

AMENDMENTS

2014—Subsec. (c)(1). Pub. L. 113-235, §108(a)(2)(A), substituted “critical status, as described in subsection 1085(b)(2) of this title,” for “reorganization”.

Subsec. (c)(2). Pub. L. 113-235, §108(a)(2)(B), designated existing provisions as subpar. (A), struck out “(within the meaning of section 1421(b)(6) of this title)” after “pay status”, and added subpar. (B).

Subsec. (d). Pub. L. 113-235, §108(a)(2)(A), substituted “critical status, as described in subsection 1085(b)(2) of this title,” for “reorganization” wherever appearing.

Subsec. (d)(1). Pub. L. 113-235, §108(a)(2)(C)(i), struck out “(determined in accordance with section 1423(b)(3)(B)(ii) of this title)” after “compare the value of plan assets”.

Subsec. (d)(4). Pub. L. 113-235, §108(a)(2)(C)(ii), added par. (4).

Subsec. (e). Pub. L. 113-235, §108(a)(2)(A), substituted “critical status, as described in subsection 1085(b)(2) of this title,” for “reorganization” in pars. (1) and (2).

Subsec. (e)(1)(A). Pub. L. 113-235, §108(a)(2)(D)(i), substituted “the parties described in section 1021(f)(1) of this title” for “the corporation, the parties described in section 1422(a)(2) of this title, and the plan participants and beneficiaries”.

Subsec. (e)(1)(B). Pub. L. 113-235, §108(a)(2)(D)(ii), substituted “section 1021(f)(1) of this title” for “section 1422(a)(2) of this title and the plan participants and beneficiaries”.

Subsec. (g). Pub. L. 113-235, §108(a)(2)(E), added subsec. (g).

2006—Subsec. (d)(1). Pub. L. 109-280 substituted “5 plan years” for “3 plan years” the second place it appeared and inserted at end “If the plan sponsor makes such a determination that the plan will be insolvent in any of the next 5 plan years, the plan sponsor shall make the comparison under this paragraph at least annually until the plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.”

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-235 applicable with respect to plan years beginning after Dec. 31, 2014, see section 108(c) of div. O of Pub. L. 113-235, set out as an Effective Date of Repeal note under section 418 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title II, §203(b), Aug. 17, 2006, 120 Stat. 886, provided that: “The amendments made by this section [amending this section] shall apply with respect to determinations made in plan years beginning after 2007.”

WITHDRAWAL LIABILITY OF EMPLOYER FROM PLAN TERMINATING WHILE PLAN INSOLVENT WITHIN THIS SECTION: DETERMINATIONS, FACTORS, ETC.

Pub. L. 96-364, title I, §108(c)(3), Sept. 26, 1980, 94 Stat. 1268, provided that:

“(A) For the purpose of determining the withdrawal liability of an employer under title IV of the Employee Retirement Income Security Act of 1974 [this subchapter] from a plan that terminates while the plan is insolvent (within the meaning of section 4245 of such Act [this section]), the plan’s unfunded vested benefits shall be reduced by an amount equal to the sum of all overburden credits that were applied in determining the plan’s accumulated funding deficiency for all plan years preceding the first plan year in which the plan is insolvent, plus interest thereon.

“(B) The provisions of subparagraph (A) apply only if—

“(i) the plan would have been eligible for the overburden credit in the last plan year beginning before the date of the enactment of this Act [Sept. 26, 1980], if section 4243 of the Employee Retirement Income Security Act of 1974 [former section 1423 of this title] had been in effect for that plan year, and

“(ii) the Pension Benefit Guaranty Corporation determines that the reduction of unfunded vested benefits under subparagraph (A) would not significantly increase the risk of loss to the corporation.”

PART 4—FINANCIAL ASSISTANCE

§ 1431. Assistance by corporation

(a) Authority; procedure applicable; amount

If, upon receipt of an application for financial assistance under section 1426(f) of this title or section 1441(d) of this title, the corporation verifies that the plan is or will be insolvent and unable to pay basic benefits when due, the corporation shall provide the plan financial assistance in an amount sufficient to enable the plan to pay basic benefits under the plan.

(b) Conditions; repayment terms

(1) Financial assistance shall be provided under such conditions as the corporation determines are equitable and are appropriate to prevent unreasonable loss to the corporation with respect to the plan.

(2) A plan which has received financial assistance shall repay the amount of such assistance to the corporation on reasonable terms consistent with regulations prescribed by the corporation.

(c) Assistance pending final determination of application

Pending determination of the amount described in subsection (a), the corporation may provide financial assistance in such amounts as it considers appropriate in order to avoid undue hardship to plan participants and beneficiaries.

(Pub. L. 93-406, title IV, §4261, as added Pub. L. 96-364, title I, §104(2), Sept. 26, 1980, 94 Stat. 1261.)

EFFECTIVE DATE

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

PART 5—BENEFITS AFTER TERMINATION

§ 1441. Benefits under certain terminated plans

(a) Amendment of plan by plan sponsor to reduce benefits, and suspension of benefit payments

Notwithstanding sections 1053 and 1054 of this title, the plan sponsor of a terminated multiemployer plan to which section 1341a(d) of this title applies shall amend the plan to reduce benefits, and shall suspend benefit payments, as required by this section.

(b) Determinations respecting value of nonforfeitable benefits under terminated plan and value of assets of plan

(1) The value of nonforfeitable benefits under a terminated plan referred to in subsection (a), and the value of the plan’s assets, shall be determined in writing, in accordance with regulations prescribed by the corporation, as of the end of the plan year during which section 1341a(d) of this title becomes applicable to the plan, and each plan year thereafter.

(2) For purposes of this section, plan assets include outstanding claims for withdrawal liabil-