(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 1425 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) of this section, 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.)

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.

(e) Costs and expenses

In any action under this section, the court may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to the prevailing party.

(f) Time limitations

An action under this section may not be brought after the later of—

(1) 6 years after the date on which the cause of action arose, or

(2) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such

cause of action; except that in the case of fraud or concealment, such action may be brought not later than 6 years after the date of discovery of the existence of such cause of action.

(g) Service of complaint on corporation; intervention by corporation

A copy of the complaint in any action under this section or section 1401 of this title shall be served upon the corporation by certified mail. The corporation may intervene in any such action.

(Pub. L. 93–406, title IV, § 4301, as added Pub. L. 96–364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1263.)

EFFECTIVE DATE

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

§ 1452. Penalty for failure to provide notice

Any person who fails, without reasonable cause, to provide a notice required under this subtitle or any implementing regulations shall be liable to the corporation in an amount up to $100 for each day for which such failure continues. The corporation may bring a civil action against any such person in the United States District Court for the District of Columbia or in any district court of the United States within the jurisdiction of which the plan assets are located, the plan is administered, or a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.

(Pub. L. 93–406, title IV, § 4302, as added Pub. L. 96–364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1263.)

§ 1453. Election of plan status

(a) Authority, time, and criteria

Within one year after September 26, 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation, that the plan shall not be treated as a multiemployer plan for any purpose under this chapter or the Internal Revenue Code of 1954, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

(1) the plan was not a multiemployer plan because the plan was not a plan described in section 1002(37)(A)(iii) of this title and section 414(f)(1)(C) of title 26 (as such provisions were in effect on the day before September 26, 1980); and

(2) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.

(b) Requirements

An election described in subsection (a) of this section shall be effective only if—

(1) the plan is amended to provide that it shall not be treated as a multiemployer plan for all purposes under this chapter and the Internal Revenue Code of 1954, and

(2) written notice of the amendment is provided to the corporation within 60 days after the amendment is adopted.

(c) Effective date

An election described in subsection (a) of this section shall be treated as being effective as of September 26, 1980.

(Pub. L. 93–406, title IV, § 4303, as added Pub. L. 96–364, title I, § 108(f), Sept. 26, 1980, 94 Stat. 1270.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(1), was in the original ''this Act'', meaning Pub. L. 93–406, known as the Employee Retirement Income Security Act of 1974. Titles I, III, and IV of such Act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Internal Revenue Code of 1954, referred to in subsecs. (a) and (b)(1), was redesignated the Internal Revenue Code of 1986 by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, and is classified to Title 26, Internal Revenue Code.

For the effective date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (a), see section 1461(e) of this title.

SUBTITLE F—TRANSITION RULES AND EFFECTIVE DATES

AMENDMENTS

1980—Pub. L. 96–364, title I, § 104(1), Sept. 26, 1980, 94 Stat. 1217, substituted ''Subtitle F—Transition Rules and Effective Dates'' for ''Subtitle E—Effective Date; Special Rules''.

§ 1461. Effective date; special rules

(a) The provisions of this subchapter take effect on September 2, 1974.

(b) Notwithstanding the provisions of subsection (a) of this section, the corporation shall pay benefits guaranteed under this subchapter with respect to any plan—

(1) which is not a multiemployer plan,

(2) which terminates after June 30, 1974, and before September 2, 1974,

(3) to which section 1321 of this title would apply if that section were effective beginning on July 1, 1974, and

(4) with respect to which a notice is filed with the Secretary of Labor and received by him not later than 10 days after September 2, 1974, except that, for reasonable cause shown, such notice may be filed with the Secretary of Labor and received by him not later than October 31, 1974, stating that the plan is a plan described in paragraphs (1), (2), and (3).

The corporation shall not pay benefits guaranteed under this subchapter with respect to a plan described in the preceding sentence unless the corporation finds substantial evidence that the plan was terminated for a reasonable business purpose and not for the purpose of obtaining the payment of benefits by the corporation under this subchapter or for the purpose of avoiding the liability which might be imposed under subtitle D of this subchapter if the plan terminated on or after September 2, 1974. The provisions of subtitle D of this subchapter do not apply in the case of such a plan which terminates before September 2, 1974. For purposes of