

chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Federal Advisory Committee Act, referred to in subsec. (f)(3), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

#### CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

### § 1148. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions

In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of title 26) or a terroristic or military action (as defined in section 692(c)(2) of such title), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to 1 year which may be disregarded in determining the date by which any action is required or permitted to be completed under this chapter. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

(Pub. L. 93-406, title I, §518, as added Pub. L. 107-134, title I, §112(c)(1), Jan. 23, 2002, 115 Stat. 2434.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 93-406, known as the Employee Retirement Income Security Act of 1974. Titles I, III, and IV of such Act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

#### EFFECTIVE DATE

Section applicable to disasters and terroristic or military actions occurring on or after Sept. 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after Jan. 23, 2002, see section 112(f) of Pub. L. 107-134, set out as an Effective Date of 2002 Amendment note under section 6081 of Title 26, Internal Revenue Code.

### § 1149. Prohibition on false statements and representations

No person, in connection with a plan or other arrangement that is<sup>1</sup> multiple employer welfare arrangement described in section 1002(40) of this title, shall make a false statement or false representation of fact, knowing it to be false, in connection with the marketing or sale of such plan or arrangement, to any employee, any member of an employee organization, any beneficiary, any employer, any employee organization, the Secretary, or any State, or the representative or agent of any such person, State, or the Secretary, concerning—

(1) the financial condition or solvency of such plan or arrangement;

(2) the benefits provided by such plan or arrangement;

(3) the regulatory status of such plan or other arrangement under any Federal or State law governing collective bargaining, labor management relations, or intern union affairs; or

(4) the regulatory status of such plan or other arrangement regarding exemption from state<sup>2</sup> regulatory authority under this chapter.

This section shall not apply to any plan or arrangement that does not fall within the meaning of the term “multiple employer welfare arrangement” under section 1002(40)(A) of this title.

(Pub. L. 93-406, title I, §519, as added Pub. L. 111-148, title VI, §6601(a), Mar. 23, 2010, 124 Stat. 779.)

#### REFERENCES IN TEXT

This chapter, referred to in par. (4), was in the original “this Act”, meaning Pub. L. 93-406, known as the Employee Retirement Income Security Act of 1974. Titles I, III, and IV of such Act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

### § 1150. Applicability of State law to combat fraud and abuse

The Secretary may, for the purpose of identifying, preventing, or prosecuting fraud and abuse, adopt regulatory standards establishing, or issue an order relating to a specific person establishing, that a person engaged in the business of providing insurance through a multiple employer welfare arrangement described in section 1002(40) of this title is subject to the laws of the States in which such person operates which regulate insurance in such State, notwithstanding section 1144(b)(6) of this title or the Liability Risk Retention Act of 1986 [15 U.S.C. 3901 et seq.], and regardless of whether the law of the State is otherwise preempted under any of such provisions. This section shall not apply to any plan or arrangement that does not fall within the meaning of the term “multiple employer welfare arrangement” under section 1002(40)(A) of this title.

(Pub. L. 93-406, title I, §520, as added Pub. L. 111-148, title VI, §6604(a), Mar. 23, 2010, 124 Stat. 780.)

#### REFERENCES IN TEXT

The Liability Risk Retention Act of 1986, referred to in text, is Pub. L. 97-45, Sept. 25, 1981, 95 Stat. 949, which is classified generally to chapter 65 (§3901 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 15 and Tables.

### § 1151. Administrative summary cease and desist orders and summary seizure orders against multiple employer welfare arrangements in financially hazardous condition

#### (a) In general

The Secretary may issue a cease and desist (ex parte) order under this subchapter if it appears

<sup>1</sup> So in original. Probably should be followed by “a”.

<sup>2</sup> So in original. Probably should be capitalized.

to the Secretary that the alleged conduct of a multiple employer welfare arrangement described in section 1002(40) of this title, other than a plan or arrangement described in subsection (g), is fraudulent, or creates an immediate danger to the public safety or welfare, or is causing or can be reasonably expected to cause significant, imminent, and irreparable public injury.

**(b) Hearing**

A person that is adversely affected by the issuance of a cease and desist order under subsection (a) may request a hearing by the Secretary regarding such order. The Secretary may require that a proceeding under this section, including all related information and evidence, be conducted in a confidential manner.

**(c) Burden of proof**

The burden of proof in any hearing conducted under subsection (b) shall be on the party requesting the hearing to show cause why the cease and desist order should be set aside.

**(d) Determination**

Based upon the evidence presented at a hearing under subsection (b), the cease and desist order involved may be affirmed, modified, or set aside by the Secretary in whole or in part.

**(e) Seizure**

The Secretary may issue a summary seizure order under this subchapter if it appears that a multiple employer welfare arrangement is in a financially hazardous condition.

**(f) Regulations**

The Secretary may promulgate such regulations or other guidance as may be necessary or appropriate to carry out this section.

**(g) Exception**

This section shall not apply to any plan or arrangement that does not fall within the meaning of the term “multiple employer welfare arrangement” under section 1002(40)(A) of this title.

(Pub. L. 93-406, title I, § 521, as added Pub. L. 111-148, title VI, § 6605(a), Mar. 23, 2010, 124 Stat. 780.)

PART 6—CONTINUATION COVERAGE AND ADDITIONAL STANDARDS FOR GROUP HEALTH PLANS

**§ 1161. Plans must provide continuation coverage to certain individuals**

**(a) In general**

The plan sponsor of each group health plan shall provide, in accordance with this part, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.

**(b) Exception for certain plans**

Subsection (a) of this section shall not apply to any group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year.

(Pub. L. 93-406, title I, § 601, as added Pub. L. 99-272, title X, § 10002(a), Apr. 7, 1986, 100 Stat. 227; amended Pub. L. 101-239, title VII, §§ 7862(c)(1)(B), 7891(a)(1), Dec. 19, 1989, 103 Stat. 2432, 2445.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101-239 struck out at end “Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 of title 26 (relating to employers under common control) shall apply for purposes of this subsection.”

Pub. L. 101-239, § 7891(a)(1), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7862(c)(1)(B) of Pub. L. 101-239 applicable to years beginning after Dec. 31, 1986, see section 7862(c)(1)(C) of Pub. L. 101-239, set out as a note under section 106 of Title 26, Internal Revenue Code.

Amendment by section 7891(a)(1) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7891(f) of Pub. L. 101-239, set out as a note under section 1002 of this title.

EFFECTIVE DATE

Pub. L. 99-272, title X, § 10002(d), Apr. 7, 1986, 100 Stat. 231, provided that:

“(1) GENERAL RULE.—The amendments made by this section [enacting this part and amending section 1132 of this title] shall apply to plan years beginning on or after July 1, 1986.

“(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act [Apr. 7, 1986], the amendments made by this section shall not apply to plan years beginning before the later of—

“(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

“(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.”

**§ 1162. Continuation coverage**

For purposes of section 1161 of this title, the term “continuation coverage” means coverage under the plan which meets the following requirements:

**(1) Type of benefit coverage**

The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred. If coverage is modified under the plan for any group of similarly situated beneficiaries, such coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this part in connection with such group.