

(f) Agreement between plan sponsors of old plan and new plan to transfer in compliance with other statutory provisions; reduction of withdrawal liability of employer from old plan; amount of withdrawal liability of employer to new plan

(1) Notwithstanding subsections (b) and (e), the plan sponsors of the old plan and the new plan may agree to a transfer of assets and liabilities that complies with sections 1411 and 1414 of this title, rather than this section, except that the employer's liability with respect to the withdrawal from the old plan shall be reduced under subsection (c) as if assets and liabilities had been transferred in accordance with this section.

(2) If the employer withdraws from the new plan within 240 months after the effective date of a transfer of assets and liabilities described in this section, the amount of the employer's withdrawal liability to the new plan shall be the greater of—

(A) the employer's withdrawal liability determined under part 1 of this subtitle with respect to the new plan, or

(B) the amount by which the employer's withdrawal liability to the old plan was reduced under subsection (c), reduced by 5 percent for each 12-month period following the effective date of the transfer and ending before the date of the withdrawal from the new plan.

(g) Definitions

For purposes of this section—

(1) “appropriate amount of assets” means the amount by which the value of the non-forfeitable benefits to be transferred exceeds the amount of the employer's withdrawal liability to the old plan (determined under part 1 of this subtitle without regard to section 1391(e) of this title), and

(2) “certified change of collective bargaining representative” means a change of collective bargaining representative certified under the Labor-Management Relations Act, 1947 [29 U.S.C. 141 et seq.], or the Railway Labor Act [45 U.S.C. 151 et seq.].

(Pub. L. 93-406, title IV, § 4235, as added Pub. L. 96-364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1247; amended Pub. L. 98-369, div. A, title V, § 558(b)(1)(A), July 18, 1984, 98 Stat. 899.)

Editorial Notes

REFERENCES IN TEXT

Section 1421 of this title, referred to in subsec. (e)(1), was repealed by Pub. L. 113-235, div. O, title I, § 108(a)(1), Dec. 16, 2014, 128 Stat. 2786.

The Labor-Management Relations Act, 1947, referred to in subsec. (g)(2), is act June 23, 1947, ch. 120, 61 Stat. 136, which is classified principally to chapter 7 (§ 141 et seq.) of this title. For complete classification of this Act to the Code, see section 141 of this title and Tables.

The Railway Labor Act, referred to in subsec. (g)(2), is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified principally to chapter 8 (§ 151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-369 substituted “September 25, 1980” for “April 28, 1980”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Sept. 26, 1980, see section 1461(e)(4) of this title.

PART 3—INSOLVENT PLANS

Editorial Notes

CODIFICATION

Pub. L. 113-235, div. O, title I, § 108(a)(3)(C), Dec. 16, 2014, 128 Stat. 2787, which directed amendment of part 3 of subtitle D of title IV of the Employee Retirement Income Security Act of 1974 by striking the heading and inserting “insolvent plans”, was executed in this part, which is part 3 of subtitle E of title IV of the Act, to reflect the probable intent of Congress.

§§ 1421 to 1425. Repealed. Pub. L. 113-235, div. O, title I, § 108(a)(1), Dec. 16, 2014, 128 Stat. 2786

Section 1421, Pub. L. 93-406, title IV, § 4241, as added Pub. L. 96-364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1249; amended Pub. L. 101-239, title VII, § 7891(a)(1), Dec. 19, 1989, 103 Stat. 2445, related to reorganization status.

Section 1422, Pub. L. 93-406, title IV, § 4242, as added Pub. L. 96-364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1251, related to notice of reorganization and funding requirements.

Section 1423, Pub. L. 93-406, title IV, § 4243, as added Pub. L. 96-364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1252; amended Pub. L. 101-239, title VII, § 7891(a)(1), Dec. 19, 1989, 103 Stat. 2445; Pub. L. 109-280, title I, § 108(b)(6)–(9), formerly § 107(b)(6)–(9), Aug. 17, 2006, 120 Stat. 820, renumbered Pub. L. 111-192, title II, § 202(a), June 25, 2010, 124 Stat. 1297, related to minimum contribution requirement.

Section 1424, Pub. L. 93-406, title IV, § 4244, as added Pub. L. 96-364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1255, related to overburden credit against minimum contribution requirement.

Section 1425, Pub. L. 93-406, title IV, § 4244A, as added Pub. L. 96-364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1257; amended Pub. L. 101-239, title VII, § 7891(a)(1), Dec. 19, 1989, 103 Stat. 2445, related to adjustments in accrued benefits.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to plan years beginning after Dec. 31, 2014, see section 108(c) of div. O of Pub. L. 113-235, set out as a note under section 418 of Title 26, Internal Revenue Code.

§ 1426. Insolvent plans

(a) Suspension of payments of benefits; conditions, amount, etc.

Notwithstanding sections 1053 and 1054 of this title, 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 corporation under section 1322a(g)(5) of this title.

(b) Determination of insolvency status for plan year; definitions

For purposes of this section, for a plan year—

(1) a multiemployer plan is insolvent if the plan's available resources are not sufficient to