

where a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.

**(e) Costs and expenses**

In any action under this section, the court may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to the prevailing party.

**(f) Time limitations**

An action under this section may not be brought after the later of—

(1) 6 years after the date on which the cause of action arose, or

(2) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action; except that in the case of fraud or concealment, such action may be brought not later than 6 years after the date of discovery of the existence of such cause of action.

**(g) Service of complaint on corporation; intervention by corporation**

A copy of the complaint in any action under this section or section 1401 of this title shall be served upon the corporation by certified mail. The corporation may intervene in any such action.

(Pub. L. 93-406, title IV, § 4301, as added Pub. L. 96-364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1263.)

**EFFECTIVE DATE**

Part effective Sept. 26, 1980, except as specifically provided, see section 1461(e) of this title.

**§ 1452. Penalty for failure to provide notice**

Any person who fails, without reasonable cause, to provide a notice required under this subtitle or any implementing regulations shall be liable to the corporation in an amount up to \$100 for each day for which such failure continues. The corporation may bring a civil action against any such person in the United States District Court for the District of Columbia or in any district court of the United States within the jurisdiction of which the plan assets are located, the plan is administered, or a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.

(Pub. L. 93-406, title IV, § 4302, as added Pub. L. 96-364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1263.)

**§ 1453. Election of plan status**

**(a) Authority, time, and criteria**

Within one year after September 26, 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation, that the plan shall not be treated as a multiemployer plan for any purpose under this chapter or the Internal Revenue Code of 1954, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

(1) the plan was not a multiemployer plan because the plan was not a plan described in section 1002(37)(A)(iii) of this title and section 414(f)(1)(C) of title 26 (as such provisions were in effect on the day before September 26, 1980); and

(2) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.

**(b) Requirements**

An election described in subsection (a) shall be effective only if—

(1) the plan is amended to provide that it shall not be treated as a multiemployer plan for all purposes under this chapter and the Internal Revenue Code of 1954, and

(2) written notice of the amendment is provided to the corporation within 60 days after the amendment is adopted.

**(c) Effective date**

An election described in subsection (a) shall be treated as being effective as of September 26, 1980.

(Pub. L. 93-406, title IV, § 4303, as added Pub. L. 96-364, title I, § 108(f), Sept. 26, 1980, 94 Stat. 1270.)

**REFERENCES IN TEXT**

This chapter, referred to in subsecs. (a) and (b)(1), 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.

The Internal Revenue Code of 1954, referred to in subsecs. (a) and (b)(1), was redesignated the Internal Revenue Code of 1986 by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, and is classified to Title 26, Internal Revenue Code.

For the effective date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (a), see section 1461(e) of this title.

**SUBTITLE F—TRANSITION RULES AND EFFECTIVE DATES**

**CODIFICATION**

Pub. L. 96-364, title I, § 104(1), Sept. 26, 1980, 94 Stat. 1217, substituted "Subtitle F—Transition Rules and Effective Dates" for "Subtitle E—Effective Date; Special Rules".

**§ 1461. Effective date; special rules**

(a) The provisions of this subchapter take effect on September 2, 1974.

(b) Notwithstanding the provisions of subsection (a), the corporation shall pay benefits guaranteed under this subchapter with respect to any plan—

(1) which is not a multiemployer plan,

(2) which terminates after June 30, 1974, and before September 2, 1974,

(3) to which section 1321 of this title would apply if that section were effective beginning on July 1, 1974, and

(4) with respect to which a notice is filed with the Secretary of Labor and received by him not later than 10 days after September 2, 1974, except that, for reasonable cause shown,

such notice may be filed with the Secretary of Labor and received by him not later than October 31, 1974, stating that the plan is a plan described in paragraphs (1), (2), and (3).

The corporation shall not pay benefits guaranteed under this subchapter with respect to a plan described in the preceding sentence unless the corporation finds substantial evidence that the plan was terminated for a reasonable business purpose and not for the purpose of obtaining the payment of benefits by the corporation under this subchapter or for the purpose of avoiding the liability which might be imposed under subtitle D if the plan terminated on or after September 2, 1974. The provisions of subtitle D do not apply in the case of such a plan which terminates before September 2, 1974. For purposes of determining whether a plan is a plan described in paragraph (2), the provisions of section 1348 of this title shall not apply, but the corporation shall make the determination on the basis of the date on which benefits ceased to accrue or on any other reasonable basis consistent with the purposes of this subsection.

(c)(1) Except as provided in paragraphs (2), (3), and (4), the corporation shall not pay benefits guaranteed under this subchapter with respect to a multiemployer plan which terminates before August 1, 1980. Whenever the corporation exercises the authority granted under paragraph (2) or (3), the corporation shall notify the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives, and the Committee on Labor and Public Welfare and the Committee on Finance of the Senate.

(2) The corporation may, in its discretion, pay benefits guaranteed under this subchapter with respect to a multiemployer plan which terminates after September 2, 1974 and before August 1, 1980, if—

(A) the plan was maintained during the 60 months immediately preceding the date on which the plan terminates, and

(B) the corporation determines that the payment by the corporation of benefits guaranteed under this subchapter with respect to that plan will not jeopardize the payments the corporation anticipates it may be required to make in connection with benefits guaranteed under this subchapter with respect to multiemployer plans which terminate after July 31, 1980.

(3) Notwithstanding any provision of section 1321 or 1322 of this title which would prevent such payments, the corporation, in carrying out its authority under paragraph (2), may pay benefits guaranteed under this subchapter with respect to a multiemployer plan described in paragraph (2) in any case in which those benefits would otherwise not be payable if—

(A) the plan has been in effect for at least 5 years,

(B) the plan has been in substantial compliance with the funding requirements for a qualified plan with respect to the employees and former employees in those employment units on the basis of which the participating employers have contributed to the plan for the preceding 5 years, and

(C) the participating employers and employee organization or organizations had no reasonable recourse other than termination.

(4) If the corporation determines, under paragraph (2) or (3), that it will pay benefits guaranteed under this subchapter with respect to a multiemployer plan which terminates before August 1, 1980, the corporation—

(A) may establish requirements for the continuation of payments which commenced before January 2, 1974, with respect to retired participants under the plan,

(B) may not, notwithstanding any other provision of this subchapter, make payments with respect to any participant under such a plan who, on January 1, 1974, was receiving payment of retirement benefits, in excess of the amounts and rates payable with respect to such participant on that date,

(C) shall review from time to time payments made under the authority granted to it by paragraphs (2) and (3), and reduce or terminate such payments to the extent necessary to avoid jeopardizing the ability of the corporation to make payments of benefits guaranteed under this subchapter in connection with multiemployer plans which terminate after July 31, 1980, without increasing premium rates for such plans.

(d) Notwithstanding any other provision of this subchapter, guaranteed benefits payable by the corporation pursuant to its discretionary authority under this section shall continue to be paid at the level guaranteed under section 1322 of this title, without regard to any limitation on payment under subparagraph (C) of subsection (c)(4).

(e)(1) Except as provided in paragraphs (2), (3), and (4), the amendments to this chapter made by the Multiemployer Pension Plan Amendments Act of 1980 shall take effect on September 26, 1980.

(2)(A) Except as provided in this paragraph, part 1 of subtitle E, relating to withdrawal liability, takes effect on September 26, 1980.

(B) For purposes of determining withdrawal liability under part 1 of subtitle E, an employer who has withdrawn from a plan shall be considered to have withdrawn from a multiemployer plan if, at the time of the withdrawal, the plan was a multiemployer plan as defined in section 1301(a)(3) of this title as in effect at the time of the withdrawal.

(3) Sections 1421 through 1426<sup>1</sup> of this title, relating to multiemployer plan reorganization, shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of—

(A) the date on which the last collective bargaining agreement providing for employer contributions under the plan, which was in effect on September 26, 1980, expires, without regard to extensions agreed to on or after September 26, 1980, or

(B) 3 years after September 26, 1980.

(4) Section 1415 of this title shall take effect on September 26, 1980.

(f)(1) In the event that before September 26, 1980, the corporation has determined that—

<sup>1</sup> See References in Text note below.

(A) an employer has withdrawn from a multiemployer plan under section 1363 of this title, and

(B) the employer is liable to the corporation under such section,

the corporation shall retain the amount of liability paid to it or furnished in the form of a bond and shall pay such liability to the plan in the event the plan terminates in accordance with section 1341a(a)(2) of this title before the earlier of September 26, 1985, or the day after the 5-year period commencing on the date of such withdrawal.

(2) In any case in which the plan is not so terminated within the period described in paragraph (1), the liability of the employer is abated and any payment held in escrow shall be refunded without interest to the employer or the employer's bond shall be cancelled.

(g)(1) In any case in which an employer or employers withdrew from a multiemployer plan before the effective date of part 1 of subtitle E, the corporation may—

(A) apply section 1363(d) of this title, as in effect before the amendments made by the Multiemployer Pension Plan Amendments Act of 1980, to such plan,

(B) assess liability against the withdrawn employer with respect to the resulting terminated plan,

(C) guarantee benefits under the terminated plan under section 1322 of this title, as in effect before such amendments, and

(D) if necessary, enforce such action through suit brought under section 1303 of this title.

(2) The corporation shall use the revolving fund used by the corporation with respect to basic benefits guaranteed under section 1322a of this title in guaranteeing benefits under a terminated plan described in this subsection.

(h)(1) In the case of an employer who entered into a collective bargaining agreement—

(A) which was effective on January 12, 1979, and which remained in effect through May 15, 1982, and

(B) under which contributions to a multiemployer plan were to cease on January 12, 1982, any withdrawal liability incurred by the employer pursuant to part 1 of subtitle E as a result of the complete or partial withdrawal of the employer from the multiemployer plan before January 16, 1982, shall be void.

(2) In any case in which—

(A) an employer engaged in the grocery wholesaling business—

(i) had ceased all covered operations under a multiemployer plan before June 30, 1981, and had relocated its operations to a new facility in another State, and

(ii) had notified a local union representative on May 14, 1980, that the employer had tentatively decided to discontinue operations and relocate to a new facility in another State, and

(B) all State and local approvals with respect to construction of and commencement of operations at the new facility had been obtained, a contract for construction had been entered into, and construction of the new facility had begun before September 26, 1980,

any withdrawal liability incurred by the employer pursuant to part 1 of subtitle E as a result of the complete or partial withdrawal of the employer from the multiemployer plan before June 30, 1981, shall be void.

(i) The preceding provisions of this section shall not apply with respect to amendments made to this subchapter in provisions enacted after October 22, 1986.

(Pub. L. 93-406, title IV, § 4402, formerly § 4082, Sept. 2, 1974, 88 Stat. 1034; S. Res. 4, Feb. 4, 1977; Pub. L. 95-214, § 1, Dec. 19, 1977, 91 Stat. 1501; S. Res. 30, Mar. 7, 1979; Pub. L. 96-24, June 19, 1979, 93 Stat. 70; Pub. L. 96-239, Apr. 30, 1980, 94 Stat. 341; Pub. L. 96-293, § 1, June 30, 1980, 94 Stat. 610; renumbered and amended Pub. L. 96-364, title I, § 108(a)-(c)(1), Sept. 26, 1980, 94 Stat. 1267; Pub. L. 98-369, div. A, title V, § 558(b)(1)(B), (C), July 18, 1984, 98 Stat. 899; Pub. L. 99-514, title XVIII, § 1852(i), Oct. 22, 1986, 100 Stat. 2869; Pub. L. 101-239, title VII, §§ 7862(a), 7894(h)(5)(A), Dec. 19, 1989, 103 Stat. 2431, 2451; Pub. L. 112-141, div. D, title II, § 40234(b)(2), July 6, 2012, 126 Stat. 858.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(1), 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.

The Multiemployer Pension Plan Amendments Act of 1980, referred to in subsecs. (e)(1) and (g)(1)(A), is Pub. L. 96-364, Sept. 26, 1980, 94 Stat. 1208. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 1001 of this title and Tables.

Sections 1421 through 1425 of this title, referred to in subsec. (e)(3), were repealed by Pub. L. 113-235, div. O, title I, § 108(a)(1), Dec. 16, 2014, 128 Stat. 2786.

For the effective date of part 1 of subtitle E, referred to in subsec. (g)(1), see subsec. (e)(2) of this section.

#### CODIFICATION

Section was formerly classified to section 1381 of this title.

#### AMENDMENTS

2012—Subsec. (c)(4)(C), (D). Pub. L. 112-141, § 40234(b)(2)(A), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: "may not make any payments with respect to benefits guaranteed under this subchapter in connection with such a plan which are derived, directly or indirectly, from amounts borrowed under section 1305(c) of this title, and".

Subsec. (d). Pub. L. 112-141, § 40234(b)(2)(B), struck out "or (D)" after "subparagraph (C)".

1989—Subsec. (h)(1). Pub. L. 101-239, § 7862(a), substituted "before January 16, 1982" for "before January 12, 1982" in concluding provisions.

Subsec. (i). Pub. L. 101-239, § 7894(h)(5)(A), added subsec. (i).

1986—Subsec. (h). Pub. L. 99-514 added subsec. (h).

1984—Subsec. (e)(2)(A), (4). Pub. L. 98-369, § 558(b)(1)(B), substituted "September 26, 1980" for "April 29, 1980".

Subsec. (f)(1). Pub. L. 98-369, § 558(b)(1)(C), substituted "September 26, 1985" for "April 29, 1985".

1980—Subsec. (c)(1). Pub. L. 96-293, § 1(1), substituted "August 1, 1980" for "July 1, 1980".

Pub. L. 96-239, § 1(1), substituted "July 1, 1980" for "May 1, 1980".

Subsec. (c)(2). Pub. L. 96-293, § 1(1), (2), substituted "August 1, 1980" for "July 1, 1980" in provisions preced-

ing subpar. (A) and “July 31, 1980” for “June 30, 1980” in subpar. (B).

Pub. L. 96-239, §1(1), (2), substituted “July 1, 1980” for “May 1, 1980” in provisions preceding subpar. (A) and “June 30, 1980” for “April 30, 1980” in subpar. (B).

Subsec. (c)(4). Pub. L. 96-293, §1(1), (2), substituted “August 1, 1980” for “July 1, 1980” in provisions preceding subpar. (A) and “July 31, 1980” for “June 30, 1980” in subpar. (D).

Pub. L. 96-239, §1(1), (2), substituted “July 1, 1980” for “May 1, 1980” in provisions preceding subpar. (A) and “June 30, 1980” for “April 30, 1980” in subpar. (D).

Subsec. (d). Pub. L. 96-364, §108(b), added subsec. (d). Former subsec. (d), which related to report to Congressional committees respecting anticipated financial condition of program for mandatory coverage of multiemployer plans, was struck out.

Subsec. (e). Pub. L. 96-364, §108(c)(1), added subsec. (e). Former subsec. (e), which related to annual insurance premium payable to Corporation for coverage of guaranteed basic benefits, was struck out.

Subsecs. (f), (g). Pub. L. 96-364, §108(c)(1), added subsecs. (f) and (g).

1979—Subsec. (c)(1). Pub. L. 96-24, §1(1), substituted “May 1, 1980” for “July 1, 1979”.

Subsec. (c)(2). Pub. L. 96-24, §1(1), (2), substituted “May 1, 1980” for “July 1, 1979” in provisions preceding subpar. (A) and “April 30, 1980” for “June 30, 1979” in subpar. (B).

Subsec. (c)(4). Pub. L. 96-24, §1(1), (2), substituted “May 1, 1980” for “July 1, 1979” in provisions preceding subpar. (A) and “April 30, 1980” for “June 30, 1979” in subpar. (D).

1977—Subsec. (c)(1). Pub. L. 95-214, §1(a)(1), substituted “July 1, 1979” for “January 1, 1978”.

Subsec. (c)(2). Pub. L. 95-214, §1(a)(2), substituted “July 1, 1979” for “January 1, 1978” in provisions preceding subpar. (A).

Subsec. (c)(2)(B). Pub. L. 95-214, §1(a)(3), substituted “June 30, 1979” for “December 31, 1977”.

Subsec. (c)(4). Pub. L. 95-214, §1(a)(4), substituted “July 1, 1979” for “January 1, 1978” in provisions preceding subpar. (A).

Subsec. (c)(4)(D). Pub. L. 95-214, §1(a)(5), substituted “June 30, 1979” for “December 31, 1977”.

Subsecs. (d), (e). Pub. L. 95-214, §1(b), added subsecs. (d) and (e).

#### CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

Committee on Labor and Public Welfare of Senate abolished and replaced by Committee on Human Resources of Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of Senate, as amended by Senate Resolution No. 4 (popularly cited as the “Committee System Reorganization Amendments of 1977”), approved Feb. 4, 1977. Committee on Human Resources of Senate changed to Committee on Labor and Human Resources of Senate, effective Mar. 7, 1979, by Senate Resolution No. 30, 96th Congress. See, also, Rule XXV of Standing Rules of Senate adopted Nov. 14, 1979. 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.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7862(a) of Pub. L. 101-239 effective as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7863 of Pub. L. 101-239, set out as a note under section 106 of Title 26, Internal Revenue Code.

Pub. L. 101-239, title VII, §7894(h)(5)(B), Dec. 19, 1989, 103 Stat. 2451, provided that: “The amendment made by

subparagraph (A) [amending this section] shall take effect as if originally included in the Reform Act [Pub. L. 99-514].”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of Title 26, Internal Revenue Code.

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

#### ACTIONS TAKEN BEFORE REGULATIONS ARE PRESCRIBED

Pub. L. 96-364, title IV, §405, Sept. 26, 1980, 94 Stat. 1303, provided that:

“(a) Except as otherwise provided in the amendments made by this Act [see Short Title of 1980 Amendment note set out under section 1001 of this title] and in subsection (b), if the way in which any such amendment will apply to a particular circumstance is to be set forth in regulations, any reasonable action during the period before such regulations take effect shall be treated as complying with such regulations for such period.

“(b) Subsection (a) shall not apply to any action which violates any instruction issued, or temporary rule prescribed, by the agency having jurisdiction but only if such instruction or rule was published, or furnished to the party taking the action, before such action was taken.”

#### CHAPTER 19—JOB TRAINING PARTNERSHIP

#### §§ 1501 to 1505. Repealed. Pub. L. 105-220, title I, § 199(b)(2), Aug. 7, 1998, 112 Stat. 1059

Section 1501, Pub. L. 97-300, §2, Oct. 13, 1982, 96 Stat. 1324; Pub. L. 102-367, title I, §101(b), Sept. 7, 1992, 106 Stat. 1022, stated purpose of this chapter.

Section 1502, Pub. L. 97-300, §3, Oct. 13, 1982, 96 Stat. 1324; Pub. L. 100-418, title VI, §6303, Aug. 23, 1988, 102 Stat. 1538; Pub. L. 100-628, title VII, §714(d), Nov. 7, 1988, 102 Stat. 3256; Pub. L. 101-549, title XI, §1101(b)(2), Nov. 15, 1990, 104 Stat. 2712; Pub. L. 102-367, title I, §102(a), Sept. 7, 1992, 106 Stat. 1023, authorized appropriations.

Section 1503, Pub. L. 97-300, §4, Oct. 13, 1982, 96 Stat. 1325; Pub. L. 98-524, §4(a)(1), Oct. 19, 1984, 98 Stat. 2487; Pub. L. 99-159, title VII, §713(b)(1), Nov. 22, 1985, 99 Stat. 907; Pub. L. 99-496, §§14(b)(1), 15(a), Oct. 16, 1986, 100 Stat. 1265; Pub. L. 100-77, title VII, §740(a), July 22, 1987, 101 Stat. 531; Pub. L. 102-54, §13(k)(2)(A), June 13, 1991, 105 Stat. 276; Pub. L. 102-235, §3, Dec. 12, 1991, 105 Stat. 1807; Pub. L. 102-367, title I, §103(a), (b)(1), title VII, §702(a)(1)-(3), Sept. 7, 1992, 106 Stat. 1024, 1026, 1111, 1112; Pub. L. 103-382, title III, §391(n)(1), Oct. 20, 1994, 108 Stat. 4023; Pub. L. 104-193, title I, §110(n)(1), Aug. 22, 1996, 110 Stat. 2174, defined terms used in this chapter.

Section 1504, Pub. L. 97-300, title VI, §604, formerly title V, §504, Oct. 13, 1982, 96 Stat. 1399; renumbered title VI, §604, Pub. L. 100-628, title VII, §712(a)(1), (2), Nov. 7, 1988, 102 Stat. 3248, related to enforcement of Military Selective Service Act.

Section 1505, Pub. L. 97-300, title VI, §605, formerly title V, §505, as added Pub. L. 100-418, title VI, §6307(a), Aug. 23, 1988, 102 Stat. 1541; renumbered title VI, §505, Pub. L. 100-628, title VII, §712(a)(1), Nov. 7, 1988, 102 Stat. 3248; renumbered §605, Pub. L. 102-367, title VII,