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. PAUSEN 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 Business Multiemployer Pension Correction Act of 2017”.

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SEC. 2. WITHDRAWAL BY CERTAIN SMALL EMPLOYERS
FROM MULTIEmployER PLANS IN CONNEcTION WITH ESTABLISHMENT OF A COLlecTIVELY BARGAINED PLAN.

(a) Determination of Eligibility.—

(1) Period for making application.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall establish a program under which covered small employers may, during the 1-year period beginning 6 months after the date that the Secretary establishes such program, apply to have the Secretary determine the eligibility of such employer for the benefits of subsection (d) with respect to a multiemployer plan.

(2) Deadline for determination.—Not later than 90 days after the close of the 1-year period described in paragraph (1), the Secretary shall notify each covered small employer which applied under such program of whether such employer is eligible for the benefits of subsection (d) with respect to the multiemployer plan to which the employer’s application relates.

(b) Application.—

(1) Contents of application.—Any application of a covered small employer submitted under subsection (a)(1) shall include—
(A) the name of such employer,

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

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

(D) the portion of the total plan liabilities of such plan which are properly attributable to plan participants with respect to which such employer is required to contribute to such plan determined as of the close of the plan year referred to in subparagraph (C),

(E) the amounts described in paragraphs (C) and (D) which are projected (on the basis of reasonable actuarial assumptions) to be determined as of the close of each of the 2 plan years succeeding the plan year referred to in subparagraph (C),

(F) the address of each separate business location of such employer at which plan participants are employed by such employer,

(G) the highest number of such plan participants so employed at each such separate business location on any time during the 3-year
period ending on the date of such application, and

(H) such other information as the Secretary may require.

(2) User fees.—An application submitted by an employer under subsection (a)(1) shall be treated as described in section 7528(a)(2) of the Internal Revenue Code of 1986 and the user fee imposed with respect to each such application shall be $1,000 multiplied by the number of separate business locations of such employer at which plan participants are employed by such employer.

(3) Additional information.—The Secretary may request such additional information after submission of the application described in paragraph (1) as the Secretary may require for purposes of determining the employer’s eligibility for the benefits of subsection (d).

(c) Standard for Making Eligibility Determination.—

(1) In general.—The Secretary shall not determine that any covered small employer making application for the benefits of subsection (d) with respect to any multiemployer plan is eligible for such benefits unless the Secretary determines that the ag-
aggregate 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
such multiemployer plan) to a collectively bargained plan the plan participants of which include all of the plan participants of such multiemployer plan who were accruing benefits with respect to such employer under such multiemployer plan immediately before such withdrawal, section 4225(a) of the Employee Retirement Income Security Act of 1974 shall apply to such employer in the same manner as such section applies in the case of a bona fide sale of substantially all of the employer's assets in an arm's length transaction to an unrelated party.

(2) APPLICATION.—For purposes of title IV of the Employee Retirement Income Security Act of 1974, a determination of withdrawal liability pursuant to paragraph (1) shall be treated as a determination made under such title.

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

(c) DEFINITIONS.—
(1) Covered small employer.—The term "covered small employer" means an employer—

(A) that is described in the North American Industry Classification System industry sector for retail trade; and

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

(2) Multiemployer plan.—The term "multiemployer plan" has the meaning given such term in section 4001 of the Employee Retirement Income Security Act of 1974.

(3) Collectively bargained plan.—The term "collectively bargained plan" means a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers.

(4) Secretary of the Treasury.—The terms "Secretary of the Treasury" and "Secretary" both mean the Secretary of the Treasury (or his delegate), after consultation with the Secretary of
Labor and the Pension Benefit Guaranty Corporation.