

Pub. L. 105-34, title XV, §1503(c)(1), (2)(A), (d)(1)-(3), Aug. 5, 1997, 111 Stat. 1062; Pub. L. 109-280, title V, §§503(c)(1), (d), 504(a), Aug. 17, 2006, 120 Stat. 943-945; Pub. L. 110-458, title I, §105(c)(1), Dec. 23, 2008, 122 Stat. 5105.)

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110-458, §105(c)(1)(A)(ii), which directed substitution of “the administrator” for “the administrators” in par. (3), could not be executed because the words “the administrators” did not appear.

Pub. L. 110-458, §105(c)(1)(A)(i), substituted “section 1021(f)” for “section 1023(f)”.

Subsec. (d)(1)(E)(ii). Pub. L. 110-458, §105(c)(1)(B), inserted “funding” after “plan’s”.

2006—Pub. L. 109-280, §503(d)(1), substituted “participants and certain employers” for “participants” in section catchline.

Subsec. (b)(3). Pub. L. 109-280, §503(c)(1), which directed amendment of par. (3) by inserting “(other than an administrator of a defined benefit plan to which the requirements of section 1023(f) of this title applies)” after “the administrators”, was executed by making the insertion after “the administrator”, to reflect the probable intent of Congress.

Subsec. (b)(5). Pub. L. 109-280, §504(a), added par. (5).
Subsecs. (d), (e). Pub. L. 109-280, §503(d)(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e).

1997—Subsec. (a)(1). Pub. L. 105-34, §1503(c)(1), amended par. (1) generally, substituting present provisions for provisions requiring filing of annual report, plan description, summary plan description, as well as modifications and changes in plan descriptions.

Subsec. (a)(6). Pub. L. 105-34, §1503(c)(2)(A), added par. (6).

Subsec. (b)(1). Pub. L. 105-34, §1503(d)(1), substituted “section 1022(a) of this title” for “section 1022(a)(1) of this title” wherever appearing.

Subsec. (b)(2). Pub. L. 105-34, §1503(d)(2), substituted “the latest updated summary plan description and” for “the plan description and”.

Subsec. (b)(4). Pub. L. 105-34, §1503(d)(3), struck out “plan description” before “, plan description, and the latest annual report”.

1996—Subsec. (b)(1). Pub. L. 104-204 made technical amendment to references in original act which appear in text as references to section 1191b of this title.

Pub. L. 104-191, in closing provisions, substituted “1022(a)(1) of this title (other than a material reduction in covered services or benefits provided in the case of a group health plan (as defined in section 1191b(a)(1) of this title)),” for “1022(a)(1) of this title,” and inserted at end “If there is a modification or change described in section 1022(a)(1) of this title that is a material reduction in covered services or benefits provided under a group health plan (as defined in section 1191b(a)(1) of this title), a summary description of such modification or change shall be furnished to participants and beneficiaries not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after August 21, 1996, providing alternative mechanisms to delivery by mail through which group health plans (as so defined) may notify participants and beneficiaries of material reductions in covered services or benefits.”

1989—Subsec. (a)(5)(B). Pub. L. 101-239, §7894(b)(3), substituted a comma for period at end.

Subsec. (b)(1). Pub. L. 101-239, §7894(b)(4), struck out comma after “summary”.

1987—Subsec. (b)(3). Pub. L. 100-203 inserted “(including the percentage determined under section 1023(d)(11) of this title)” after “material”.

1986—Subsec. (a)(2)(A). Pub. L. 99-272 struck out provision permitting the Secretary to waive or modify the requirements of section 1023(d)(6) of this title if he found that the interests of the plan participants were not harmed and the expense of compliance was not jus-

tified by the needs of the participants, the Pension Benefit Guaranty Corporation, and the Department of Labor for some portion or all of the information otherwise required under section 1023(d)(6) of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-458 effective as if included in the provisions of Pub. L. 109-280 to which the amendment relates, except as otherwise provided, see section 112 of Pub. L. 110-458, set out as a note under section 72 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 503(c)(1), (d) of Pub. L. 109-280 applicable to plan years beginning after Dec. 31, 2007, see section 503(f) of Pub. L. 109-280, set out as a note under section 1021 of this title.

Pub. L. 109-280, title V, §504(b), Aug. 17, 2006, 120 Stat. 945, provided that: “The amendment made by this section [amending this section] shall apply to plan years beginning after December 31, 2007.”

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104-204 applicable with respect to group health plans for plan years beginning on or after Jan. 1, 1998, see section 603(c) of Pub. L. 104-204 set out as a note under section 1003 of this title.

Amendment by Pub. L. 104-191 applicable with respect to group health plans for plan years beginning after June 30, 1997, except as otherwise provided, see section 101(g) of Pub. L. 104-191, set out as an Effective Date note under section 1181 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if originally included in the provision of the Employee Retirement Income Security Act of 1974, Pub. L. 93-406, to which such amendment relates, see section 7894(i) of Pub. L. 101-239, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable with respect to reports required to be filed after Dec. 31, 1987, see section 9342(d)(1) of Pub. L. 100-203, set out as a note under section 1132 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 effective Jan. 1, 1986, with certain exceptions, see section 11019 of Pub. L. 99-272, set out as a note under section 1341 of this title.

REGULATIONS

Secretary authorized, effective Sept. 2, 1974, to promulgate regulations wherever provisions of this subchapter call for the promulgation of regulations, see section 1031 of this title.

MODEL NOTICES AND FORMS

For provisions requiring the Secretary of Labor to publish a model form for providing the statements, schedules, and other material required to be provided under subsec. (d) of this section, see section 503(e) of Pub. L. 109-280, set out as a note under section 1021 of this title.

§ 1025. Reporting of participant’s benefit rights

(a) Requirements to provide pension benefit statements

(1) Requirements

(A) Individual account plan

The administrator of an individual account plan (other than a one-participant retirement plan described in section 1021(i)(8)(B) of this title) shall furnish a pension benefit statement—

(i) at least once each calendar quarter to a participant or beneficiary who has the right to direct the investment of assets in his or her account under the plan,

(ii) at least once each calendar year to a participant or beneficiary who has his or her own account under the plan but does not have the right to direct the investment of assets in that account, and

(iii) upon written request to a plan beneficiary not described in clause (i) or (ii).

(B) Defined benefit plan

The administrator of a defined benefit plan (other than a one-participant retirement plan described in section 1021(i)(8)(B) of this title) shall furnish a pension benefit statement—

(i) at least once every 3 years to each participant with a nonforfeitable accrued benefit and who is employed by the employer maintaining the plan at the time the statement is to be furnished, and

(ii) to a participant or beneficiary of the plan upon written request.

Information furnished under clause (i) to a participant may be based on reasonable estimates determined under regulations prescribed by the Secretary, in consultation with the Pension Benefit Guaranty Corporation.

(2) Statements

(A) In general

A pension benefit statement under paragraph (1)—

(i) shall indicate, on the basis of the latest available information—

(I) the total benefits accrued, and

(II) the nonforfeitable pension benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable,

(ii) shall include an explanation of any permitted disparity under section 401(l) of title 26 or any floor-offset arrangement that may be applied in determining any accrued benefits described in clause (i),

(iii) shall be written in a manner calculated to be understood by the average plan participant, and

(iv) may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to the participant or beneficiary.

(B) Additional information

In the case of an individual account plan, any pension benefit statement under clause (i) or (ii) of paragraph (1)(A) shall include—

(i) the value of each investment to which assets in the individual account have been allocated, determined as of the most recent valuation date under the plan, including the value of any assets held in the form of employer securities, without regard to whether such securities were contributed by the plan sponsor or acquired at the direction of the plan or of the participant or beneficiary, and

(ii) in the case of a pension benefit statement under paragraph (1)(A)(i)—

(I) an explanation of any limitations or restrictions on any right of the participant or beneficiary under the plan to direct an investment,

(II) an explanation, written in a manner calculated to be understood by the average plan participant, of the importance, for the long-term retirement security of participants and beneficiaries, of a well-balanced and diversified investment portfolio, including a statement of the risk that holding more than 20 percent of a portfolio in the security of one entity (such as employer securities) may not be adequately diversified, and

(III) a notice directing the participant or beneficiary to the Internet website of the Department of Labor for sources of information on individual investing and diversification.

(C) Alternative notice

The requirements of subparagraph (A)(i)(II) are met if, at least annually and in accordance with requirements of the Secretary, the plan—

(i) updates the information described in such paragraph which is provided in the pension benefit statement, or

(ii) provides in a separate statement such information as is necessary to enable a participant or beneficiary to determine their nonforfeitable vested benefits.

(3) Defined benefit plans

(A) Alternative notice

In the case of a defined benefit plan, the requirements of paragraph (1)(B)(i) shall be treated as met with respect to a participant if at least once each year the administrator provides to the participant notice of the availability of the pension benefit statement and the ways in which the participant may obtain such statement. Such notice may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to the participant.

(B) Years in which no benefits accrue

The Secretary may provide that years in which no employee or former employee benefits (within the meaning of section 410(b) of title 26) under the plan need not be taken into account in determining the 3-year period under paragraph (1)(B)(i).

(b) Limitation on number of statements

In no case shall a participant or beneficiary of a plan be entitled to more than 1 statement described in subparagraph (A)(iii) or (B)(ii) of subsection (a)(1), whichever is applicable, in any 12-month period.

(c) Individual statement furnished by administrator to participants setting forth information in administrator's Internal Revenue registration statement and notification of forfeitable benefits

Each administrator required to register under section 6057 of title 26 shall, before the expiration of the time prescribed for such registration, furnish to each participant described in sub-

section (a)(2)(C) of such section, an individual statement setting forth the information with respect to such participant required to be contained in the registration statement required by section 6057(a)(2) of title 26. Such statement shall also include a notice to the participant of any benefits which are forfeitable if the participant dies before a certain date.

(Pub. L. 93-406, title I, §105, Sept. 2, 1974, 88 Stat. 849; Pub. L. 98-397, title I, §106, Aug. 23, 1984, 98 Stat. 1436; Pub. L. 101-239, title VII, §§7891(a)(1), 7894(b)(5), Dec. 19, 1989, 103 Stat. 2445, 2448; Pub. L. 109-280, title V, §508(a)(1)-(2)(B), Aug. 17, 2006, 120 Stat. 949, 951.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-280, §508(a)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “Each administrator of an employee pension benefit plan shall furnish to any plan participant or beneficiary who so requests in writing, a statement indicating, on the basis of the latest available information—

“(1) the total benefits accrued, and

“(2) the nonforfeitable pension benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable.”

Subsec. (b). Pub. L. 109-280, §508(a)(2)(B), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “In no case shall a participant or beneficiary be entitled under this section to receive more than one report described in subsection (a) of this section during any one 12-month period.”

Subsec. (d). Pub. L. 109-280, §508(a)(2)(A), struck out heading and text of subsec. (d). Text read as follows: “Subsection (a) of this section shall apply to a plan to which more than one unaffiliated employer is required to contribute only to the extent provided in regulations prescribed by the Secretary in coordination with the Secretary of the Treasury.”

1989—Subsec. (b). Pub. L. 101-239, §7894(b)(5), substituted “12-month” for “12 month”.

Subsec. (c). 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.

1984—Subsec. (c). Pub. L. 98-397 inserted at end “Such statement shall also include a notice to the participant of any benefits which are forfeitable if the participant dies before a certain date.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title V, §508(c), Aug. 17, 2006, 120 Stat. 952, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 1132 of this title] shall apply to plan years beginning after December 31, 2006.

“(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act [Aug. 17, 2006], paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for ‘December 31, 2006’ the earlier of—

“(A) the later of—

“(i) December 31, 2007, or

“(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

“(B) December 31, 2008.”

EFFECTIVE DATE OF 1989 AMENDMENT

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.

Amendment by section 7894(b)(5) of Pub. L. 101-239 effective, except as otherwise provided, as if originally included in the provision of the Employee Retirement Income Security Act of 1974, Pub. L. 93-406, to which such amendment relates, see section 7894(i) of Pub. L. 101-239, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-397 applicable to plan years beginning after Dec. 31, 1984, except as otherwise provided, see sections 302 and 303 of Pub. L. 98-397, set out as a note under section 1001 of this title.

REGULATIONS

Secretary of Labor authorized, effective Sept. 2, 1974, to promulgate regulations wherever provisions of this subchapter call for the promulgation of regulations by him, see section 1031 of this title.

MODEL STATEMENTS

Pub. L. 109-280, title V, §508(b), Aug. 17, 2006, 120 Stat. 951, provided that:

“(1) IN GENERAL.—The Secretary of Labor shall, within 1 year after the date of the enactment of this section [Aug. 17, 2006], develop 1 or more model benefit statements that are written in a manner calculated to be understood by the average plan participant and that may be used by plan administrators in complying with the requirements of section 105 of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1025].

“(2) INTERIM FINAL RULES.—The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.”

§ 1026. Reports made public information

(a) Except as provided in subsection (b) of this section, the contents of the annual reports, statements, and other documents filed with the Secretary pursuant to this part shall be public information and the Secretary shall make any such information and data available for inspection in the public document room of the Department of Labor. The Secretary may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based thereon as he may deem appropriate.

(b) Information described in sections 1025(a) and 1025(c) of this title with respect to a participant may be disclosed only to the extent that information respecting that participant’s benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] may be disclosed under such Act.

(Pub. L. 93-406, title I, §106, Sept. 2, 1974, 88 Stat. 850; Pub. L. 101-239, title VII, §7894(b)(6), Dec. 19, 1989, 103 Stat. 2448; Pub. L. 105-34, title XV, §1503(d)(4), Aug. 5, 1997, 111 Stat. 1062.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of 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.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-34 struck out “descriptions,” before “annual reports.”