

determinations made in plan years beginning after 2007.”

WITHDRAWAL LIABILITY OF EMPLOYER FROM PLAN TERMINATING WHILE PLAN INSOLVENT WITHIN THIS SECTION: DETERMINATIONS, FACTORS, ETC.

Pub. L. 96-364, title I, §108(c)(3), Sept. 26, 1980, 94 Stat. 1268, provided that:

“(A) For the purpose of determining the withdrawal liability of an employer under title IV of the Employee Retirement Income Security Act of 1974 [this subchapter] from a plan that terminates while the plan is insolvent (within the meaning of section 4245 of such Act [this section]), the plan’s unfunded vested benefits shall be reduced by an amount equal to the sum of all overburden credits that were applied in determining the plan’s accumulated funding deficiency for all plan years preceding the first plan year in which the plan is insolvent, plus interest thereon.

“(B) The provisions of subparagraph (A) apply only if—

“(i) the plan would have been eligible for the overburden credit in the last plan year beginning before the date of the enactment of this Act [Sept. 26, 1980], if section 4243 of the Employee Retirement Income Security Act of 1974 [former section 1423 of this title] had been in effect for that plan year, and

“(ii) the Pension Benefit Guaranty Corporation determines that the reduction of unfunded vested benefits under subparagraph (A) would not significantly increase the risk of loss to the corporation.”

PART 4—FINANCIAL ASSISTANCE

§ 1431. Assistance by corporation

(a) Authority; procedure applicable; amount

If, upon receipt of an application for financial assistance under section 1426(f) of this title or section 1441(d) of this title, the corporation verifies that the plan is or will be insolvent and unable to pay basic benefits when due, the corporation shall provide the plan financial assistance in an amount sufficient to enable the plan to pay basic benefits under the plan.

(b) Conditions; repayment terms

(1) Financial assistance shall be provided under such conditions as the corporation determines are equitable and are appropriate to prevent unreasonable loss to the corporation with respect to the plan.

(2) A plan which has received financial assistance shall repay the amount of such assistance to the corporation on reasonable terms consistent with regulations prescribed by the corporation.

(c) Assistance pending final determination of application

Pending determination of the amount described in subsection (a), the corporation may provide financial assistance in such amounts as it considers appropriate in order to avoid undue hardship to plan participants and beneficiaries.

(Pub. L. 93-406, title IV, § 4261, as added Pub. L. 96-364, title I, §104(2), Sept. 26, 1980, 94 Stat. 1261.)

Editorial Notes

EFFECTIVE DATE

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

§ 1432. Special financial assistance by the corporation

(a) Special financial assistance

(1) In general

The corporation shall provide special financial assistance to an eligible multiemployer plan under this section, upon the application of a plan sponsor of such a plan for such assistance.

(2) Inapplicability of certain repayment obligation

A plan receiving special financial assistance pursuant to this section shall not be subject to repayment obligations with respect to such special financial assistance.

(b) Eligible multiemployer plans

(1) In general

For purposes of this section, a multiemployer plan is an eligible multiemployer plan if—

(A) the plan is in critical and declining status (within the meaning of section 1085(b)(6) of this title) in any plan year beginning in 2020 through 2022;

(B) a suspension of benefits has been approved with respect to the plan under section 1085(e)(9) of this title as of March 11, 2021;

(C) in any plan year beginning in 2020 through 2022, the plan is certified by the plan actuary to be in critical status (within the meaning of section 1085(b)(2) of this title), has a modified funded percentage of less than 40 percent, and has a ratio of active to inactive participants which is less than 2 to 3; or

(D) the plan became insolvent for purposes of section 418E of title 26 after December 16, 2014, and has remained so insolvent and has not been terminated as of March 11, 2021.

(2) Modified funded percentage

For purposes of paragraph (1)(C), the term “modified funded percentage” means the percentage equal to a fraction the numerator of which is current value of plan assets (as defined in section 1002(26) of this title) and the denominator of which is current liabilities (as defined in section 431(c)(6)(D) of title 26 and section 1084(c)(6)(D) of this title).

(c) Applications for special financial assistance

Within 120 days of March 11, 2021, the corporation shall issue regulations or guidance setting forth requirements for special financial assistance applications under this section. In such regulations or guidance, the corporation shall—

(1) limit the materials required for a special financial assistance application to the minimum necessary to make a determination on the application;

(2) specify effective dates for transfers of special financial assistance following approval of an application, based on the effective date of the supporting actuarial analysis and the date on which the application is submitted; and

(3) provide for an alternate application for special financial assistance under this section,