

ployee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

(Pub. L. 100-379, §2, Aug. 4, 1988, 102 Stat. 890.)

#### EFFECTIVE DATE

Section 11 of Pub. L. 100-379 provided that: "This Act [enacting this chapter] shall take effect on the date which is 6 months after the date of enactment of this Act [Aug. 4, 1988], except that the authority of the Secretary of Labor under section 8 [section 2107 of this title] is effective upon enactment."

#### SHORT TITLE

Section 1(a) of Pub. L. 100-379 provided that: "This Act [enacting this chapter] may be cited as the 'Worker Adjustment and Retraining Notification Act'."

### § 2102. Notice required before plant closings and mass layoffs

#### (a) Notice to employees, State dislocated worker units, and local governments

An employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of such an order—

(1) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) to the State or entity designated by the State to carry out rapid response activities under section 2864(a)(2)(A) of this title, and the chief elected official of the unit of local government within which such closing or layoff is to occur.

If there is more than one such unit, the unit of local government which the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

#### (b) Reduction of notification period

(1) An employer may order the shutdown of a single site of employment before the conclusion of the 60-day period if as of the time that notice would have been required the employer was actively seeking capital or business which, if obtained, would have enabled the employer to avoid or postpone the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

(2)(A) An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if the closing or mass layoff is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

(B) No notice under this chapter shall be required if the plant closing or mass layoff is due to any form of natural disaster, such as a flood, earthquake, or the drought currently ravaging the farmlands of the United States.

(3) An employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

#### (c) Extension of layoff period

A layoff of more than 6 months which, at its outset, was announced to be a layoff of 6 months

or less, shall be treated as an employment loss under this chapter unless—

(1) the extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

#### (d) Determinations with respect to employment loss

For purposes of this section, in determining whether a plant closing or mass layoff has occurred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 2101(a)(2) or (3) of this title but which in the aggregate exceed that minimum number, and which occur within any 90-day period shall be considered to be a plant closing or mass layoff unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this chapter.

(Pub. L. 100-379, §3, Aug. 4, 1988, 102 Stat. 891; Pub. L. 105-277, div. A, §101(f) [title VIII, §405(d)(26), (f)(18)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-424, 2681-432.)

#### AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-277, §101(f) [title VIII, §405(f)(18)], struck out "the State dislocated worker unit or office (referred to in section 1661(b)(2) of this title), or" before "the State or entity".

Pub. L. 105-277, §101(f) [title VIII, §405(d)(26)], substituted "to the State dislocated worker unit or office (referred to in section 1661(b)(2) of this title), or the State or entity designated by the State to carry out rapid response activities under section 2864(a)(2)(A) of this title, and the chief" for "to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act) and the chief".

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(d)(26)] of Pub. L. 105-277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(18)] of Pub. L. 105-277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105-277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

### § 2103. Exemptions

This chapter shall not apply to a plant closing or mass layoff if—

(1) the closing is of a temporary facility or the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) the closing or layoff constitutes a strike or constitutes a lockout not intended to evade the requirements of this chapter. Nothing in this chapter shall require an employer to serve written notice pursuant to section 2102(a) of this title when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act [29