

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-188, title I, §1451(c), Aug. 20, 1996, 110 Stat. 1816, provided that: "The amendments made by this section [amending this section and section 1055 of Title 29, Labor] shall apply to plan years beginning after December 31, 1996."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 applicable to plan years and limitation years beginning after Dec. 31, 1994, except that employer may elect to treat such amendment as effective on or after Dec. 8, 1994, with provisions relating to reduction of accrued benefits, exception, and timing of plan amendment, see section 767(d) of Pub. L. 103-465, as amended, set out as a note under section 411 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7863 of Pub. L. 101-239, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 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 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1139(b) of Pub. L. 99-514 applicable to distributions in plan years beginning after Dec. 31, 1984, except that such amendments shall not apply to any distributions in plan years beginning after Dec. 31, 1984, and before Jan. 1, 1987, if such distributions were made in accordance with the requirements of the regulations issued under the Retirement Equity Act of 1984, Pub. L. 98-397, with additional provisions relating to reductions in accrued benefits, see section 1139(d) of Pub. L. 99-514, set out as a note under section 411 of this title.

Pub. L. 99-514, title XVIII, §1898(b)(4)(C), Oct. 22, 1986, 100 Stat. 2946, provided that:

"(i) The amendments made by this paragraph [amending this section and section 1055 of Title 29, Labor] shall apply with respect to loans made after August 18, 1985.

"(ii) In the case of any loan which was made on or before August 18, 1985, and which is secured by a portion of the participant's accrued benefit, nothing in the amendments made by sections 103 and 203 of the Retirement Equity Act of 1984 [sections 103 and 203 of Pub. L. 98-397, enacting this section and amending section 401 of this title and section 1055 of Title 29] shall prevent any distribution required by reason of a failure to comply with the terms of such loan.

"(iii) For purposes of this subparagraph, any loan which is revised, extended, renewed, or renegotiated after August 18, 1985, shall be treated as made after August 18, 1985."

Pub. L. 99-514, title XVIII, §1898(b)(6)(C), Oct. 22, 1986, 100 Stat. 2948, provided that: "The amendments made by this paragraph [amending this section and section 1055 of Title 29, Labor] shall apply to plan years beginning after the date of the enactment of this Act [Oct. 22, 1986]."

Pub. L. 99-514, title XVIII, §1898(b)(8)(C), as added by Pub. L. 101-239, title VII, §7862(d)(2), Dec. 19, 1989, 103 Stat. 2434, provided that: "The amendments made by this paragraph [amending this section and section 1055 of Title 29, Labor] shall apply to distributions after the date of the enactment of this Act [Oct. 22, 1986]."

Amendment by section 1898(b)(1)(A), (5)(A), (9)(A), (10)(A), (11)(A), (12)(A), (15)(A), (B) of Pub. L. 99-514 effective as if included in the provision of the Retirement Equity Act of 1984, Pub. L. 98-397, to which such amend-

ment relates, except as otherwise provided, see section 1898(j) of Pub. L. 99-514, set out as a note under section 401 of this title.

EFFECTIVE DATE

Section applicable to plan years beginning after Dec. 31, 1984, except as otherwise provided, see sections 302 and 303 of Pub. L. 98-397, set out as an Effective Date of 1984 Amendment note under section 1001 of Title 29, Labor.

PLAN AMENDMENTS NOT REQUIRED UNTIL

JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

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.

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

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 ending at least 12 months before the beginning of the plan year.

(iii) a relevant collective bargaining agreement is a collective bargaining agreement—

(I) which is in effect for at least 6 months during the plan year, and

(II) which has not been in effect for more than 36 months as of the end of the plan year.

(iv) the relevant effective date is the earliest of the effective dates for the relevant collective bargaining agreements.

(3) Resource benefit level below level of basic benefits

Notwithstanding paragraph (2), if a plan sponsor determines in writing a resource benefit level for a plan year which is below the level of basic benefits, the payment of all benefits other than basic benefits shall be suspended for that plan year.

(4) Excess resources

(A) In general

If, by the end of an insolvency year, the plan sponsor determines in writing that the plan's available resources in that insolvency year could have supported benefit payments above the resource benefit level for that insolvency year, the plan sponsor shall distribute the excess resources to the participants and beneficiaries who received benefit payments from the plan in that insolvency year, in accordance with regulations prescribed by the Secretary.

(B) Excess resources

For purposes of this paragraph, the term “excess resources” means available resources above the amount necessary to support the resource benefit level, but no greater than the amount necessary to pay benefits for the plan year at the benefit levels under the plan.

(5) Unpaid benefits

If, by the end of an insolvency year, any benefit has not been paid at the resource benefit