

115TH CONGRESS
1ST SESSION

H. R. 3501

To establish a procedure under which certain small employers may withdraw from a multiemployer plan in connection with the establishment of a collectively bargained plan.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2017

Mr. PAULSEN introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a procedure under which certain small employers may withdraw from a multiemployer plan in connection with the establishment of a collectively bargained plan.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family-Owned Busi-
5 ness Multiemployer Pension Correction Act of 2017”.

1 **SEC. 2. WITHDRAWAL BY CERTAIN SMALL EMPLOYERS**
2 **FROM MULTIEMPLOYER PLANS IN CONNEC-**
3 **TION WITH ESTABLISHMENT OF A COLLEC-**
4 **TIVELY BARGAINED PLAN.**

5 (a) DETERMINATION OF ELIGIBILITY.—

6 (1) PERIOD FOR MAKING APPLICATION.—Not
7 later than 90 days after the date of the enactment
8 of this Act, the Secretary of the Treasury shall es-
9 tablish a program under which covered small em-
10 ployers may, during the 1-year period beginning 6
11 months after the date that the Secretary establishes
12 such program, apply to have the Secretary determine
13 the eligibility of such employer for the benefits of
14 subsection (d) with respect to a multiemployer plan.

15 (2) DEADLINE FOR DETERMINATION.—Not
16 later than 90 days after the close of the 1-year pe-
17 riod described in paragraph (1), the Secretary shall
18 notify each covered small employer which applied
19 under such program of whether such employer is eli-
20 gible for the benefits of subsection (d) with respect
21 to the multiemployer plan to which the employer's
22 application relates.

23 (b) APPLICATION.—

24 (1) CONTENTS OF APPLICATION.—Any applica-
25 tion of a covered small employer submitted under
26 subsection (a)(1) shall include—

1 (A) the name of such employer,

2 (B) the multiemployer plan with respect to
3 which such application relates,

4 (C) the total plan liabilities of such plan
5 determined as of the close of the last plan year
6 ending before the date of such application,

7 (D) the portion of the total plan liabilities
8 of such plan which are properly attributable to
9 plan participants with respect to which such
10 employer is required to contribute to such plan
11 determined as of the close of the plan year re-
12 ferred to in subparagraph (C),

13 (E) the amounts described in paragraphs
14 (C) and (D) which are projected (on the basis
15 of reasonable actuarial assumptions) to be de-
16 termined as of the close of each of the 2 plan
17 years succeeding the plan year referred to in
18 subparagraph (C),

19 (F) the address of each separate business
20 location of such employer at which plan partici-
21 pants are employed by such employer,

22 (G) the highest number of such plan par-
23 ticipants so employed at each such separate
24 business location on any time during the 3-year

1 period ending on the date of such application,
2 and

3 (H) such other information as the Sec-
4 retary may require.

5 (2) USER FEES.—An application submitted by
6 an employer under subsection (a)(1) shall be treated
7 as described in section 7528(a)(2) of the Internal
8 Revenue Code of 1986 and the user fee imposed
9 with respect to each such application shall be \$1,000
10 multiplied by the number of separate business loca-
11 tions of such employer at which plan participants
12 are employed by such employer.

13 (3) ADDITIONAL INFORMATION.—The Secretary
14 may request such additional information after sub-
15 mission of the application described in paragraph (1)
16 as the Secretary may require for purposes of deter-
17 mining the employer's eligibility for the benefits of
18 subsection (d).

19 (c) STANDARD FOR MAKING ELIGIBILITY DETER-
20 MINATION.—

21 (1) IN GENERAL.—The Secretary shall not de-
22 termine that any covered small employer making ap-
23 plication for the benefits of subsection (d) with re-
24 spect to any multiemployer plan is eligible for such
25 benefits unless the Secretary determines that the ag-

gregate affected plan liabilities of such plan do not exceed 1 percent of the total plan liabilities of such plan with respect to any of the 3 plan years beginning with the plan year referred to in subsection (b)(1)(C) (determined as of the close of each such year).

(2) AGGREGATE AFFECTED PLAN LIABILITIES.—For purposes of paragraph (1), the term “aggregate affected plan liabilities” means, with respect to any multiemployer plan, the aggregate plan liabilities of such plan which are properly attributable to plan participants with respect to one more employers who applied for the benefits of subsection (d) with respect to such plan.

(d) LIMITATION ON WITHDRAWAL LIABILITY.—

(1) IN GENERAL.—In the case of a covered small employer which—

(A) is determined by the Secretary to be eligible for the benefits of this subsection with respect to a multiemployer plan to which such employer is required to contribute, and

(B) is required to contribute (as determined by the Pension Benefit Guaranty Corporation, in consultation with the Secretary, immediately after the employer’s withdrawal from

1 such multiemployer plan) to a collectively bar-
2 gained plan the plan participants of which in-
3 clude all of the plan participants of such multi-
4 employer plan who were accruing benefits with
5 respect to such employer under such multiem-
6 ployer plan immediately before such withdrawal,
7 section 4225(a) of the Employee Retirement Income
8 Security Act of 1974 shall apply to such employer
9 in the same manner as such section applies in the
10 case of a bona fide sale of substantially all of the
11 employer's assets in an arm's length transaction to
12 an unrelated party.

13 (2) APPLICATION.—For purposes of title IV of
14 the Employee Retirement Income Security Act of
15 1974, a determination of withdrawal liability pursu-
16 ant to paragraph (1) shall be treated as a deter-
17 mination made under such title.

18 (3) TIME LIMITATION.—Paragraph (1) shall
19 not apply with respect to any withdrawal from a
20 multiemployer plan by a covered small employer if
21 the date of such of withdrawal is more than 3 years
22 after the date of the notice described in subsection
23 (a)(2).

24 (e) DEFINITIONS.—

1 (1) COVERED SMALL EMPLOYER.—The term
2 “covered small employer” means an employer—

3 (A) that is described in the North Amer-
4 ican Industry Classification System industry
5 sector for retail trade; and

6 (B) that does not employ more than 100
7 plan participants at any separate business loca-
8 tion on any day during the 3-year period ending
9 on the date of the application referred to in
10 subsection (b).

11 (2) MULTIEMPLOYER PLAN.—The term “multi-
12 employer plan” has the meaning given such term in
13 section 4001 of the Employee Retirement Income
14 Security Act of 1974.

15 (3) COLLECTIVELY BARGAINED PLAN.—The
16 term “collectively bargained plan” means a plan
17 maintained pursuant to one or more collective bar-
18 gaining agreements between employee representa-
19 tives and one or more employers.

20 (4) SECRETARY OF THE TREASURY.—The
21 terms “Secretary of the Treasury” and “Secretary”
22 both mean the Secretary of the Treasury (or his del-
23 egate), after consultation with the Secretary of

- 1 Labor and the Pension Benefit Guaranty Corpora-
- 2 tion.

