

generally. Prior to amendment, last sentence read as follows: "The corporation is authorized to pool the assets of terminated plans for purposes of administration and such other purposes, not inconsistent with its duties to the plan participants and the employer maintaining the plan under this subchapter, as it determines to be required for the efficient administration of this subchapter." Another section 9314(b) of Pub. L. 100-203 amended subsec. (c) of this section, see below.

Subsec. (c)(3). Pub. L. 100-203, §9314(b), added par. (3). Another section 9314(b) of Pub. L. 100-203 amended subsec. (a) of this section, see above.

Subsec. (i). Pub. L. 100-203, §9312(c)(3), struck out subsec. (i) which read as follows: "In any case in which a plan is terminated under this section in a termination proceeding initiated by the corporation pursuant to subsection (a), the corporation shall establish a separate trust in connection with the plan for purposes of section 1349 of this title, unless the corporation determines that all benefit commitments under the plan are benefits guaranteed by the corporation under section 1322 of this title or that there is no amount of unfunded benefit commitments under the plan."

1986—Pub. L. 99-272, §11010(c), substituted "Institution of termination proceedings by the corporation" for "Termination by corporation" in section catchline.

Subsec. (a). Pub. L. 99-272, §11010(a)(1)(B), in provision following par. (4) inserted provision that the corporation 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 currently due under the terms of the plan.

Subsec. (a)(2). Pub. L. 99-272, §11010(a)(1)(A), substituted "will be" for "is".

Subsec. (b)(1). Pub. L. 99-272, §11010(a)(2)(A), inserted "or is required under subsection (a) to institute proceedings under this section."

Subsec. (c). Pub. L. 99-272, §11010(a)(2)(B), substituted "is required under subsection (a) of this section to commence proceedings under this section with respect to a plan or, after issuing a notice under this section to a plan administrator," for "has issued a notice under this section to a plan administrator and (whether or not a trustee has been appointed under subsection (b))".

Subsec. (d)(1)(B)(ii). Pub. L. 99-272, §11016(c)(10), inserted ", including but not limited to the power to collect from the persons obligated to meet the requirements of section 1082 of this title or the terms of the plan".

Subsec. (d)(3). Pub. L. 99-272, §11016(c)(11), substituted "those of a trustee under section 704 of title 11" for "a trustee appointed under section 75 of title 11".

Subsec. (i). Pub. L. 99-272, §11010(b), added subsec. (i). 1980—Subsec. (a). Pub. L. 96-364, §402(a)(6)(A), substituted "terminated plans" for "such small plans".

Subsec. (b). Pub. L. 96-364, §402(a)(6)(B), redesignated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (c). Pub. L. 96-364, §402(a)(6)(C), (D), substituted "unreasonable" for "further" wherever appearing, and "of the participants or" for "of the participants and".

Subsec. (d)(1)(A). Pub. L. 96-364, §402(a)(6)(E), added cls. (v) and (vii) and redesignated former cl. (v) as (vi).

Subsec. (d)(1)(B). Pub. L. 96-364, §402(a)(6)(F), (G), in cl. (i) substituted "requirements of this subchapter" for "allocation requirements of section 1344 of this title", and in cl. (iv) struck out exception respecting adverse party status of corporation.

Subsec. (d)(2)(D) to (F). Pub. L. 96-364, §402(a)(6)(H)-(J), added subpars. (D) to (F).

1978—Subsec. (f). Pub. L. 95-598 substituted "of a court of the United States having jurisdiction over cases under chapter 11 of title 11" for "of a court of bankruptcy and of a court in a proceeding under chapter X of the Bankruptcy Act" in first sentence and struck out "bankruptcy," before "mortgage foreclosure" in second sentence.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-458 effective as if included in the provisions of Pub. L. 109-280 to which the amendment relates, except as otherwise provided, see section 112 of Pub. L. 110-458, set out as a note under section 72 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to any plan termination under this subchapter with respect to which the notice of intent to terminate, or in the case of a termination by the Pension Benefit Guaranty Corporation, a notice of determination under this section occurs after Aug. 17, 2006, with transition rule, see section 506(c) of Pub. L. 109-280, set out as a note under section 1341 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-465, title VII, §771(f), Dec. 8, 1994, 108 Stat. 5043, provided that: "The amendments made by this section [amending this section and section 1343 of this title] shall be effective for events occurring 60 days or more after the date of enactment of this Act [Dec. 8, 1994]."

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7881(g)(7) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Pension Protection Act, Pub. L. 100-203, §§9302-9346, to which such amendment relates, see section 7882 of Pub. L. 101-239, set out as a note under section 401 of Title 26, Internal Revenue Code.

Amendment by section 7891(a)(1) of Pub. L. 101-239 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 7891(f) of Pub. L. 101-239, set out as a note under section 1002 of this title.

Amendment by section 7893(e) of Pub. L. 101-239 effective as if included in the provision of the Single-Employer Pension Plan Amendments Act of 1986, Pub. L. 99-272, title XI, to which such amendment relates, see section 7893(h) of Pub. L. 101-239, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 9312(c)(3) of Pub. L. 100-203 applicable with respect to plan terminations under section 1341 of this title with respect to which notices of intent to terminate are provided under section 1341(a)(2) of this title after Dec. 17, 1987, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under this section after that date, see section 9312(d)(1) of Pub. L. 100-203, as amended, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 effective Jan. 1, 1986, with certain exceptions, see section 11019 of Pub. L. 99-272, set out as a note under section 1341 of this title.

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.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

§ 1343. Reportable events

(a) Notification that event has occurred

Within 30 days after the plan administrator or the contributing sponsor knows or has reason to

know that a reportable event described in subsection (c) has occurred, he shall notify the corporation that such event has occurred, unless a notice otherwise required under this subsection has already been provided with respect to such event. The corporation is authorized to waive the requirement of the preceding sentence with respect to any or all reportable events with respect to any plan, and to require the notification to be made by including the event in the annual report made by the plan.

(b) Notification that event is about to occur

(1) The requirements of this subsection shall be applicable to a contributing sponsor if, as of the close of the preceding plan year—

(A) the aggregate unfunded vested benefits (as determined under section 1306(a)(3)(E)(iii) of this title) of plans subject to this subchapter which are maintained by such sponsor and members of such sponsor's controlled groups (disregarding plans with no unfunded vested benefits) exceed \$50,000,000, and

(B) the funded vested benefit percentage for such plans is less than 90 percent.

For purposes of subparagraph (B), the funded vested benefit percentage means the percentage which the aggregate value of the assets of such plans bears to the aggregate vested benefits of such plans (determined in accordance with section 1306(a)(3)(E)(iii) of this title).

(2) This subsection shall not apply to an event if the contributing sponsor, or the member of the contributing sponsor's controlled group to which the event relates, is—

(A) a person subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 [15 U.S.C. 78m, 78o(d)], or

(B) a subsidiary (as defined for purposes of such Act [15 U.S.C. 78a et seq.]) of a person subject to such reporting requirements.

(3) No later than 30 days prior to the effective date of an event described in paragraph (9), (10), (11), (12), or (13) of subsection (c), a contributing sponsor to which the requirements of this subsection apply shall notify the corporation that the event is about to occur.

(4) The corporation may waive the requirement of this subsection with respect to any or all reportable events with respect to any contributing sponsor.

(c) Enumeration of reportable events

For purposes of this section a reportable event occurs—

(1) when the Secretary of the Treasury issues notice that a plan has ceased to be a plan described in section 1321(a)(2) of this title, or when the Secretary of Labor determines the plan is not in compliance with subchapter I of this chapter;

(2) when an amendment of the plan is adopted if, under the amendment, the benefit payable with respect to any participant may be decreased;

(3) when the number of active participants is less than 80 percent of the number of such participants at the beginning of the plan year, or is less than 75 percent of the number of such participants at the beginning of the previous plan year;

(4) when the Secretary of the Treasury determines that there has been a termination or partial termination of the plan within the meaning of section 411(d)(3) of title 26, but the occurrence of such a termination or partial termination does not, by itself, constitute or require a termination of a plan under this subchapter;

(5) when the plan fails to meet the minimum funding standards under section 412 of title 26 (without regard to whether the plan is a plan described in section 1321(a)(2) of this title) or under section 1082 of this title;

(6) when the plan is unable to pay benefits thereunder when due;

(7) when there is a distribution under the plan to a participant who is a substantial owner as defined in section 1321(d) of this title if—

(A) such distribution has a value of \$10,000 or more;

(B) such distribution is not made by reason of the death of the participant; and

(C) immediately after the distribution, the plan has nonforfeitable benefits which are not funded;

(8) when a plan merges, consolidates, or transfers its assets under section 1058 of this title, or when an alternative method of compliance is prescribed by the Secretary of Labor under section 1030 of this title;

(9) when, as a result of an event, a person ceases to be a member of the controlled group;

(10) when a contributing sponsor or a member of a contributing sponsor's controlled group liquidates in a case under title 11, or under any similar Federal law or law of a State or political subdivision of a State;

(11) when a contributing sponsor or a member of a contributing sponsor's controlled group declares an extraordinary dividend (as defined in section 1059(c) of title 26) or redeems, in any 12-month period, an aggregate of 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or an aggregate of 10 percent or more of the total value of shares of all classes of stock, of a contributing sponsor and all members of its controlled group;

(12) when, in any 12-month period, an aggregate of 3 percent or more of the benefit liabilities of a plan covered by this subchapter and maintained by a contributing sponsor or a member of its controlled group are transferred to a person that is not a member of the controlled group or to a plan or plans maintained by a person or persons that are not such a contributing sponsor or a member of its controlled group; or

(13) when any other event occurs that may be indicative of a need to terminate the plan and that is prescribed by the corporation in regulations.

For purposes of paragraph (7), all distributions to a participant within any 24-month period are treated as a single distribution.

(d) Notification to corporation by Secretary of the Treasury

The Secretary of the Treasury shall notify the corporation—

(1) whenever a reportable event described in paragraph (1), (4), or (5) of subsection (c) occurs, or

(2) whenever any other event occurs which the Secretary of the Treasury believes indicates that the plan may not be sound.

(e) Notification to corporation by Secretary of Labor

The Secretary of Labor shall notify the corporation—

(1) whenever a reportable event described in paragraph (1), (5), or (8) of subsection (c) occurs, or

(2) whenever any other event occurs which the Secretary of Labor believes indicates that the plan may not be sound.

(f) Disclosure exemption

Any information or documentary material submitted to the corporation pursuant to this section shall be exempt from disclosure under section 552 of title 5, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress.

(Pub. L. 93-406, title IV, § 4043, Sept. 2, 1974, 88 Stat. 1024; Pub. L. 101-239, title VII, § 7891(a)(1), Dec. 19, 1989, 103 Stat. 2445; Pub. L. 103-465, title VII, § 771(a)-(e)(1), Dec. 8, 1994, 108 Stat. 5042, 5043; Pub. L. 109-280, title IV, § 407(c)(2), Aug. 17, 2006, 120 Stat. 930.)

Editorial Notes

REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsec. (b)(2)(B), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§ 78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

AMENDMENTS

2006—Subsec. (c)(7). Pub. L. 109-280 substituted “1321(d)” for “1322(b)(6)” in introductory provisions.

1994—Subsec. (a). Pub. L. 103-465, § 771(a), (e)(1), in first sentence, inserted “or the contributing sponsor” after “administrator”, substituted “subsection (c)” for “subsection (b)”, and inserted before period at end “, unless a notice otherwise required under this subsection has already been provided with respect to such event”, and struck out last sentence which read as follows: “Whenever an employer making contributions under a plan to which section 1321 of this title applies knows or has reason to know that a reportable event has occurred he shall notify the plan administrator immediately.”

Subsec. (b). Pub. L. 103-465, § 771(b), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 103-465, § 771(b), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(8) to (13). Pub. L. 103-465, § 771(c), struck out “or” at end of par. (8), added pars. (9) to (13), and struck out former par. (9) which read as follows: “when any other event occurs which the corporation determines may be indicative of a need to terminate the plan.”

Subsecs. (d), (e). Pub. L. 103-465, § 771(b), (e)(1), redesignated subsecs. (c) and (d) as (d) and (e), respectively, and substituted “subsection (c)” for “subsection (b)” in par. (1) of each subsec.

Subsec. (f). Pub. L. 103-465, § 771(d), added subsec. (f). 1989—Subsec. (b)(4). Pub. L. 101-239 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 effective Jan. 1, 2006, see section 407(d)(2) of Pub. L. 109-280, set out as a note under section 1321 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective for events occurring 60 days or more after Dec. 8, 1994, see section 771(f) of Pub. L. 103-465, set out as a note under section 1342 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 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 7891(f) of Pub. L. 101-239, set out as a note under section 1002 of this title.

§ 1344. Allocation of assets

(a) Order of priority of participants and beneficiaries

In the case of the termination of a single-employer plan, the plan administrator shall allocate the assets of the plan (available to provide benefits) among the participants and beneficiaries of the plan in the following order:

(1) First, to that portion of each individual's accrued benefit which is derived from the participant's contributions to the plan which were not mandatory contributions.

(2) Second, to that portion of each individual's accrued benefit which is derived from the participant's mandatory contributions.

(3) Third, in the case of benefits payable as an annuity—

(A) in the case of the benefit of a participant or beneficiary which was in pay status as of the beginning of the 3-year period ending on the termination date of the plan, to each such benefit, based on the provisions of the plan (as in effect during the 5-year period ending on such date) under which such benefit would be the least,

(B) in the case of a participant's or beneficiary's benefit (other than a benefit described in subparagraph (A)) which would have been in pay status as of the beginning of such 3-year period if the participant had retired prior to the beginning of the 3-year period and if his benefits had commenced (in the normal form of annuity under the plan) as of the beginning of such period, to each such benefit based on the provisions of the plan (as in effect during the 5-year period ending on such date) under which such benefit would be the least.

For purposes of subparagraph (A), the lowest benefit in pay status during a 3-year period shall be considered the benefit in pay status for such period.

(4) Fourth—

(A) to all other benefits (if any) of individuals under the plan guaranteed under this