

party in interest under a binding contract in effect on July 1, 1974 (or pursuant to renewals of such a contract), if such loan or other extension of credit remains at least as favorable to the plan as an arm's-length transaction with an unrelated party would be, and if the execution of the contract, the making of the loan, or the extension of credit was not, at the time of such execution, making, or extension, a prohibited transaction (within the meaning of section 503(b) of title 26 or the corresponding provisions of prior law);

(2) until June 30, 1984, to a lease or joint use of property involving the plan and a party in interest pursuant to a binding contract in effect on July 1, 1974 (or pursuant to renewals of such a contract), if such lease or joint use remains at least as favorable to the plan as an arm's-length transaction with an unrelated party would be and if the execution of the contract was not, at the time of such execution, a prohibited transaction (within the meaning of section 503(b) of title 26 or the corresponding provisions of prior law);

(3) until June 30, 1984, to the sale, exchange or other disposition of property described in paragraph (2) between a plan and a party in interest if—

(A) in the case of a sale, exchange, or other disposition of the property by the plan to the party in interest, the plan receives an amount which is not less than the fair market value of the property at the time of such disposition; and

(B) in the case of the acquisition of the property by the plan, the plan pays an amount which is not in excess of the fair market value of the property at the time of such acquisition;

(4) until June 30, 1977, to the provision of services, to which paragraphs (1), (2), and (3) do not apply between a plan and a party in interest—

(A) under a binding contract in effect on July 1, 1974 (or pursuant to renewals of such contract), or

(B) if the party in interest ordinarily and customarily furnished such services on June 30, 1974, if such provision of services remains at least as favorable to the plan as an arm's-length transaction with an unrelated party would be and if such provision of services was not, at the time of such provision, a prohibited transaction (within the meaning of section 503(b) of title 26) or the corresponding provisions of prior law; or

(5) the sale, exchange, or other disposition of property which is owned by a plan on June 30, 1974, and all times thereafter, to a party in interest, if such plan is required to dispose of such property in order to comply with the provisions of section 1107(a) of this title (relating to the prohibition against holding excess employer securities and employer real property), and if the plan receives not less than adequate consideration.

(d) Any election, or failure to elect, by a disqualified person under section 2003(c)(1)(B) of this Act shall be treated for purposes of this part (but not for purposes of section 1144 of this

title) as an act or omission occurring before the effective date of this part.

(e) The preceding provisions of this section shall not apply with respect to amendments made to this part in provisions enacted after September 2, 1974.

(Pub. L. 93-406, title I, § 414, Sept. 2, 1974, 88 Stat. 889; Pub. L. 101-239, title VII, § 7894(e)(6), (h)(4), Dec. 19, 1989, 103 Stat. 2450, 2451.)

REFERENCES IN TEXT

Section 2003(c)(1)(B) of this Act, referred to in subsec. (d), is section 2003(c)(1)(B) of Pub. L. 93-406, which is set out as an Effective Date; Savings Provisions note under section 4975 of Title 26, Internal Revenue Code.

AMENDMENTS

1989—Subsec. (c)(2). Pub. L. 101-239, § 7894(e)(6), 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, and substituted "or the corresponding provisions of prior law" for "(" or the corresponding provisions of prior law".

Subsec. (e). Pub. L. 101-239, § 7894(h)(4), added subsec. (e).

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.

PART 5—ADMINISTRATION AND ENFORCEMENT

§ 1131. Criminal penalties

Any person who willfully violates any provision of part 1 of this subtitle, or any regulation or order issued under any such provision, shall upon conviction be fined not more than \$100,000 or imprisoned not more than 10 years, or both; except that in the case of such violation by a person not an individual, the fine imposed upon such person shall be a fine not exceeding \$500,000.

(Pub. L. 93-406, title I, § 501, Sept. 2, 1974, 88 Stat. 891; Pub. L. 107-204, title IX, § 904, July 30, 2002, 116 Stat. 805.)

AMENDMENTS

2002—Pub. L. 107-204 substituted "\$100,000" for "\$5,000", "10 years" for "one year", and "\$500,000" for "\$100,000".

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.

§ 1132. Civil enforcement

(a) Persons empowered to bring a civil action

A civil action may be brought—

(1) by a participant or beneficiary—

(A) for the relief provided for in subsection (c) of this section, or

(B) to recover benefits due to him under the terms of his plan, to enforce his rights under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan;