

11 U.S. CODE § 1114 - PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES

Current through Pub. L. [113-100](#). (See [Public Laws for the current Congress](#).)

- [US Code](#)
- [Notes](#)
- [Updates](#)

[PREV](#) | [NEXT](#)

(a) For purposes of this section, the term “retiree benefits” means payments to any entity or person for the purpose of providing or reimbursing payments for retired employees and their spouses and dependents, for medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death under any plan, fund, or program (through the purchase of insurance or otherwise) maintained or established in whole or in part by the debtor prior to filing a petition commencing a case under this title.

(b)

(1) For purposes of this section, the term “authorized representative” means the authorized representative designated pursuant to subsection (c) for persons receiving any retiree benefits covered by a collective bargaining agreement or subsection (d) in the case of persons receiving retiree benefits not covered by such an agreement.

(2) Committees of retired employees appointed by the court pursuant to this section shall have the same rights, powers, and duties as committees appointed under sections [1102](#) and [1103](#) of this title for the purpose of carrying out the purposes of sections [1114](#) and [1129\(a\)\(13\)](#) and, as permitted by the court, shall have the power to enforce the rights of persons under this title as they relate to retiree benefits.

(c)

(1) A labor organization shall be, for purposes of this section, the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, unless

(A) such labor organization elects not to serve as the authorized representative of such persons, or

(B) the court, upon a motion by any party in interest, after notice and hearing, determines that different representation of such persons is appropriate.

(2) In cases where the labor organization referred to in paragraph (1) elects not to serve as the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, or in cases where the court, pursuant to paragraph (1) finds different representation of such persons appropriate, the court, upon a motion by any party in interest, and after notice and a hearing, shall appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, from among such persons, to serve as the authorized representative of such persons under this section.

(d) The court, upon a motion by any party in interest, and after notice and a hearing, shall order the appointment of a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, to serve as the authorized representative, under this section, of those persons receiving any retiree benefits not covered by a collective bargaining agreement. The United States trustee shall appoint any such committee.

(e)

(1) Notwithstanding any other provision of this title, the debtor in possession, or the trustee if one has been appointed under the provisions of this chapter (hereinafter in this section "trustee" shall include a debtor in possession), shall timely pay and shall not modify any retiree benefits, except that—

(A) the court, on motion of the trustee or authorized representative, and after notice and a hearing, may order modification of such payments, pursuant to the provisions of subsections (g) and (h) of this section, or

(B) the trustee and the authorized representative of the recipients of those benefits may agree to modification of such payments, after which such benefits as modified shall continue to be paid by the trustee.

(2) Any payment for retiree benefits required to be made before a plan confirmed under section 1129 of this title is effective has the status of an allowed administrative expense as provided in section 503 of this title.

(f)

(1) Subsequent to filing a petition and prior to filing an application seeking modification of the retiree benefits, the trustee shall—

(A) make a proposal to the authorized representative of the retirees, based on the most complete and reliable information available at the time of such proposal, which provides for those necessary modifications in the retiree benefits that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all of the affected parties are treated fairly and equitably; and

(B) provide, subject to subsection (k)(3), the representative of the retirees with such relevant information as is necessary to evaluate the proposal.

(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1), and ending on the date of the hearing provided for in subsection (k)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such retiree benefits.

(g) The court shall enter an order providing for modification in the payment of retiree benefits if the court finds that—

(1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (f);

(2) the authorized representative of the retirees has refused to accept such proposal without good cause; and

(3) such modification is necessary to permit the reorganization of the debtor and assures that all creditors, the debtor, and all of the affected parties are treated fairly and equitably, and is clearly favored by the balance of the equities;

except that in no case shall the court enter an order providing for such modification which provides for a modification to a level lower than that proposed by the trustee in the proposal found by the court to have complied with the requirements of this subsection and subsection (f):

Provided, however, That at any time after an order is entered providing for modification in the payment of retiree benefits, or at any time after an agreement modifying such benefits is made between the trustee and the authorized representative of the recipients of such benefits, the authorized representative may apply to the court for an order increasing those benefits which order shall be granted if the increase in retiree benefits sought is consistent with the standard set forth in paragraph (3): Provided further, That neither the trustee nor the authorized representative

is precluded from making more than one motion for a modification order governed by this subsection.

(h)

(1) Prior to a court issuing a final order under subsection (g) of this section, if essential to the continuation of the debtor's business, or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement interim modifications in retiree benefits.

(2) Any hearing under this subsection shall be scheduled in accordance with the needs of the trustee.

(3) The implementation of such interim changes does not render the motion for modification moot.

(i) No retiree benefits paid between the filing of the petition and the time a plan confirmed under section [1129](#) of this title becomes effective shall be deducted or offset from the amounts allowed as claims for any benefits which remain unpaid, or from the amounts to be paid under the plan with respect to such claims for unpaid benefits, whether such claims for unpaid benefits are based upon or arise from a right to future unpaid benefits or from any benefits not paid as a result of modifications allowed pursuant to this section.

(j) No claim for retiree benefits shall be limited by section [502\(b\)\(7\)](#) of this title.

(k)

(1) Upon the filing of an application for modifying retiree benefits, the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application. All interested parties may appear and be heard at such hearing. Adequate notice shall be provided to such parties at least ten days before the date of such hearing. The court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interests of justice require such extension, or for additional periods of time to which the trustee and the authorized representative agree.

(2) The court shall rule on such application for modification within ninety days after the date of the commencement of the hearing. In the interests of justice, the court may extend such time for ruling for such additional period as the trustee and the authorized representative may agree to. If the court does not rule on such application within ninety days after the date of the commencement of the hearing, or within such additional time as the trustee and the authorized representative may agree to, the trustee may implement the proposed modifications pending the ruling of the court on such application.

(3) The court may enter such protective orders, consistent with the need of the authorized representative of the retirees to evaluate the trustee's proposal and the application for modification, as may be necessary to prevent disclosure of information provided to such representative where such disclosure could compromise the position of the debtor with respect to its competitors in the industry in which it is engaged.

(l) If the debtor, during the 180-day period ending on the date of the filing of the petition—

(1) modified retiree benefits; and

(2) was insolvent on the date such benefits were modified;

the court, on motion of a party in interest, and after notice and a hearing, shall issue an order reinstating as of the date the modification was made, such benefits as in effect immediately before such date unless the court finds that the balance of the equities clearly favors such modification.

(m) This section shall not apply to any retiree, or the spouse or dependents of such retiree, if such retiree's gross income for the twelve months preceding the filing of the bankruptcy petition equals or exceeds \$250,000, unless such retiree can demonstrate to the satisfaction of the court that he is unable to obtain health, medical, life, and disability coverage for himself, his spouse, and his dependents who would otherwise be covered by the employer's insurance plan, comparable to the coverage provided by the employer on the day before the filing of a petition under this title.

Source

(Added [Pub. L. 100-334](#), § 2(a), June 16, 1988, [102 Stat. 610](#); amended [Pub. L. 109-8](#), title IV, § 447, title XIV, § 1403, Apr. 20, 2005, [119 Stat. 118](#), 215.)

Amendments

2005—Subsec. (d). [Pub. L. 109-8](#), § 447, substituted “order the appointment of” for “appoint” and inserted “The United States trustee shall appoint any such committee.” at end.

Subsecs. (l), (m). [Pub. L. 109-8](#), § 1403, added subsec. (l) and redesignated former subsec. (l) as (m).

Effective Date of 2005 Amendment

Amendment by section 1403 of [Pub. L. 109-8](#) effective Apr. 20, 2005, and applicable only with respect to cases commenced under this title on or after Apr. 20, 2005, see section 1406 of [Pub. L. 109-8](#), set out as a note under section [507](#) of this title.

Amendment by section 447 of [Pub. L. 109-8](#) effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under this title before such effective date, except as otherwise provided, see section 1501 of [Pub. L. 109-8](#), set out as a note under section [101](#) of this title.

Effective Date

[Pub. L. 100-334](#), § 4, June 16, 1988, [102 Stat. 615](#), provided that:

“(a) General Effective Date.—Except as provided in subsection (b), this Act and the amendments made by this Act [enacting this section, amending section [1129](#) of this title, enacting provisions set out as a note under section [101](#) of this title, and amending and repealing provisions set out as notes under section [1106](#) of this title] shall take effect on the date of the enactment of this Act [June 16, 1988].

“(b) Application of Amendments.—The amendments made by section 2 [enacting this section and amending section [1129](#) of this title] shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act [June 16, 1988].”

Payment of Certain Benefits to Retired Former Employees

For payment of benefits by bankruptcy trustee to retired employees in enumerated circumstances with respect to cases commenced under this chapter in which a plan for reorganization had not been confirmed by the court and in which any such benefit was still being paid on October 2, 1986, and in cases that became subject to this chapter after October 2, 1986, and before June 16, 1988, see section [101\(b\)](#) [title VI, § 608] of [Pub. L. 99-500](#), and [Pub. L. 99-591](#), as amended, set out as a note under section [1106](#) of this title.

The table below lists the classification updates, since **Jan. 3, 2012**, for this section. Updates to a broader range of sections may be found at the update page for containing chapter, title, etc.

The most recent Classification Table update that we have noticed was **Tuesday, August 13, 2013**

An empty table indicates that we see no relevant changes listed in the classification tables. If you suspect that our system may be missing something, please double-check with the [Office of the Law Revision Counsel](#).

How To Use

Multiple entries for a section are listed most recent first, within the section.

The Session Year indicates which session of Congress was responsible for the changes classified. The Congress number forms the first part of the Public Law number; each Congress has two sessions.

Abbreviations used in the Description of Change column:

- An empty field implies a standard amendment.
- "new" means a new section or new note, or all new text of an existing section or note.
- "nt" means note.
- "nt [tbl]" means note [table].
- "prec" means preceding.
- "fr" means a transfer from another section.
- "to" means a transfer to another section.
- "omitted" means the section is omitted.
- "repealed" means the section is repealed.
- "nt ed change" and "ed change" - See the [Editorial Classification Change Table](#) [pdf].

The Public Law field is linked to the development of the law in the Thomas system at the Library of Congress.

The Statutes at Large field is linked to the text of the law, in the context of its volume of the Statutes at Large, at the Government Printing Office. Please note that it takes a while for these pages to get posted, so for very recent legislation, you need to look at the "enrolled" version at the [Thomas site](#).

The Statutes at Large references have been rendered in the format used as page numbers in the Public Law web pages to which we link, to facilitate copy-paste into browser "find on this (web) page" tools. We are still working on a more direct link facility.

For serious comparison work, we suggest copying all or a portion of the Public Law text into your favorite text editor, for convenient content traversal and window control.

Sections with change type "new" are a special case, still under development. All are now listed, at the title level only.

You will find that occasionally a specific update you notice in a Public Law listed in a classification table will already have made it into the Code. We assume this is an artifact of the LRC edit process. The LII does not edit the LRC content.

[top](#)

General Reference

Refer to the [LRC \(Law Revision Council\)](#) for explanations about the US Code from the folks who put it all together.

You can look for information about what it is and is not, which titles are *positive law*, the schedule of Supplements, etc. Under [download](#) you can find the source data we use here (GPO locator files), as well as, PDF files that look just like the paper books (these may be rather large).

Refer to the [Thomas site](#) for changes that have not yet made it into the classification tables.

11 USC	Description of Change	Session Year	Public Law	Statutes at Large
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