

APPLICABILITY OF AMENDMENTS BY SUBTITLES A AND B
OF TITLE I OF PUB. L. 109-280

For special rules on applicability of amendments by subtitles A (§§101-108) and B (§§111-116) of title I of Pub. L. 109-280 to certain eligible cooperative plans, PBGC settlement plans, and eligible government contractor plans, see sections 104, 105, and 106 of Pub. L. 109-280, set out as notes under section 401 of Title 26, Internal Revenue Code.

§ 1304. Participant and Plan Sponsor Advocate

(a) In general

The board of directors of the corporation shall select a Participant and Plan Sponsor Advocate from the candidates nominated by the advisory committee to the corporation under section 1302(h)(1) of this title and without regard to the provisions of title 5 relating to appointments in the competitive service or Senior Executive Service.

(b) Duties

The Participant and Plan Sponsor Advocate shall—

- (1) act as a liaison between the corporation, sponsors of defined benefit pension plans insured by the corporation, and participants in pension plans trusteeed by the corporation;
- (2) advocate for the full attainment of the rights of participants in plans trusteeed by the corporation;
- (3) assist pension plan sponsors and participants in resolving disputes with the corporation;
- (4) identify areas in which participants and plan sponsors have persistent problems in dealings with the corporation;
- (5) to the extent possible, propose changes in the administrative practices of the corporation to mitigate problems;
- (6) identify potential legislative changes which may be appropriate to mitigate problems; and
- (7) refer instances of fraud, waste, and abuse, and violations of law to the Office of the Inspector General of the corporation.

(c) Removal

If the Participant and Plan Sponsor Advocate is removed from office or is transferred to another position or location within the corporation or the Department of Labor, the board of the¹ directors of the corporation shall communicate in writing the reasons for any such removal or transfer to Congress not less than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(d) Compensation

The annual rate of basic pay for the Participant and Plan Sponsor Advocate shall be the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5 or, if the board of directors of the corporation so determines, at a rate fixed under section 9503 of such title.

¹ So in original. The word “the” probably should not appear.

(e) Annual report

(1) In general

Not later than December 31 of each calendar year, the Participant and Plan Sponsor Advocate shall report to the Health, Education, Labor, and Pensions Committee of the Senate, the Committee on Finance of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Ways and Means of the House of Representatives on the activities of the Office of the Participant and Plan Sponsor Advocate during the fiscal year ending during such calendar year.

(2) Content

Each report submitted under paragraph (1) shall—

- (A) summarize the assistance requests received from participants and plan sponsors and describe the activities, and evaluate the effectiveness, of the Participant and Plan Sponsor Advocate during the preceding year;
- (B) identify significant problems the Participant and Plan Sponsor Advocate has identified;
- (C) include specific legislative and regulatory changes to address the problems; and
- (D) identify any actions taken to correct problems identified in any previous report.

(3) Concurrent submission

The Participant and Plan Sponsor Advocate shall submit a copy of each report to the Secretary of Labor, the Director of the corporation, and any other appropriate official at the same time such report is submitted to the committees of Congress under paragraph (1).

(Pub. L. 93-406, title IV, §4004, as added Pub. L. 112-141, div. D, title II, §40232(a), July 6, 2012, 126 Stat. 856.)

PRIOR PROVISIONS

A prior section 1304, Pub. L. 93-406, title IV, §4004, Sept. 2, 1974, 88 Stat. 1008, related to appointment, within 270 days after Sept. 2, 1974, and powers and functions of a receiver to assume control of terminated plan and its assets, prior to repeal by Pub. L. 99-272, title XI, §11016(c)(6), Apr. 7, 1986, 100 Stat. 274, effective Jan. 1, 1986, with certain exceptions. See section 11019 of Pub. L. 99-272, set out as an Effective Date of 1986 Amendment note under section 1341 of this title.

§ 1305. Pension benefit guaranty funds

(a) Establishment of four revolving funds on books of Treasury of the United States

There are established on the books of the Treasury of the United States for revolving funds to be used by the corporation in carrying out its duties under this subchapter. One of the funds shall be used with respect to basic benefits guaranteed under section 1322 of this title, one of the funds shall be used with respect to nonbasic benefits guaranteed under section 1322a of this title (if any), and the remaining fund shall be used with respect to nonbasic benefits guaranteed under section 1322a of this title (if any), other than subsection (g)(2) thereof (if any). Whenever in this subchapter reference is