

104TH CONGRESS
1ST SESSION

H. R. 318

To amend title 11 of the United States Code to establish a priority for the payment of claims for retiree health benefits in liquidation cases under chapters 7 and 11.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. McCOLLUM introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 11 of the United States Code to establish a priority for the payment of claims for retiree health benefits in liquidation cases under chapters 7 and 11.

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. PRIORITY OF CLAIMS FOR RETIREE HEALTH**
4 **BENEFITS.**

5 (a) DEFINITION.—Section 101 of title 11, United
6 States Code, is amended—

7 (1) by redesignating paragraphs (4) through
8 (12A) as paragraphs (3) through (12), respectively,

1 (2) by redesignating paragraphs (48) through
2 (55) as paragraphs (53) through (68), respectively,
3 (3) by inserting after paragraph (47) the fol-
4 lowing:

5 “(52) ‘retiree health benefits’ means payments
6 to any entity or person for the purpose of providing
7 or reimbursing payments for retired employees and
8 their spouses and dependents, for medical, surgical,
9 or hospital care benefits under any plan, fund, or
10 program (through the purchase of insurance or oth-
11 erwise) maintained or established in whole or in part
12 by the debtor prior to filing a petition commencing
13 a case under this title;”, and

14 (4) by redesignating paragraphs (21A) through
15 (47) as paragraphs (22) through (51), respectively,

16 (b) PRIORITY UNDER CHAPTER 7.—(1) Section
17 726(a)(1) of title 11, United States Code, is amended to
18 read as follows:

19 “(1) first—

20 “(A) except as provided in subparagraph
21 (B), in payment of claims of the kind specified
22 in, and in the order specified in section 507 of
23 this title, proof of which is timely filed under
24 section 501 of this title or tardily filed before

1 the date on which the trustee commences dis-
2 tribution under this section; and

3 “(B) immediately after payment of claims
4 of the kind specified in section 507(a)(4), in
5 payment of allowed unsecured claims for retiree
6 health benefits, but only to the extent of the ag-
7 gregate amount that represents \$10,000 multi-
8 plied by the number of former employees with
9 respect to whom a retiree health benefit ac-
10 crues;”.

11 (2) Section 724(b)(2) of title 11, United States Code,
12 is amended by inserting “, and to holders of claims for
13 retiree health benefits payable under section 726(a)(1)(B)
14 of this title,” after “this title”.

15 (c) PRIORITY UNDER CHAPTER 11.—Section
16 1129(a) of title 11, United States Code, is amended—

17 (1) in paragraph (9)—

18 (A) in subparagraph (B)—

19 (i) by inserting “subject to subpara-
20 graph (D)” after “receive”, and

21 (ii) by striking “and” at the end,

22 (B) in subparagraph (C) by striking the
23 period at the end and inserting “; and”, and

24 (C) by adding at the end the following:

1 “(D) if liquidation is proposed in the plan,
2 with respect to a class of claims for retiree
3 health benefits, such class will receive imme-
4 diately after payment of claims of the kinds
5 specified in paragraphs (1), (2), (3), and (4) of
6 section 507(a) of this title—

7 “(i) if such class has accepted the
8 plan, deferred cash payments of a value, as
9 of the effective date of the plan; or

10 “(ii) if such class has not accepted the
11 plan, cash on the effective date of the plan;
12 equal to the allowed aggregate amount of such
13 claims, but only to the extent of the aggregate
14 amount that represents \$10,000 multiplied by
15 the number of former employees with respect to
16 whom a retiree health benefit accrues.”, and

17 (2) by amending paragraph (13) to read as fol-
18 lows:

19 “(13) The plan provides—

20 “(A) except as provided in subparagraph
21 (B), for the continuation after its effective date
22 of payment of all retiree benefits (as defined in
23 section 1114 of this title) at the level estab-
24 lished pursuant to subsection (e)(1)(B) or (g)
25 of section 1114 of this title, at any time prior

1 to confirmation of the plan, for the duration of
2 the period the debtor has obligated itself to pro-
3 vide such benefits; and

4 “(B) if the plan provides for liquidation,
5 for the payment of allowed unsecured claims for
6 retiree health benefits, but only to the extent of
7 the aggregate amount that represents \$10,000
8 multiplied by the number of former employees
9 with respect to whom a retiree health benefit
10 accrues.”.

11 **SEC. 2. RULE OF CONSTRUCTION.**

12 The amendments made by this Act shall not be con-
13 strued to limit any priority to which claims for retiree
14 health benefits are entitled under the provisions of title
15 11 of the United States Code that are not amended by
16 this Act.

17 **SEC. 3. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.**

18 (a) EFFECTIVE DATE.—Except as provided in sub-
19 section (b), this Act and the amendments made by section
20 1 shall take effect on the date of the enactment of this
21 Act.

22 (b) APPLICATION OF AMENDMENTS.—(1) Except as
23 provided in paragraph (2), the amendments made by sec-
24 tion 1 shall apply only with respect to cases commenced

1 under title 11, United States Code, after the date of the
2 enactment of this Act.

3 (2) The amendments made by section 1 shall apply
4 with respect to—

5 (A) cases commenced under chapter 11 of title
6 11, United States Code, on or after March 1, 1989;
7 and

8 (B) cases converted from chapter 11 of title 11,
9 United States Code, to chapter 7 of such Code on
10 or after September 1, 1991.

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