

1989—Subsec. (a)(1). Pub. L. 101-239, § 7894(g)(3)(C)(i), substituted “this subchapter” for “section 1321 of this title”.

Subsecs. (c)(3)(A)(ii), (4)(C), (5)(A)(ii), (6), (d), (g)(5). Pub. L. 101-239, § 7891(a)(1), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Subsec. (f)(2)(B). Pub. L. 101-239, § 7893(b), substituted “the enactment” for “the the enactment”.

1986—Subsec. (f)(2)(B). Pub. L. 99-272, § 11005(c)(4), substituted “the enactment of a joint resolution” for “Congress by concurrent resolution”.

Subsec. (f)(2)(C). Pub. L. 99-272, § 11005(c)(5), substituted “so enacted” for “approved”.

Subsec. (f)(3)(B). Pub. L. 99-272, § 11005(c)(6), substituted “enactment of a joint resolution” for “Congress by concurrent resolution”.

Subsec. (f)(4)(A). Pub. L. 99-272, § 11005(c)(7), substituted “joint” for “concurrent”.

Subsec. (f)(4)(B). Pub. L. 99-272, § 11005(c)(8), substituted “joint” for “concurrent” in two places and “The” for “That the Congress favors the” and inserted “is hereby approved”.

Subsec. (f)(4)(C). Pub. L. 99-272, § 11005(c)(9), substituted “joint” for “concurrent”.

Subsec. (g)(4)(A)(ii). Pub. L. 99-272, § 11005(c)(10), substituted “joint” for “concurrent” and “enacted” for “adopted”.

Subsec. (g)(4)(B). Pub. L. 99-272, § 11005(c)(11), substituted “joint” for “concurrent” in two places and “The” for “That the Congress disapproves the” and inserted “is hereby disapproved”.

Subsec. (g)(4)(D). Pub. L. 99-272, § 11005(c)(12), substituted “joint” for “concurrent”.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, § 1(a)(6) [title IX, § 951(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-586, provided that: “The amendments made by this section [amending this section] shall apply to any multiemployer plan that has not received financial assistance (within the meaning of section 4261 of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1431]) within the 1-year period ending on the date of the enactment of this Act [Dec. 21, 2000].”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7891(a)(1) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7891(f) of Pub. L. 101-239, set out as a note under section 1002 of this title.

Amendment by section 7893(b) of Pub. L. 101-239 effective as if included in the provision of the Single-Employer Pension Plan Amendments Act of 1986, Pub. L. 99-272, title XI, to which such amendment relates, see section 7893(h) of Pub. L. 101-239, set out as a note under section 1002 of this title.

Pub. L. 101-239, title VII, § 7894(g)(3)(C)(ii), Dec. 19, 1989, 103 Stat. 2451, provided that: “The amendment made by clause (i) [amending this section] shall take effect as if originally included in section 102 of the Multiemployer Pension Plan Amendments Act of 1980 [Pub. L. 96-364].”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 effective for plan years commencing after Dec. 31, 1985, see section 11005(d)(1) of

Pub. L. 99-272, set out as a note under section 1306 of this title.

EFFECTIVE DATE

Section effective Sept. 26, 1980, except as specifically provided, see section 1461(e) of this title.

§ 1322b. Aggregate limit on benefits guaranteed; criteria applicable

(a) Notwithstanding sections 1322 and 1322a of this title, no person shall receive from the corporation pursuant to a guarantee by the corporation of basic benefits with respect to a participant under all multiemployer and single employer plans an amount, or amounts, with an actuarial value which exceeds the actuarial value of a monthly benefit in the form of a life annuity commencing at age 65 equal to the amount determined under section 1322(b)(3)(B) of this title as of the date of the last plan termination.

(b) For purposes of this section—

(1) the receipt of benefits under a multiemployer plan receiving financial assistance from the corporation shall be considered the receipt of amounts from the corporation pursuant to a guarantee by the corporation of basic benefits except to the extent provided in regulations prescribed by the corporation, and

(2) the date on which a multiemployer plan, whether or not terminated, begins receiving financial assistance from the corporation shall be considered a date of plan termination.

(Pub. L. 93-406, title IV, § 4022B, as added Pub. L. 96-364, title I, § 102, Sept. 26, 1980, 94 Stat. 1215.)

EFFECTIVE DATE

Section effective Sept. 26, 1980, except as specifically provided, see section 1461(e) of this title.

§ 1323. Plan fiduciaries

Notwithstanding any other provision of this chapter, a fiduciary of a plan to which section 1321 of this title applies is not in violation of the fiduciary’s duties as a result of any act or of any withholding of action required by this subchapter.

(Pub. L. 93-406, title IV, § 4023, as added Pub. L. 96-364, title IV, § 402(a)(5), Sept. 26, 1980, 94 Stat. 1298.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 93-406, known as the Employee Retirement Income Security Act of 1974. Titles I, III, and IV of such Act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of the title and Tables.

PRIOR PROVISIONS

A prior section 1323, Pub. L. 93-406, title IV, § 4023, Sept. 2, 1974, 88 Stat. 1019, related to contingent liability coverage, prior to repeal by Pub. L. 96-364, title I, § 107, Sept. 26, 1980, 94 Stat. 1267.

EFFECTIVE DATE

Section effective Sept. 26, 1980, except as specifically provided, see section 1461(e) of this title.

SUBTITLE C—TERMINATIONS

§ 1341. Termination of single-employer plans**(a) General rules governing single-employer plan terminations****(1) Exclusive means of plan termination**

Except in the case of a termination for which proceedings are otherwise instituted by the corporation as provided in section 1342 of this title, a single-employer plan may be terminated only in a standard termination under subsection (b) of this section or a distress termination under subsection (c) of this section.

(2) 60-day notice of intent to terminate

Not less than 60 days before the proposed termination date of a standard termination under subsection (b) of this section or a distress termination under subsection (c) of this section, the plan administrator shall provide to each affected party (other than the corporation in the case of a standard termination) a written notice of intent to terminate stating that such termination is intended and the proposed termination date. The written notice shall include any related additional information required in regulations of the corporation.

(3) Adherence to collective bargaining agreements

The corporation shall not proceed with a termination of a plan under this section if the termination would violate the terms and conditions of an existing collective bargaining agreement. Nothing in the preceding sentence shall be construed as limiting the authority of the corporation to institute proceedings to involuntarily terminate a plan under section 1342 of this title.

(b) Standard termination of single-employer plans**(1) General requirements**

A single-employer plan may terminate under a standard termination only if—

(A) the plan administrator provides the 60-day advance notice of intent to terminate to affected parties required under subsection (a)(2) of this section,

(B) the requirements of subparagraphs (A) and (B) of paragraph (2) are met,

(C) the corporation does not issue a notice of noncompliance under subparagraph (C) of paragraph (2), and

(D) when the final distribution of assets occurs, the plan is sufficient for benefit liabilities (determined as of the termination date).

(2) Termination procedure**(A) Notice to the corporation**

As soon as practicable after the date on which the notice of intent to terminate is provided pursuant to subsection (a)(2) of this section, the plan administrator shall send a notice to the corporation setting forth—

- (i) certification by an enrolled actuary—
 - (I) of the projected amount of the assets of the plan (as of a proposed date of final distribution of assets),

- (II) of the actuarial present value (as of such date) of the benefit liabilities (determined as of the proposed termination date) under the plan, and

- (III) that the plan is projected to be sufficient (as of such proposed date of final distribution) for such benefit liabilities,

- (ii) such information as the corporation may prescribe in regulations as necessary to enable the corporation to make determinations under subparagraph (C), and

- (iii) certification by the plan administrator that—

- (I) the information on which the enrolled actuary based the certification under clause (i) is accurate and complete, and

- (II) the information provided to the corporation under clause (ii) is accurate and complete.

Clause (i) and clause (iii)(I) shall not apply to a plan described in section 412(i)¹ of title 26.

(B) Notice to participants and beneficiaries of benefit commitments²

No later than the date on which a notice is sent by the plan administrator under subparagraph (A), the plan administrator shall send a notice to each person who is a participant or beneficiary under the plan—

- (i) specifying the amount of the benefit liabilities (if any) attributable to such person as of the proposed termination date and the benefit form on the basis of which such amount is determined, and

- (ii) including the following information used in determining such benefit liabilities:

- (I) the length of service,

- (II) the age of the participant or beneficiary,

- (III) wages,

- (IV) the assumptions, including the interest rate, and

- (V) such other information as the corporation may require.

Such notice shall be written in such manner as is likely to be understood by the participant or beneficiary and as may be prescribed in regulations of the corporation.

(C) Notice from the corporation of non-compliance**(i) In general**

Within 60 days after receipt of the notice under subparagraph (A), the corporation shall issue a notice of noncompliance to the plan administrator if—

- (I) it determines, based on the notice sent under paragraph (2)(A) of subsection (b) of this section, that there is reason to believe that the plan is not sufficient for benefit liabilities,

- (II) it otherwise determines, on the basis of information provided by affected

¹ See References in Text note below.

² So in original. Probably should be "benefit liabilities".