

regulation or other guidance, reasonable conditions on an eligible multiemployer plan that receives special financial assistance relating to increases in future accrual rates and any retroactive benefit improvements, allocation of plan assets, reductions in employer contribution rates, diversion of contributions to, and allocation of expenses to, other benefit plans, and withdrawal liability.

(2) Limitation

The corporation shall not impose conditions on an eligible multiemployer plan as a condition of, or following receipt of, special financial assistance under this section relating to—

(A) any prospective reduction in plan benefits (including benefits that may be adjusted pursuant to section 1085(e)(8) of this title);

(B) plan governance, including selection of, removal of, and terms of contracts with, trustees, actuaries, investment managers, and other service providers; or

(C) any funding rules relating to the plan receiving special financial assistance under this section.

(3) Payment of premiums

An eligible multiemployer plan receiving special financial assistance under this section shall continue to pay all premiums due under section 1307 of this title for participants and beneficiaries in the plan.

(4) Assistance not considered for certain purposes

An eligible multiemployer plan that receives special financial assistance shall be deemed to be in critical status within the meaning of section 1085(b)(2) of this title until the last plan year ending in 2051.

(5) Insolvent plans

An eligible multiemployer plan receiving special financial assistance under this section that subsequently becomes insolvent will be subject to the current rules and guarantee for insolvent plans.

(6) Ineligibility for other assistance

An eligible multiemployer plan that receives special financial assistance under this section is not eligible to apply for a new suspension of benefits under section 1085(e)(9)(G) of this title.

(n) Coordination with Secretary of the Treasury

In prescribing the application process for eligible multiemployer plans to receive special financial assistance under this section and reviewing applications of such plans, the corporation shall coordinate with the Secretary of the Treasury in the following manner:

(1) In the case of a plan which has suspended benefits under section 1085(e)(9) of this title—

(A) in determining whether to approve the application, the corporation shall consult with the Secretary of the Treasury regarding the plan's proposed method of reinstating benefits, as described in the plan's application and in accordance with guidance issued by the Secretary of the Treasury, and

(B) the corporation shall consult with the Secretary of the Treasury regarding the

amount of special financial assistance needed based on the projected funded status of the plan as of the last day of the plan year ending in 2051, whether the plan proposes to repay benefits over 5 years or as a lump sum, as required by subsection (k)(2), and any other relevant factors, as determined by the corporation in consultation with the Secretary of the Treasury, to ensure the amount of assistance is sufficient to meet such requirement and is sufficient to pay benefits as required in subsection (j)(1).

(2) In the case of any plan which proposes in its application to change the assumptions used, as provided in subsection (e)(4), the corporation shall consult with the Secretary of the Treasury regarding such proposed change in assumptions.

(3) If the corporation specifies in regulations or guidance that temporary priority consideration is available for plans which are insolvent within the meaning of section 418E of title 26 or likely to become so insolvent or for plans which have suspended benefits under section 1085(e)(9) of this title, or that availability is otherwise based on the funded status of the plan under section 1085 of this title, as permitted by subsection (d), the corporation shall consult with the Secretary of the Treasury regarding any granting of priority consideration to such plans.

(Pub. L. 93-406, title IV, § 4262, as added Pub. L. 117-2, title IX, § 9704(b), Mar. 11, 2021, 135 Stat. 190.)

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 liability (within the meaning of section 1301(a)(12) of this title).

(c) Amendment of plan by plan sponsor to reduce benefits for conservation of assets; factors applicable

(1) If, according to the determination made under subsection (b), the value of nonforfeitable benefits exceeds the value of the plan's assets,

the plan sponsor shall amend the plan to reduce benefits under the plan to the extent necessary to ensure that the plan's assets are sufficient, as determined and certified in accordance with regulations prescribed by the corporation, to discharge when due all of the plan's obligations with respect to nonforfeitable benefits.

(2) Any plan amendment required by this subsection shall, in accordance with regulations prescribed by the Secretary of the Treasury—

(A) reduce benefits only to the extent necessary to comply with paragraph (1);

(B) reduce accrued benefits only to the extent that those benefits are not eligible for the corporation's guarantee under section 1322a(b) of this title;

(C) comply with the rules for and limitations on benefit reductions under a plan in reorganization, as prescribed in section 1425¹ of this title, except to the extent that the corporation prescribes other rules and limitations in regulations under this section; and

(D) take effect no later than 6 months after the end of the plan year for which it is determined that the value of nonforfeitable benefits exceeds the value of the plan's assets.

(d) Suspension of benefit payments; determinative factors; powers and duties of plan sponsor; retroactive benefit payments

(1) In any case in which benefit payments under a plan which is insolvent under paragraph (2)(A) exceed the resource benefit level, any such payments which are not basic benefits shall be suspended, in accordance with this subsection, to the extent necessary to reduce the sum of such payments and 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 corporation in connection with a supplemental guarantee program established under section 1322a(g)(2) of this title.

(2) For purposes of this subsection, for a plan year—

(A) a plan is insolvent if—

(i) the plan has been amended to reduce benefits to the extent permitted by subsection (c), and

(ii) the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year; and

(B) "resource benefit level" and "available resources" have the meanings set forth in paragraphs (2) and (3), respectively, of section 1426(b) of this title.

(3) The plan sponsor of a plan which is insolvent (within the meaning of paragraph (2)(A)) shall have the powers and duties of the plan sponsor of a plan in reorganization which is insolvent (within the meaning of section 1426(b)(1) of this title), except that regulations governing the plan sponsor's exercise of those powers and duties under this section shall be prescribed by the corporation, and the corporation shall prescribe by regulation notice requirements which assure that plan participants and beneficiaries receive adequate notice of benefit suspensions.

(4) A plan is not required to make retroactive benefit payments with respect to that portion of

a benefit which was suspended under this subsection, except that the provisions of section 1426(c)(4) and (5) of this title shall apply in the case of plans which are insolvent under paragraph (2)(A), in connection with the plan year during which such section 1341a(d) of this title first became applicable to the plan and every year thereafter, in the same manner and to the same extent as such provisions apply to insolvent plans in reorganization under section 1426 of this title, in connection with insolvency years under such section 1426 of this title.

(Pub. L. 93-406, title IV, § 4281, as added Pub. L. 96-364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1261.)

Editorial Notes

REFERENCES IN TEXT

Section 1425 of this title, referred to in subsec. (c)(2)(C), was repealed by Pub. L. 113-235, div. O, title I, § 108(a)(1), Dec. 16, 2014, 128 Stat. 2786.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

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

PART 6—ENFORCEMENT

§ 1451. Civil actions

(a) Persons entitled to maintain actions

(1) A plan fiduciary, employer, plan participant, or beneficiary, who is adversely affected by the act or omission of any party under this subtitle with respect to a multiemployer plan, or an employee organization which represents such a plan participant or beneficiary for purposes of collective bargaining, may bring an action for appropriate legal or equitable relief, or both.

(2) Notwithstanding paragraph (1), this section does not authorize an action against the Secretary of the Treasury, the Secretary of Labor, or the corporation.

(b) Failure of employer to make withdrawal liability payment within prescribed time

In any action under this section to compel an employer to pay withdrawal liability, any failure of the employer to make any withdrawal liability payment within the time prescribed shall be treated in the same manner as a delinquent contribution (within the meaning of section 1145 of this title).

(c) Jurisdiction of Federal and State courts

The district courts of the United States shall have exclusive jurisdiction of an action under this section without regard to the amount in controversy, except that State courts of competent jurisdiction shall have concurrent jurisdiction over an action brought by a plan fiduciary to collect withdrawal liability.

(d) Venue and service of process

An action under this section may be brought in the district where the plan is administered or where a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.

¹ See References in Text note below.