

(B) **CONTROLLED GROUP.**—Any group treated as a single employer under subsection (b)(1) of section 1301 of this title, without regard to any transaction that was a basis for the plan's finding under section 1392 of this title, shall be treated as a single employer for purposes of this subparagraph.

(4) **ADDITIONAL SECURITY PENDING RESOLUTION OF DISPUTE.**—If a withdrawal liability dispute to which this subsection applies is not concluded by 12 months after the electing person posts the bond or escrow described in paragraph (2), the electing person shall, at the start of each succeeding 12-month period, provide an additional bond or amount held in escrow equal to the sum of the withdrawal liability payments that would otherwise be payable to the plan during that period.

(5) The liability of the party furnishing a bond or escrow under this subsection shall be reduced, upon the payment of the bond or escrow to the plan, by the amount thereof.

(Pub. L. 93-406, title IV, §4221, as added Pub. L. 96-364, title I, §104(2), Sept. 26, 1980, 94 Stat. 1239; amended Pub. L. 108-218, title II, §202(a), Apr. 10, 2004, 118 Stat. 608; Pub. L. 109-280, title II, §204(d)(1), Aug. 17, 2006, 120 Stat. 887.)

#### AMENDMENTS

2006—Subsec. (g). Pub. L. 109-280 added subsec. (g).

2004—Subsec. (f). Pub. L. 108-218 added subsec. (f).

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title II, §204(d)(2), Aug. 17, 2006, 120 Stat. 889, provided that: “The amendments made by this subsection [amending this section] shall apply to any person that receives a notification under section 4219(b)(1) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1399(b)(1)] on or after the date of enactment of this Act [Aug. 17, 2006] with respect to a transaction that occurred after December 31, 1998.”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-218, title II, §202(b), Apr. 10, 2004, 118 Stat. 609, provided that: “The amendments made by this section [amending this section] shall apply to any employer that receives a notification under section 4219(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1399(b)(1)) after October 31, 2003.”

### § 1402. Reimbursements for uncollectible withdrawal liability

#### (a) Required supplemental program to reimburse for payments due from employers uncollectible as a result of employer involvement in bankruptcy case or proceedings; program participation, premiums, etc.

By May 1, 1982, the corporation shall establish by regulation a supplemental program to reimburse multiemployer plans for withdrawal liability payments which are due from employers and which are determined to be uncollectible for reasons arising out of cases or proceedings involving the employers under title 11, or similar cases or proceedings. Participation in the supplemental program shall be on a voluntary basis, and a plan which elects coverage under the program shall pay premiums to the corporation in accordance with a premium schedule which shall be prescribed from time to time by the corporation. The premium schedule shall

contain such rates and bases for the application of such rates as the corporation considers to be appropriate.

#### (b) Discretionary supplemental program to reimburse for payments due from employers uncollectible for other appropriate reasons

The corporation may provide under the program for reimbursement of amounts of withdrawal liability determined to be uncollectible for any other reasons the corporation considers appropriate.

#### (c) Payment of cost of program

The cost of the program (including such administrative and legal costs as the corporation considers appropriate) may be paid only out of premiums collected under such program.

#### (d) Terms and conditions, limitations, etc., of supplemental program

The supplemental program may be offered to eligible plans on such terms and conditions, and with such limitations with respect to the payment of reimbursements (including the exclusion of de minimis amounts of uncollectible employer liability, and the reduction or elimination of reimbursements which cannot be paid from collected premiums) and such restrictions on withdrawal from the program, as the corporation considers necessary and appropriate.

#### (e) Arrangements by corporation with private insurers for implementation of program; election of coverage by participating plans with private insurers

The corporation may enter into arrangements with private insurers to carry out in whole or in part the program authorized by this section and may require plans which elect coverage under the program to elect coverage by those private insurers.

(Pub. L. 93-406, title IV, §4222, as added Pub. L. 96-364, title I, §104(2), Sept. 26, 1980, 94 Stat. 1240.)

### § 1403. Withdrawal liability payment fund

#### (a) Establishment of or participation in fund by plan sponsors

The plan sponsors of multiemployer plans may establish or participate in a withdrawal liability payment fund.

#### (b) Definitions

For purposes of this section, the term “withdrawal liability payment fund”, and the term “fund”, mean a trust which—

(1) is established and maintained under section 501(c)(22) of title 26,

(2) maintains agreements which cover a substantial portion of the participants who are in multiemployer plans which (under the rules of the trust instrument) are eligible to participate in the fund,

(3) is funded by amounts paid by the plans which participate in the fund, and

(4) is administered by a Board of Trustees, and in the administration of the fund there is equal representation of—

(A) trustees representing employers who are obligated to contribute to the plans participating in the fund, and