

## EFFECTIVE DATE

Section effective with respect to distributions that occur in plan years commencing on or after Jan. 1, 1996, see section 776(e) of Pub. L. 103-465, set out as an Effective Date of 1994 Amendment note under section 1056 of this title.

## SUBTITLE D—LIABILITY

**§ 1361. Amounts payable by corporation**

The corporation shall pay benefits under a single-employer plan terminated under this subchapter subject to the limitations and requirements of subtitle B of this subchapter. The corporation shall provide financial assistance to pay benefits under a multiemployer plan which is insolvent under section 1426 or 1441(d)(2)(A) of this title, subject to the limitations and requirements of subtitles B, C, and E of this subchapter. Amounts guaranteed by the corporation under sections 1322 and 1322a of this title shall be paid by the corporation only out of the appropriate fund. The corporation shall make payments under the supplemental program to reimburse multiemployer plans for uncollectible withdrawal liability only out of the fund established under section 1305(e) of this title.

(Pub. L. 93-406, title IV, § 4061, Sept. 2, 1974, 88 Stat. 1029; Pub. L. 96-364, title IV, § 403(f), Sept. 26, 1980, 94 Stat. 1301.)

## AMENDMENTS

1980—Pub. L. 96-364 substituted provisions relating to payment of benefits under a single-employer plan terminated under this subchapter subject to limitations and requirements of subtitle B of this subchapter for provisions relating to payment of benefits under a plan terminated under this subchapter subject to limitations and requirements of subtitle B of this subchapter.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-364 effective Sept. 26, 1980, except as specifically provided, see section 1461(e) of this title.

**§ 1362. Liability for termination of single-employer plans under a distress termination or a termination by corporation****(a) In general**

In any case in which a single-employer plan is terminated in a distress termination under section 1341(c) of this title or a termination otherwise instituted by the corporation under section 1342 of this title, any person who is, on the termination date, a contributing sponsor of the plan or a member of such a contributing sponsor's controlled group shall incur liability under this section. The liability under this section of all such persons shall be joint and several. The liability under this section consists of—

- (1) liability to the corporation, to the extent provided in subsection (b), and
- (2) liability to the trustee appointed under subsection (b) or (c) of section 1342 of this title, to the extent provided in subsection (c).

**(b) Liability to corporation****(1) Amount of liability****(A) In general**

Except as provided in subparagraph (B), the liability to the corporation of a person

described in subsection (a) shall be the total amount of the unfunded benefit liabilities (as of the termination date) to all participants and beneficiaries under the plan, together with interest (at a reasonable rate) calculated from the termination date in accordance with regulations prescribed by the corporation.

**(B) Special rule in case of subsequent insufficiency**

For purposes of subparagraph (A), in any case described in section 1341(c)(3)(C)(ii) of this title, actuarial present values shall be determined as of the date of the notice to the corporation (or the finding by the corporation) described in such section.

**(2) Payment of liability****(A) In general**

Except as provided in subparagraph (B), the liability to the corporation under this subsection shall be due and payable to the corporation as of the termination date, in cash or securities acceptable to the corporation.

**(B) Special rule**

Payment of so much of the liability under paragraph (1)(A) as exceeds 30 percent of the collective net worth of all persons described in subsection (a) (including interest) shall be made under commercially reasonable terms prescribed by the corporation. The parties involved shall make a reasonable effort to reach agreement on such commercially reasonable terms. Any such terms prescribed by the corporation shall provide for deferral of 50 percent of any amount of liability otherwise payable for any year under this subparagraph if a person subject to such liability demonstrates to the satisfaction of the corporation that no person subject to such liability has any individual pre-tax profits for such person's fiscal year ending during such year.

**(3) Alternative arrangements**

The corporation and any person liable under this section may agree to alternative arrangements for the satisfaction of liability to the corporation under this subsection.

**(c) Liability to section 1342 trustee**

A person described in subsection (a) shall be subject to liability under this subsection to the trustee appointed under subsection (b) or (c) of section 1342 of this title. The liability of such person under this subsection shall consist of—

- (1) the sum of the shortfall amortization charge (within the meaning of section 1083(c)(1) of this title and 430(d)(1)<sup>1</sup> of title 26) with respect to the plan (if any) for the plan year in which the termination date occurs, plus the aggregate total of shortfall amortization installments (if any) determined for succeeding plan years under section 1083(c)(2) of this title and section 430(d)(2) of title 26 (which, for purposes of this subparagraph, shall include any increase in such sum which

<sup>1</sup> So in original. Probably should be preceded by "section".