

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

SUBPART C—INSOLVENT PLANS

Sec.
[418 to 418D. Repealed.]
418E. Insolvent plans.

AMENDMENTS

2014—Pub. L. 113-235, div. O, title I, § 108(b)(3)(B), (C), Dec. 16, 2014, 128 Stat. 2789, substituted “Insolvent Plans” for “Special Rules for Multiemployer Plans” in subpart heading and struck out items 418 “Reorganization status”, 418A “Notice of reorganization and funding requirements”, 418B “Minimum contribution requirement”, 418C “Overburden credit against minimum contribution requirement”, and 418D “Adjustments in accrued benefits”.

1980—Pub. L. 96-364, title II, § 202(a), Sept. 26, 1980, 94 Stat. 1271, added subpart C heading “Special Rules for Multiemployer Plans” and items 418 to 418E.

[§§ 418 to 418D. Repealed. Pub. L. 113-235, div. O, title I, § 108(b)(1), Dec. 16, 2014, 128 Stat. 2787]

Section 418, added Pub. L. 96-364, title II, § 202(a), Sept. 26, 1980, 94 Stat. 1271, related to reorganization status.

Section 418A, added Pub. L. 96-364, title II, § 202(a), Sept. 26, 1980, 94 Stat. 1274, related to notice of reorganization and funding requirements.

Section 418B, added Pub. L. 96-364, title II, § 202(a), Sept. 26, 1980, 94 Stat. 1274, related to minimum contribution requirement.

Section 418C, added Pub. L. 96-364, title II, § 202(a), Sept. 26, 1980, 94 Stat. 1278, related to overburden credit against minimum contribution requirement.

Section 418D, added Pub. L. 96-364, title II, § 202(a), Sept. 26, 1980, 94 Stat. 1280, related to adjustments in accrued benefits.

EFFECTIVE DATE OF REPEAL

Pub. L. 113-235, div. O, title I, § 108(c), Dec. 16, 2014, 128 Stat. 2789, provided that: “The amendments made by this section [amending sections 418E and 431 of this title and sections 1084, 1301, and 1426 of Title 29, Labor, and repealing sections 418 to 418D of this title and sections 1421 to 1425 of Title 29] shall apply with respect to plan years beginning after December 31, 2014.”

§ 418E. Insolvent plans

(a) Suspension of certain benefit payments

Notwithstanding section 411, in any case in which benefit payments under an insolvent multiemployer plan exceed the resource benefit level, any such payments of benefits which are not basic benefits shall be suspended, in accordance with this section, to the extent necessary to reduce the sum of such payments and the payments of such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the Pension Benefit Guaranty Corporation under section 4022A(g)(5) of the Employee Retirement Income Security Act of 1974.

(b) Definitions

For purposes of this section, for a plan year—

(1) Insolvency

A multiemployer plan is insolvent if the plan’s available resources are not sufficient to pay benefits under the plan when due for the plan year, or if the plan is determined to be insolvent under subsection (d).

(2) Resource benefit level

The term “resource benefit level” means the level of monthly benefits determined under subsections (c)(1) and (3) and (d)(3) to be the highest level which can be paid out of the plan’s available resources.

(3) Available resources

The term “available resources” means the plan’s cash, marketable assets, contributions, withdrawal liability payments, and earnings, less reasonable administrative expenses and amounts owed for such plan year to the Pension Benefit Guaranty Corporation under section 4261(b)(2) of the Employee Retirement Income Security Act of 1974.

(4) Insolvency year

The term “insolvency year” means a plan year in which a plan is insolvent.

(c) Benefit payments under insolvent plans

(1) Determination of resource benefit level

The plan sponsor of a plan in critical status, as described in section 432(b)(2), shall determine in writing the plan’s resource benefit level for each insolvency year, based on the plan sponsor’s reasonable projection of the plan’s available resources and the benefits payable under the plan.

(2) Uniformity of the benefit suspension

(A) The suspension of benefit payments under this section shall, in accordance with regulations prescribed by the Secretary, apply in substantially uniform proportions to the benefits of all persons in pay status under the plan, except that the Secretary may prescribe rules under which benefit suspensions for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors including differences in negotiated levels of financial support for plan benefit obligations.

(B) For purposes of this paragraph—

(i) the term “person in pay status” means—

(I) a participant or beneficiary on the last day of the base plan year who, at any time during such year, was paid an early, late, normal, or disability retirement benefit (or a death benefit related to a retirement benefit), and

(II) to the extent provided in regulations prescribed by the Secretary of the Treasury, any other person who is entitled to such a benefit under the plan.

(ii) the base plan year for any plan year is—

(I) if there is a relevant collective bargaining agreement, the last plan year ending at least 6 months before the relevant effective date, or

(II) if there is no relevant collective bargaining agreement, the last plan year end-