

## EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-465, title VII, §773(b), Dec. 8, 1994, 108 Stat. 5045, provided that: "The amendments made by this section [amending this section] shall be effective for installments and other payments required under section 302 of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1082] or section 412 of the Internal Revenue Code of 1986 [26 U.S.C. 412] that become due on or after the date of the enactment of this Act [Dec. 8, 1994]."

Amendment by section 776(b)(1) of Pub. L. 103-465 effective with respect to distributions that occur in years commencing on or after Jan. 1, 1996, see section 776(e) of Pub. L. 103-465, set out as a note under section 1056 of this title.

## EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-272, title XI, §11014(b)(3), Apr. 7, 1986, 100 Stat. 264, provided that: "The amendments made by this subsection [amending this section] shall apply with respect to actions filed after the date of the enactment of this Act [Apr. 7, 1986]."

Amendment by section 11016(c)(5) of 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.

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-364 effective Sept. 26, 1980, except as specifically provided, see section 1461(e) of this title.

## 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 the<sup>1</sup> 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.

**(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).

<sup>1</sup> So in original. The word "the" probably should not appear.

(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.

#### § 1304a. Sponsor education and assistance

##### (a) Definition

In this section, the term “CSEC plan” has the meaning given that term in subsection (f)(1) of section 1060 of this title.

##### (b) Education

The Participant and Plan Sponsor Advocate established under section 1304 of this title shall make itself available to assist CSEC plan sponsors and participants as part of the duties it performs under the general supervision of the Board of Directors under section 1304(b) of this title.

(Pub. L. 113-97, title I, §105, Apr. 7, 2014, 128 Stat. 1121.)

#### CODIFICATION

Section was enacted as part of the Cooperative and Small Employer Charity Pension Flexibility Act, and not as part of the Employee Retirement Income Security Act of 1974 which comprises this chapter.

#### EFFECTIVE DATE

Section applicable to years beginning after Dec. 31, 2013, see section 3 of Pub. L. 113-97, set out as an Effective Date of 2014 Amendment note under section 401 of Title 26, Internal Revenue Code.

#### § 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 basic benefits guaranteed under section 1322a of this title, one of the funds shall be used with respect to nonbasic benefits guaranteed under section 1322 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 made to the term “fund” the reference shall be considered to refer to the appropriate fund established under this subsection.

##### (b) Credits to funds; availability of funds; investment of moneys in excess of current needs

(1) Each fund established under this section shall be credited with the appropriate portion of—

(A) premiums, penalties, interest, and charges collected under this subchapter,

(B) the value of the assets of a plan administered under section 1342 of this title by a trustee to the extent that they exceed the liabilities of such plan,

(C) the amount of any employer liability payments under subtitle D, to the extent that such payments exceed liabilities of the plan (taking into account all other plan assets),

(D) earnings on investments of the fund or on assets credited to the fund under this subsection,

(E) attorney’s fees awarded to the corporation, and

(F) receipts from any other operations under this subchapter.

(2) Subject to the provisions of subsection (a), each fund shall be available—

(A) for making such payments as the corporation determines are necessary to pay benefits guaranteed under section 1322 or 1322a of this title or benefits payable under section 1350 of this title,

(B) to purchase assets from a plan being terminated by the corporation when the corporation determines such purchase will best protect the interests of the corporation, participants in the plan being terminated, and other insured plans,

(C) to pay the operational and administrative expenses of the corporation, including reimbursement of the expenses incurred by the Department of the Treasury in maintaining the funds, and the Comptroller General in auditing the corporation, and

(D) to pay to participants and beneficiaries the estimated amount of benefits which are guaranteed by the corporation under this subchapter and the estimated amount of other benefits to which plan assets are allocated under section 1344 of this title, under single-employer plans which are unable to pay benefits when due or which are abandoned.

(3)(A) Whenever the corporation determines that the moneys of any fund are in excess of current needs, it may request the investment of such amounts as it determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(B) Notwithstanding subparagraph (A)—

(i) the amounts of premiums received under section 1306 of this title with respect to the fund to be used for basic benefits under section 1322a of this title in a fiscal year in the period beginning with fiscal year 2016 and ending with fiscal year 2020 shall be placed in a non-interest-bearing account within such fund in the following amounts:

- (I) for fiscal year 2016, \$108,000,000;
- (II) for fiscal year 2017, \$111,000,000;
- (III) for fiscal year 2018, \$113,000,000;
- (IV) for fiscal year 2019, \$149,000,000; and
- (V) for fiscal year 2020, \$296,000,000;

(ii) premiums received in fiscal years specified in subclauses (I) through (V) of clause (i) shall be allocated in order first to the non-interest-bearing account in the amount specified and second to any other accounts within such fund; and

(iii) financial assistance, as provided under section 1431 of this title, shall be withdrawn