

**Editorial Notes**

## AMENDMENTS

2006—Pub. L. 109-280 designated existing provisions as subsec. (a) and added subsec. (b).

**§ 1309. Portability assistance**

The corporation shall provide advice and assistance to individuals with respect to evaluating the economic desirability of establishing individual retirement accounts or other forms of individual retirement savings for which a deduction is allowable under section 219 of title 26 and with respect to evaluating the desirability, in particular cases, of transferring amounts representing an employee's interest in a qualified plan to such an account upon the employee's separation from service with an employer.

(Pub. L. 93-406, title IV, § 4009, Sept. 2, 1974, 88 Stat. 1014; Pub. L. 101-239, title VII, § 7891(a)(1), Dec. 19, 1989, 103 Stat. 2445.)

**Editorial Notes**

## AMENDMENTS

1989—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.

**Statutory Notes and Related Subsidiaries**

## 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.

**§ 1310. Authority to require certain information****(a) Information required**

Each person described in subsection (b) shall provide the corporation annually, on or before a date specified by the corporation in regulations, with—

(1) such records, documents, or other information that the corporation specifies in regulations as necessary to determine the liabilities and assets of plans covered by this subchapter; and

(2) copies of such person's audited (or, if unavailable, unaudited) financial statements, and such other financial information as the corporation may prescribe in regulations.

**(b) Persons required to provide information**

The persons covered by subsection (a) are each contributing sponsor, and each member of a contributing sponsor's controlled group, of a single-employer plan covered by this subchapter, if—

(1) the funding target attainment percentage (as defined in subsection (d)) at the end of the preceding plan year of a plan maintained by the contributing sponsor or any member of its controlled group is less than 80 percent;

(2) the conditions for imposition of a lien described in section 1083(k)(1)(A) and (B) or 1085a(g)(1)(A) and (B) of this title or section 430(k)(1)(A) and (B) or 433(g)(1)(A) and (B) of title 26 have been met with respect to any plan maintained by the contributing sponsor or any member of its controlled group; or

(3) minimum funding waivers in excess of \$1,000,000 have been granted with respect to any plan maintained by the contributing sponsor or any member of its controlled group, and any portion thereof is still outstanding.

**(c) Information exempt from disclosure requirements**

Any information or documentary material submitted to the corporation pursuant to this section shall be exempt from disclosure under section 552 of title 5, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress.

**(d) Additional information required****(1) In general**

The information submitted to the corporation under subsection (a) shall include—

(A) the amount of benefit liabilities under the plan determined using the assumptions used by the corporation in determining liabilities;

(B) the funding target of the plan determined as if the plan has been in at-risk status for at least 5 plan years; and

(C) the funding target attainment percentage of the plan.

**(2) Definitions**

For purposes of this subsection:

**(A) Funding target**

The term "funding target" has the meaning provided under section 1083(d)(1) of this title.

**(B) Funding target attainment percentage**

The term "funding target attainment percentage" has the meaning provided under section 1083(d)(2) of this title.

**(C) At-risk status**

The term "at-risk status" has the meaning provided in section 1083(i)(4) of this title.

**(3) Pension stabilization disregarded**

For purposes of this section, the segment rates used in determining the funding target and funding target attainment percentage shall be determined by not taking into account any adjustment under section 1083(h)(2)(C)(iv)<sup>1</sup> of this title.

**(e) Notice to Congress**

The corporation shall, on an annual basis, submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives, a summary report in the aggregate of the information submitted to the corporation under this section.

(Pub. L. 93-406, title IV, § 4010, as added Pub. L. 103-465, title VII, § 772(a), Dec. 8, 1994, 108 Stat. 5044; amended Pub. L. 109-280, title I, § 108(b)(3),

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

formerly §107(b)(3), title V, §505(a), (b), Aug. 17, 2006, 120 Stat. 819, 946, renumbered Pub. L. 111-192, title II, §202(a), June 25, 2010, 124 Stat. 1297; Pub. L. 110-458, title I, §105(d), Dec. 23, 2008, 122 Stat. 5105; Pub. L. 112-141, div. D, title II, §40211(b)(3)(D), July 6, 2012, 126 Stat. 849; Pub. L. 113-97, title I, §102(b)(8), Apr. 7, 2014, 128 Stat. 1117.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 1083(h)(2)(C)(iv) of this title, referred to in subsec. (d)(3), was in the original “section 302(h)(2)(C)(iv)” (sic) and was translated as if it had read “section 303(h)(2)(C)(iv)” to reflect the probable intent of Congress.

#### AMENDMENTS

2014—Subsec. (b)(2). Pub. L. 113-97 substituted “section 1083(k)(1)(A) and (B) or 1085a(g)(1)(A) and (B) of this title or section 430(k)(1)(A) and (B) or 433(g)(1)(A) and (B) of title 26” for “section 1083(k)(1)(A) and (B) of this title or section 430(k)(1)(A) and (B) of title 26”.

2012—Subsec. (d)(3). Pub. L. 112-141 added par. (3).

2008—Subsec. (d)(2)(B). Pub. L. 110-458 substituted “section 1083(d)(2)” for “section 1082(d)(2)”.

2006—Subsec. (b)(1). Pub. L. 109-280, §505(a), added par. (1) and struck out former par. (1) which read as follows: “the aggregate unfunded vested benefits at the end of the preceding plan year (as determined under section 1306(a)(3)(E)(iii) of this title) of plans maintained by the contributing sponsor and the members of its controlled group exceed \$50,000,000 (disregarding plans with no unfunded vested benefits);”.

Subsec. (b)(2). Pub. L. 109-280, §108(b)(3), formerly §107(b)(3), as renumbered by Pub. L. 111-192, substituted “1083(k)(1)(A) and (B)” for “1082(f)(1)(A) and (B)” and “430(k)(1)(A) and (B)” for “412(n)(1)(A) and (B)”.

Subsecs. (d), (e). Pub. L. 109-280, §505(b), added subsecs. (d) and (e).

### Statutory Notes and Related Subsidiaries

#### CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

#### EFFECTIVE DATE OF 2014 AMENDMENT

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

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 applicable with respect to plan years beginning after Dec. 31, 2011, except as otherwise provided, see section 40211(c) of Pub. L. 112-141, set out as a note under section 404 of Title 26, Internal Revenue Code.

#### 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 108(b)(3) of Pub. L. 109-280 applicable to plan years beginning after 2007, see section 108(e) of Pub. L. 109-280, set out as a note under section 1021 of this title.

Pub. L. 109-280, title V, §505(c), Aug. 17, 2006, 120 Stat. 946, provided that: “The amendments made by this sec-

tion [amending this section] shall apply with respect to years beginning after 2007.”

#### EFFECTIVE DATE

Pub. L. 103-465, title VII, §772(c), Dec. 8, 1994, 108 Stat. 5044, provided that: “The amendments made by this section [enacting this section] shall be effective on the date of enactment of this Act [Dec. 8, 1994].”

#### 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.

### § 1311. Repealed. Pub. L. 109-280, title V, § 501(b)(1), Aug. 17, 2006, 120 Stat. 939

Section, Pub. L. 93-406, title IV, §4011, as added Pub. L. 103-465, title VII, §775(a), Dec. 8, 1994, 108 Stat. 5046, related to notice to participants of plan’s funding status and limitations on corporation’s guaranty.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF REPEAL

Repeal applicable to plan years beginning after Dec. 31, 2006, see section 501(d)(1) of Pub. L. 109-280, set out as an Effective Date of 2006 Amendment note under section 1021 of this title.

#### SUBTITLE B—COVERAGE

### § 1321. Coverage

#### (a) Plans covered

Except as provided in subsection (b), this subchapter applies to any plan (including a successor plan) which, for a plan year—

(1) is an employee pension benefit plan (as defined in paragraph (2) of section 1002 of this title) established or maintained—

(A) by an employer engaged in commerce or in any industry or activity affecting commerce, or

(B) by any employee organization, or organization representing employees, engaged in commerce or in any industry or activity affecting commerce, or

(C) by both,

which has, in practice, met the requirements of part I of subchapter D of chapter 1 of title 26 (as in effect for the preceding 5 plan years of the plan) applicable to the plans described in paragraph (2) for the preceding 5 plan years; or

(2) is, or has been determined by the Secretary of the Treasury to be, a plan described in section 401(a) of title 26, or which meets, or has been determined by the Secretary of the Treasury to meet, the requirements of section 404(a)(2) of title 26.

For purposes of this subchapter, a successor plan is considered to be a continuation of a predecessor plan. For this purpose, unless otherwise specifically indicated in this subchapter, a successor plan is a plan which covers a group of employees which includes substantially the same employees as a previously established plan, and provides substantially the same benefits as that plan provided.