

**(b) Responsibility for detecting and investigating civil and criminal violations of this subchapter and related Federal laws**

The Secretary shall have the responsibility and authority to detect and investigate and refer, where appropriate, civil and criminal violations related to the provisions of this subchapter and other related Federal laws, including the detection, investigation, and appropriate referrals of related violations of title 18. Nothing in this subsection shall be construed to preclude other appropriate Federal agencies from detecting and investigating civil and criminal violations of this subchapter and other related Federal laws.

**(c) Coordination of enforcement with States with respect to certain arrangements**

A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary's authority under sections 1132 and 1134 of this title to enforce the requirements under part 7 in connection with multiple employer welfare arrangements, providing medical care (within the meaning of section 1191b(a)(2) of this title), which are not group health plans.

(Pub. L. 93-406, title I, §506, Sept. 2, 1974, 88 Stat. 894; Pub. L. 98-473, title II, §805, Oct. 12, 1984, 98 Stat. 2134; Pub. L. 104-191, title I, §101(e)(3), Aug. 21, 1996, 110 Stat. 1953; Pub. L. 104-204, title VI, §603(b)(3)(F), Sept. 26, 1996, 110 Stat. 2938.)

AMENDMENTS

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

Pub. L. 104-191 added subsec. (c).

1984—Pub. L. 98-473 designated existing provisions as subsec. (a), added subsec. (b), and amended section catchline.

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 a note under section 1181 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.

RELATION OF SUBTITLE E OF TITLE II OF PUB. L. 104-191 TO ERISA AUTHORITY

Pub. L. 104-191, title II, §250, Aug. 21, 1996, 110 Stat. 2021, provided that: "Nothing in this subtitle [subtitle E (§§241-250) of title II of Pub. L. 104-191, enacting sections 24, 669, 1035, 1347, 1518, and 3486 of Title 18, Crimes and Criminal Procedure, amending sections 982, 1345, 1510, and 1956 of Title 18, and enacting provisions set out as notes under section 1395i of Title 42, The Public Health and Welfare] shall be construed as affecting the authority of the Secretary of Labor under section 506(b) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1136(b)], including the Secretary's authority with respect to violations of title 18, United States Code (as amended by this subtitle)."

**§ 1137. Administration**

(a) Subchapter II of chapter 5, and chapter 7, of title 5 (relating to administrative procedure), shall be applicable to this subchapter.

(b) Omitted.

(c) No employee of the Department of Labor or the Department of the Treasury shall administer or enforce this subchapter or title 26 with respect to any employee benefit plan under which he is a participant or beneficiary, any employee organization of which he is a member, or any employer organization in which he has an interest. This subsection does not apply to an employee benefit plan which covers only employees of the United States.

(Pub. L. 93-406, title I, §507, Sept. 2, 1974, 88 Stat. 894; Pub. L. 101-239, title VII, §7891(a), Dec. 19, 1989, 103 Stat. 2445.)

CODIFICATION

Subsec. (b) of this section amended section 5108 of Title 5, Government Organization and Employees.

AMENDMENTS

1989—Subsec. (c). Pub. L. 101-239 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 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.

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.

**§ 1138. Appropriations**

There are hereby authorized to be appropriated such sums as may be necessary to enable the Secretary to carry out his functions and duties under this chapter.

(Pub. L. 93-406, title I, §508, Sept. 2, 1974, 88 Stat. 895.)

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.

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.

**§ 1139. Separability**

If any provision of this chapter, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(Pub. L. 93-406, title I, § 509, Sept. 2, 1974, 88 Stat. 895.)

#### 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.

#### 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.

#### § 1140. Interference with protected rights

It shall be unlawful for any person to discharge, fine, suspend, expel, discipline, or discriminate against a participant or beneficiary for exercising any right to which he is entitled under the provisions of an employee benefit plan, this subchapter, section 1201 of this title, or the Welfare and Pension Plans Disclosure Act [29 U.S.C. 301 et seq.], or for the purpose of interfering with the attainment of any right to which such participant may become entitled under the plan, this subchapter, or the Welfare and Pension Plans Disclosure Act. It shall be unlawful for any person to discharge, fine, suspend, expel, or discriminate against any person because he has given information or has testified or is about to testify in any inquiry or proceeding relating to this chapter or the Welfare and Pension Plans Disclosure Act. In the case of a multiemployer plan, it shall be unlawful for the plan sponsor or any other person to discriminate against any contributing employer for exercising rights under this chapter or for giving information or testifying in any inquiry or proceeding relating to this chapter before Congress. The provisions of section 1132 of this title shall be applicable in the enforcement of this section.

(Pub. L. 93-406, title I, § 510, Sept. 2, 1974, 88 Stat. 895; Pub. L. 109-280, title II, § 205, Aug. 17, 2006, 120 Stat. 889.)

#### REFERENCES IN TEXT

The Welfare and Pension Plans Disclosure Act, referred to in text, is Pub. L. 85-836, Aug. 28, 1958, 72 Stat. 997, as amended, which was classified generally to chapter 10 (§ 301 et seq.) of this title, and was repealed by Pub. L. 93-406, title I, § 111(a)(1), Sept. 2, 1974, 88 Stat. 851 (Employee Retirement Income Security Act of 1974), effective Jan. 1, 1975. Such section 111(a)(1) also provided that the Welfare and Pension Plans Disclosure Act should continue to apply to any conduct and events which occurred before Jan. 1, 1975 (see section 1031 of this title). For complete classification of the Welfare and Pension Plans Disclosure Act to the Code prior to such repeal, see Tables.

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.

#### AMENDMENTS

2006—Pub. L. 109-280 inserted before last sentence “In the case of a multiemployer plan, it shall be unlawful

for the plan sponsor or any other person to discriminate against any contributing employer for exercising rights under this chapter or for giving information or testifying in any inquiry or proceeding relating to this chapter before Congress.”

#### 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.

#### § 1141. Coercive interference

It shall be unlawful for any person through the use of fraud, force, violence, or threat of the use of force or violence, to restrain, coerce, intimidate, or attempt to restrain, coerce, or intimidate any participant or beneficiary for the purpose of interfering with or preventing the exercise of any right to which he is or may become entitled under the plan, this subchapter, section 1201 of this title, or the Welfare and Pension Plans Disclosure Act [29 U.S.C. 301 et seq.]. Any person who willfully violates this section shall be fined \$100,000 or imprisoned for not more than 10 years, or both.

(Pub. L. 93-406, title I, § 511, Sept. 2, 1974, 88 Stat. 895; Pub. L. 109-280, title VI, § 623(a), Aug. 17, 2006, 120 Stat. 979.)

#### REFERENCES IN TEXT

The Welfare and Pension Plans Disclosure Act, referred to in text, is Pub. L. 85-836, Aug. 28, 1958, 72 Stat. 997, as amended, which was classified generally to chapter 10 (§ 301 et seq.) of this title, and was repealed by Pub. L. 93-406, title I, § 111(a)(1), Sept. 2, 1974, 88 Stat. 851 (Employee Retirement Income Security Act of 1974), effective Jan. 1, 1975. Such section 111(a)(1) also provided that the Welfare and Pension Plans Disclosure Act should continue to apply to any conduct and events which occurred before Jan. 1, 1975 (see section 1031 of this title). For complete classification of the Welfare and Pension Plans Disclosure Act to the Code prior to such repeal, see Tables.

#### AMENDMENTS

2006—Pub. L. 109-280 substituted “\$100,000” for “\$10,000” and “10 years” for “one year”.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title VI, § 623(b), Aug. 17, 2006, 120 Stat. 979, provided that: “The amendments made by this section [amending this section] shall apply to violations occurring on and after the date of the enactment of this Act [Aug. 17, 2006].”

#### 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.

#### § 1142. Advisory Council on Employee Welfare and Pension Benefit Plans

##### (a) Establishment; membership; terms; appointment and reappointment; vacancies; quorum

(1) There is hereby established an Advisory Council on Employee Welfare and Pension Benefit Plans (hereinafter in this section referred to as the “Council”) consisting of fifteen members appointed by the Secretary. Not more than eight members of the Council shall be members of the same political party.