

after the date on which the Corporation makes the determination described in paragraph (1)(A).

“(B) EXCEPTION IN CASES OF SUBSTANTIAL BUSINESS HARDSHIP.—Except in the case of an acquisition, takeover, or leveraged buyout, the preceding provisions of this subsection shall not apply if the contributing sponsor demonstrates to the satisfaction of the Corporation that the contributing sponsor is experiencing substantial business hardship. For purposes of this subparagraph, a contributing sponsor shall be considered as experiencing substantial business hardship if the contributing sponsor has been operating, and can demonstrate that the contributing sponsor will continue to operate, at an economic loss.”

§ 1341a. Termination of multiemployer plans

(a) Determinative factors

Termination of a multiemployer plan under this section occurs as a result of—

- (1) the adoption after September 26, 1980, of a plan amendment which provides that participants will receive no credit for any purpose under the plan for service with any employer after the date specified by such amendment;
- (2) the withdrawal of every employer from the plan, within the meaning of section 1383 of this title, or the cessation of the obligation of all employers to contribute under the plan; or
- (3) the adoption of an amendment to the plan which causes the plan to become a plan described in section 1321(b)(1) of this title.

(b) Date of termination

(1) The date on which a plan terminates under paragraph (1) or (3) of subsection (a) is the later of—

- (A) the date on which the amendment is adopted, or
- (B) the date on which the amendment takes effect.

(2) The date on which a plan terminates under paragraph (2) of subsection (a) is the earlier of—

- (A) the date on which the last employer withdraws, or
- (B) the first day of the first plan year for which no employer contributions were required under the plan.

(c) Duties of plan sponsor of amended plan

Except as provided in subsection (f)(1), the plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall—

- (1) limit the payment of benefits to benefits which are nonforfeitable under the plan as of the date of the termination, and
- (2) pay benefits attributable to employer contributions, other than death benefits, only in the form of an annuity, unless the plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan.

(d) Duties of plan sponsor of nonoperative plan

The plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall reduce benefits and suspend benefit payments in accordance with section 1441 of this title.

(e) Amount of contribution of employer under amended plan for each plan year subsequent to plan termination date

In the case of a plan which terminates under paragraph (1) or (3) of subsection (a), the rate of an employer's contributions under the plan for

each plan year beginning on or after the plan termination date shall equal or exceed the highest rate of employer contributions at which the employer had an obligation to contribute under the plan in the 5 preceding plan years ending on or before the plan termination date, unless the corporation approves a reduction in the rate based on a finding that the plan is or soon will be fully funded.

(f) Payment of benefits; reporting requirements for terminated plans and rules and standards for administration of such plans

(1) The plan sponsor of a terminated plan may authorize the payment other than in the form of an annuity of a participant's entire nonforfeitable benefit attributable to employer contributions, other than a death benefit, if the value of the entire nonforfeitable benefit does not exceed \$1,750. The corporation may authorize the payment of benefits under the terms of a terminated plan other than nonforfeitable benefits, or the payment other than in the form of an annuity of benefits having a value greater than \$1,750, if the corporation determines that such payment is not adverse to the interest of the plan's participants and beneficiaries generally and does not unreasonably increase the corporation's risk of loss with respect to the plan.

(2) The corporation may prescribe reporting requirements for terminated plans, and rules and standards for the administration of such plans, which the corporation considers appropriate to protect the interests of plan participants and beneficiaries or to prevent unreasonable loss to the corporation.

(Pub. L. 93-406, title IV, § 4041A, as added Pub. L. 96-364, title I, § 103, Sept. 26, 1980, 94 Stat. 1216.)

EFFECTIVE DATE

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

§ 1342. Institution of termination proceedings by the corporation

(a) Authority to institute proceedings to terminate a plan

The corporation may institute proceedings under this section to terminate a plan whenever it determines that—

- (1) the plan has not met the minimum funding standard required under section 412 of title 26, or has been notified by the Secretary of the Treasury that a notice of deficiency under section 6212 of title 26 has been mailed with respect to the tax imposed under section 4971(a) of title 26,
- (2) the plan will be unable to pay benefits when due,
- (3) the reportable event described in section 1343(c)(7) of this title has occurred, or
- (4) the possible long-run loss of the corporation with respect to the plan may reasonably be expected to increase unreasonably if the plan is not terminated.

The corporation shall as soon as practicable institute proceedings under this section to terminate a single-employer plan whenever the corporation determines that the plan does not have assets available to pay benefits which are cur-