFITS**  
23 **BY GROUP HEALTH PLANS.**

24 “(a) IN GENERAL.—Notwithstanding that a group  
25 health plan described in subsection (b) may contain a pro-

1 vision reserving the general power to amend or terminate  
2 the plan or a provision specifically authorizing the plan  
3 to make post-retirement reductions in retiree health bene-  
4 fits, it shall be prohibited for any group health plan,  
5 whether through amendment or otherwise, to reduce the  
6 benefits provided to a retired participant or his or her ben-  
7 efiary under the terms of the plan if such reduction of  
8 benefits occurs after the date the participant retired for  
9 purposes of the plan and reduces benefits that were pro-  
10 vided to the participant, or his or her beneficiary, as of  
11 the date the participant retired. Any group health plan  
12 provision which purports to authorize the reduction of  
13 benefits in a manner inconsistent with the foregoing prohi-  
14 bition shall be void as against public policy.

15       “(b) GROUP HEALTH PLAN.—The term ‘group  
16 health plan’ shall have the same meaning as in section  
17 607(1).

18       “(c) PROHIBITED REDUCTION OF BENEFITS.—As  
19 used in this section, references to a prohibited reduction  
20 of benefits means any group health plan amendment or  
21 other action which has the effect of—

22               “(1) canceling, decreasing or limiting the  
23               amount, type, level, or form of any benefit or option  
24               provided prior to the amendment or action;

1           “(2) imposing or increasing the out-of-pocket  
2 costs a retired participant, or his or her beneficiary,  
3 must pay in order to keep or obtain any benefits  
4 that were provided to the participant or beneficiary  
5 prior to the amendment or action; or

6           “(3) modifying the manner by which medical  
7 services are delivered under the plan so that after  
8 the amendment or action a retired participant, or  
9 his or her beneficiary, has less ready access to the  
10 delivery of any such medical services than the partic-  
11 ipant or beneficiary had prior to the amendment or  
12 action.

13           “(d) TREATMENT OF PLAN TERMINATION.—

14           “(1) IN GENERAL.—Subject to paragraph (2), a  
15 termination of a group health plan shall be treated  
16 as violating the prohibition contained in this section  
17 if, after the termination, the plan sponsor of the ter-  
18 minated plan fails to continue to provide to the par-  
19 ticipants who retired prior to the termination and to  
20 their beneficiaries the same retiree health benefits  
21 that were provided prior to the termination.

22           “(2) WAIVER.—Paragraph (1) shall not apply  
23 in the case of the termination of a group health plan  
24 if the Secretary issues a waiver under this para-  
25 graph in connection with such termination. The Sec-

1       retary shall issue such a waiver if and only if the  
2       plan sponsor demonstrates to the satisfaction of the  
3       Secretary, in accordance with regulations prescribed  
4       by the Secretary, that such plan sponsor will be un-  
5       able to continue in business unless such a waiver is  
6       issued.

7       “(e) CONSENT OR AUTHORIZATION BY PARTICI-  
8       PANT.—A reduction of benefits shall not be treated as pro-  
9       hibited by this section if such reduction is consented to  
10      in writing by any retired participant or is authorized with  
11      respect to the retired participant under the terms of one  
12      or more agreements which the Secretary finds to be collec-  
13      tive bargaining agreements between one or more employee  
14      representatives who were representing such participant at  
15      the time of the entry into such agreement and one or more  
16      employers.

17      **“SEC. 802. ADOPTION BY GROUP HEALTH PLANS OF PROVI-**  
18                                   **SION BARRING POST-RETIREMENT REDUC-**  
19                                   **TIONS IN RETIREE HEALTH BENEFITS.**

20      “Every group health plan shall contain a provision  
21      which expressly bars the plan, or any fiduciary of the plan,  
22      from reducing the benefits provided under the plan to a  
23      retired participant, or his or her beneficiary, if such reduc-  
24      tion affects the benefits provided to the participant or ben-  
25      eficiary as of the date the participant retired for purposes



1 of the plan and such reduction occurs after the partici-  
2 pant's retirement.

3 **“SEC. 803. RESTORATION BY GROUP HEALTH PLANS OF**  
4 **BENEFITS REDUCED AFTER RETIREMENT.**

5 “(a) IN GENERAL.—The plan sponsor of each group  
6 health plan shall provide, in accordance with this section,  
7 the option of benefit restoration to each retired participant  
8 that meets the following requirements:

9 “(1) The retired participant is entitled to ben-  
10 efit coverage under the plan as of the date of enact-  
11 ment of the Emergency Retiree Health Benefits Pro-  
12 tection Act of 2007.

13 “(2) The amount, type, level, or form of any  
14 benefits or option provided to the retired participant  
15 under the plan as of the date the participant retired  
16 was reduced after the participant's date of retire-  
17 ment. For purposes of the preceding sentence, the  
18 term ‘reduced’ has the same meaning as in section  
19 801(c).

20 “(3) The retired participant has elected to re-  
21 store benefits under the plan within the restoration  
22 period prescribed by subsection (c) and in accord-  
23 ance with such procedures established by the plan  
24 pursuant to regulations of the Secretary.

1       “(b) EXCEPTION FOR CERTAIN PLANS.—In accord-  
2       ance with regulations prescribed by the Secretary, sub-  
3       section (a) shall not apply to any group health plan with  
4       less than 100 participants both on and after the date of  
5       enactment of the Emergency Retiree Health Benefits Pro-  
6       tection Act of 2007.

7       “(c) RESTORATION PERIOD.—The term ‘restoration  
8       period’ means the period which—

9               “(1) begins not later than 1 year after the date  
10              of enactment of the Emergency Retiree Health Ben-  
11              efits Protection Act of 2007;

12             “(2) ends before 2 years from such date, unless  
13             extended by the Secretary pursuant to section  
14             804(g); and

15             “(3) is of no less than 60 days duration.

16       “(d) NOTICE REQUIREMENTS CONCERNING RES-  
17       TORATION OF BENEFITS.—In accordance with regulations  
18       prescribed by the Secretary, each group health plan sub-  
19       ject to the requirements of subsection (a) shall, within no  
20       less than 30 days prior to the commencement of the plan’s  
21       restoration of benefits period, provide written notice to  
22       each retired participant of the plan who meets the require-  
23       ments of subsection (a) of the following:

24             “(1) A description of all benefits the retired  
25             participant is entitled to have restored.

1           “(2) The administrative procedure established  
2           under the plan which may be used to submit a claim  
3           for the restoration of any benefits.

4           “(3) An itemization of the value of each benefit  
5           the retired participant is entitled to have restored,  
6           as determined in accordance with regulations of the  
7           Secretary, and the total value of all such benefits.

8           “(4) A description of any post-retirement in-  
9           creases in retiree health benefits the retired partici-  
10          pant received which the plan sponsor could rescind  
11          if the retired participant asserts a claim for the res-  
12          toration of benefits.

13          “(5) An itemization of the value of each retiree  
14          health benefit the plan sponsor could rescind, as de-  
15          termined in accordance with regulations of the Sec-  
16          retary, and the total value of all such benefits.

17          “(6) If the plan sponsor has filed an application  
18          for a substantial business hardship exemption under  
19          section 804, the date such application was filed, the  
20          date notice of such application was given to retired  
21          participants entitled to submit a claim for the res-  
22          toration of benefits, and the status of such applica-  
23          tion as of the date of the notice sent pursuant to  
24          this subsection.



1 store reduced benefits, if the Secretary finds that compli-  
2 ance by the plan sponsor with the requirements of section  
3 803 would—

4 “(1) be adverse to the interests of plan partici-  
5 pants in the aggregate;

6 “(2) not be administratively feasible; and

7 “(3) cause substantial business hardship to the  
8 plan sponsor.

9 “(c) FACTORS TAKEN INTO ACCOUNT.—For pur-  
10 poses of this section, the factors to be taken into account  
11 in determining substantial business hardship shall include  
12 (but shall not be limited to) whether—

13 “(1) the plan sponsor is operating at an eco-  
14 nomic loss;

15 “(2) compliance with the restoration of benefits  
16 requirements would necessitate substantial future re-  
17 ductions in health benefits provided to participants  
18 under the plan or cause a substantial decline in em-  
19 ployment with the plan sponsor;

20 “(3) it is reasonable to expect that the plan will  
21 be continued only if a waiver or appropriate variance  
22 is granted; and

23 “(4) the provisions of the Retiree Health Loan  
24 Guarantee Program established under section 805  
25 are unavailable to the plan sponsor submitting the

1 application, or, if available, still would not provide a  
2 sufficient basis for denying a waiver or variance.

3 “(d) REQUIREMENT OF SATISFACTORY EVIDENCE.—

4 “(1) IN GENERAL.—The Secretary shall, before  
5 granting a waiver or variance under this section, re-  
6 quire each applicant to provide evidence satisfactory  
7 to the Secretary that the applicant has provided  
8 timely written notice of the filing of an application  
9 for such waiver or variance to each retired partici-  
10 pant entitled to submit a claim for the restoration  
11 of benefits under the applicant’s plan.

12 “(2) TIMELINESS.—For purposes of paragraph  
13 (1), a written notice shall be considered timely if it  
14 is provided not later than 60 days prior to the date  
15 the plan sponsor files an application for a waiver or  
16 variance under this section.

17 “(3) INFORMATION REQUIRED.—The notice re-  
18 ferred to in paragraph (1) shall include information  
19 with respect to the specific relief that will be sought  
20 by the plan sponsor’s application, the period of time  
21 for which relief is sought, and such other relevant  
22 information as the Secretary may prescribe.

23 “(e) PARTICIPATION IN PROCEEDINGS BY RETIRED  
24 PLAN PARTICIPANTS.—Each retired participant entitled  
25 to submit a claim for the restoration of benefits within

1 the meaning of this section shall be provided a reasonable  
2 opportunity to submit comments or otherwise participate  
3 in any proceeding established by the Secretary to deter-  
4 mine whether to grant or deny an application for a waiver  
5 or variance filed by the retired participant’s plan sponsor.

6 “(f) EXCEPTION FOR CERTAIN APPLICATIONS.—The  
7 Secretary shall not be authorized to grant any application  
8 for a waiver or variance purporting to satisfy the require-  
9 ments of subsection (b) if—

10 “(1) within the 5-year period preceding the date  
11 of the plan sponsor’s application the plan sponsor  
12 could have transferred excess pension assets to a  
13 health benefits account within the meaning of sec-  
14 tion 420 of the Internal Revenue Code of 1986 (as  
15 in effect on the date of the enactment of the Tax  
16 Relief Extension Act of 1999) but failed to do so,  
17 and the plan sponsor is submitting an application on  
18 behalf of such retiree health account; or

19 “(2) the plan sponsor submitting the applica-  
20 tion also maintains a fully funded pension plan with  
21 respect to which—

22 “(A) retired participants eligible to submit  
23 a claim for the restoration of benefits under  
24 section 803 are also eligible to receive ad hoc  
25 cost-of-living adjustment benefits;

1           “(B) the assets of the fully funded pension  
2           plan, over the past 5 years preceding the date  
3           of application for a waiver or variance, on aver-  
4           age have exceeded 120 percent of the plan’s li-  
5           abilities;

6           “(C) the plan had no minimum funding re-  
7           quirement to satisfy within the 5 years pre-  
8           ceding the date of application for the waiver or  
9           variance and the plan sponsor submitting the  
10          application made no minimum funding con-  
11          tribution to the fully funded pension plan dur-  
12          ing such 5-year period; and

13          “(D) the plan sponsor submitting the ap-  
14          plication for a waiver or variance failed to pro-  
15          vide an ad hoc cost-of-living adjustment benefit  
16          from the fully funded pension plan during the  
17          5-year period preceding the date of application  
18          for the waiver or variance.

19          “(g) RUNNING OF RESTORATION PERIOD SUS-  
20          PENDED.—The submission of an application for a waiver  
21          or variance pursuant to this section shall suspend the run-  
22          ning of any relevant restoration period as specified in sub-  
23          section (e). Where appropriate, the Secretary shall direct  
24          the reopening of any relevant restoration period upon the



1 final conclusion of proceedings to determine whether an  
2 application should be granted or denied.

3 **“SEC. 805. ESTABLISHMENT OF EMERGENCY RETIREE**  
4 **HEALTH LOAN GUARANTEE PROGRAM.**

5 “(a) DEFINITIONS.—For purposes of this section—

6 “(1) BOARD.—The term ‘Board’ means the  
7 Emergency Retiree Health Loan Guarantee Board  
8 established under subsection (c).

9 “(2) PROGRAM.—The term ‘Program’ means  
10 the Emergency Retiree Health Loan Guarantee Pro-  
11 gram established under subsection (b).

12 “(3) ELIGIBLE PLAN SPONSOR.—The term ‘eli-  
13 gible plan sponsor’ means any plan sponsor as de-  
14 fined in section 3(16)(B) that maintains a group  
15 health plan subject to the retiree health benefits res-  
16 toration requirements of section 803.

17 “(b) ESTABLISHMENT OF EMERGENCY RETIREE  
18 HEALTH LOAN GUARANTEE PROGRAM.—There is estab-  
19 lished the Retiree Health Loan Guarantee Program, to be  
20 administered by the Board, the purpose of which is to pro-  
21 vide loan guarantees to eligible plan sponsors in accord-  
22 ance with this section.

23 “(c) RETIREE HEALTH LOAN GUARANTEE BOARD  
24 MEMBERSHIP.—There is established a Retiree Health  
25 Loan Guarantee Board, which shall be composed of—

1           “(1) the Secretary of Labor, who shall serve as  
2 Chairman of the Board;

3           “(2) the Secretary of Commerce;

4           “(3) the Secretary of the Treasury;

5           “(4) the Secretary of Health and Human Serv-  
6 ices; and

7           “(5) the Chairman of the Council of Economic  
8 Advisers.

9           “(d) RETIREE HEALTH LOAN GUARANTEE PRO-  
10 GRAM.—

11           “(1) AUTHORITY.—The Program may guar-  
12 antee loans provided by private banking and invest-  
13 ment institutions to eligible plan sponsors for pur-  
14 poses of assisting such plan sponsors to meet their  
15 obligations under section 803. Such loan guarantees  
16 shall be provided to the extent provided in advance  
17 in appropriation Acts pursuant to paragraph (4) and  
18 only in accordance with the procedures, rules, and  
19 regulations established by the Board.

20           “(2) TOTAL GUARANTEE LIMIT.—The aggre-  
21 gate amount of loans guaranteed and outstanding at  
22 any time under this section may not exceed  
23 \$5,000,000,000.

24           “(3) INDIVIDUAL GUARANTEE LIMIT.—The ag-  
25 gregate amount of loans guaranteed under this sec-

1       tion with respect to a single eligible plan sponsor  
2       may not exceed \$5,000,000.

3           “(4) ADDITIONAL COSTS.—For the additional  
4       cost of loans guaranteed under this subsection, in-  
5       cluding the costs of modifying the loans, as defined  
6       in section 502 of the Congressional Budget Act of  
7       1974 (2 U.S.C. 661a), there is authorized to be ap-  
8       propriated \$200,000,000, to remain available until  
9       expended.

10       “(e) REQUIREMENTS FOR LOAN GUARANTEES.—A  
11      loan guarantee may be issued under this section upon ap-  
12      plication to the Board by an eligible plan sponsor pursuant  
13      to an agreement to provide a loan to that eligible plan  
14      sponsor by a private bank or investment company, if the  
15      Board determines that—

16           “(1) credit is not otherwise available to that eli-  
17      gible plan sponsor under reasonable terms and con-  
18      ditions sufficient to meet its financing needs with re-  
19      spect to the restoration of retiree health benefits, as  
20      reflected in the financial and business plans of that  
21      eligible plan sponsor;

22           “(2) the prospective earning power of that eligi-  
23      ble plan sponsor, together with the character and  
24      value of the security pledged, furnish reasonable as-

1       surance of repayment of the loan to be guaranteed  
2       in accordance with its terms;

3               “(3) the loan to be guaranteed bears interest at  
4       a rate determined by the Board to be reasonable,  
5       taking into account the current average yield on out-  
6       standing obligations of the United States with re-  
7       maining periods of maturity comparable to the ma-  
8       turity of such loan;

9               “(4) the loan to be guaranteed will materially  
10       assist that eligible plan sponsor to discharge its obli-  
11       gation to comply with the restoration of benefits re-  
12       quirements contained in section 803; and

13               “(5) the eligible plan sponsor has agreed to an  
14       audit by the Government Accountability Office prior  
15       to the issuance of the loan guarantee and annually  
16       while any such guaranteed loan is outstanding.

17       “(f) TERMS AND CONDITIONS OF LOAN GUAR-  
18       ANTEE.—

19               “(1) LOAN DURATION.—All loans guaranteed  
20       under this section shall be payable in full not later  
21       than December 31, 2015, and the terms and condi-  
22       tions of each such loan shall provide that the loan  
23       may not be amended or any provision thereof waived  
24       without the consent of the Board.

1           “(2) LOAN SECURITY.—Any commitment to  
2           issue a loan guarantee under this section shall con-  
3           tain such affirmative and negative covenants and  
4           other protective provisions that the Board deter-  
5           mines are appropriate.

6           “(3) FEES.—An eligible plan sponsor receiving  
7           a guarantee under this section shall pay a fee in an  
8           amount equal to 0.5 percent of the outstanding prin-  
9           cipal balance of the guaranteed loan to the Depart-  
10          ment of the Treasury.

11          “(g) REPORTS TO CONGRESS.—The Secretary of  
12          Labor shall submit annually to each House of the Con-  
13          gress a full report of the activities of the Board under  
14          this section during 2008 and 2009, and annually there-  
15          after during such period as any loan guaranteed under  
16          this section is outstanding. Such report shall be submitted  
17          not later than January 31 of each year (beginning in  
18          2008).

19          “(h) SALARIES AND ADMINISTRATIVE EXPENSES.—  
20          For necessary expenses to administer the Program, there  
21          is authorized to be appropriated to the Department of  
22          Labor (and to be transferred to the Office of the Assistant  
23          Secretary for Pension and Welfare Benefits Administra-  
24          tion) \$10,000,000, to remain available until expended.

1       “(i) TERMINATION OF GUARANTEE AUTHORITY.—  
2 The authority of the Board to make commitments to guar-  
3 antee any loan under this section shall terminate on De-  
4 cember 31, 2013.

5       “(j) REGULATORY ACTION.—The Board shall issue  
6 such final procedures, rules, and regulations as may be  
7 necessary to carry out this section not later than 90 days  
8 after the date of enactment of the Emergency Retiree  
9 Health Benefits Protection Act of 2007. In no event shall  
10 the Board issue a procedure, rule, or regulation which au-  
11 thorizes it to approve or deny any application for a loan  
12 guarantee in more than 270 days after receipt of such ap-  
13 plication.

14       “(k) EMERGENCY DESIGNATION.—The entire  
15 amount made available to carry out this section—

16               “(1) is designated by Congress as an emergency  
17 requirement pursuant to section 251(b)(2)(A) of the  
18 Balanced Budget and Emergency Deficit Control  
19 Act of 1985 (2 U.S.C. 901(b)(2)(A)); and

20               “(2) shall be available only to the extent that  
21 an official budget request that includes designation  
22 of the entire amount as an emergency requirement  
23 (as defined in the Balanced Budget and Emergency  
24 Deficit Control Act of 1985) is transmitted by the  
25 President to the Congress.

1 **“SEC. 806. EFFECT ON OTHER CLAIMS.**

2 “(a) OTHER CLAIMS UNAFFECTED.—Nothing con-  
3 tained in this part shall be construed to alter, impair, or  
4 eliminate any claim for retiree health benefits based on  
5 conduct alleged to violate the terms of a group health plan,  
6 any provision of this Act (other than this part), or both,  
7 regardless of whether such conduct occurred prior to, on,  
8 or after, the effective date of this part.

9 “(b) OTHER CAUSES OF ACTION NOT AUTHOR-  
10 IZED.—Unless the conduct giving rise to a claim for re-  
11 tiree health benefits is alleged to violate the provisions of  
12 this part, nothing contained in this part shall be construed  
13 to authorize any other cause of action for the recovery of  
14 retiree health benefits.

15 **“SEC. 807. REGULATIONS.**

16 “The Secretary may promulgate such regulations as  
17 may be necessary to carry out the provisions of this part.  
18 The Secretary may promulgate any interim final rules as  
19 the Secretary deems are appropriate to carry out this part.

20 **“SEC. 808. ENFORCEMENT.**

21 “The enforcement provisions of sections 501 and 502  
22 shall be applicable to this part.”.

23 (b) CIVIL PENALTY SECTION.—Section 502(c) of the  
24 Employee Retirement Income Security Act of 1974 (29  
25 U.S.C. 1132(e)) is amended—

1           (1) by redesignating paragraph (9) as para-  
2           graph (10); and

3           (2) by inserting after paragraph (8) the fol-  
4           lowing new paragraph:

5           “(9) The Secretary may assess a civil penalty of not  
6           more than \$1,000 for each separate violation of section  
7           801, 802, or 803 by any person individually with respect  
8           to each participant or beneficiary aggrieved by such viola-  
9           tion.”.

10          (c) CONFORMING AMENDMENT.—The table of con-  
11          tents in section 1 of such Act is amended by inserting  
12          after the item relating to section 734 the following new  
13          items:

“PART 8—EMERGENCY RETIREE HEALTH BENEFIT PROTECTIONS

“Sec. 801. Prohibition against post-retirement reductions of retiree health ben-  
          efits by group health plans.

“Sec. 802. Adoption by group health plans of provision barring post-retirement  
          reductions in retiree health benefits.

“Sec. 803. Restoration by group health plans of benefits reduced after retire-  
          ment.

“Sec. 804. Exemption from restoration of benefits requirements.

“Sec. 805. Establishment of Emergency Retiree Health Loan Guarantee Pro-  
          gram.

“Sec. 806. Effect on other claims.

“Sec. 807. Regulations.

“Sec. 808. Enforcement.”.

14          **SEC. 4. SEPARABILITY OF PROVISIONS.**

15          The provisions of section 509 of the Employee Retire-  
16          ment Income Security Act of 1974 (29 U.S.C. 1139) shall  
17          be applicable to this Act and the amendments made there-  
18          by.



1 **SEC. 5. EFFECTIVE DATE.**

2       The amendments made by this Act shall take effect  
3 on the date of the enactment of this Act.

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