

subsection without regard to the amount in controversy.

(7) In any suit, action, or proceeding in which the corporation is a party, or intervenes under section 1451 of this title, in any State court, the corporation may, without bond or security, remove such suit, action, or proceeding from the State court to the United States district court for the district or division in which such suit, action, or proceeding is pending by following any procedure for removal now or hereafter in effect.

(Pub. L. 93-406, title IV, § 4003, Sept. 2, 1974, 88 Stat. 1006; Pub. L. 96-364, title IV, §§ 402(a)(2), 403(k), Sept. 26, 1980, 94 Stat. 1297, 1302; Pub. L. 98-620, title IV, § 402(33), Nov. 8, 1984, 98 Stat. 3360; Pub. L. 99-272, title XI, §§ 11014(b)(1), (2), 11016(c)(5), Apr. 7, 1986, 100 Stat. 262, 264, 274; Pub. L. 103-465, title VII, §§ 773(a), 776(b)(1), Dec. 8, 1994, 108 Stat. 5044, 5048; Pub. L. 109-280, title I, § 107(b)(2), title IV, § 411(a)(2), Aug. 17, 2006, 120 Stat. 819, 935.)

REFERENCES IN TEXT

Section 1349 of this title, referred to in subsec. (f)(4), was repealed by Pub. L. 100-203, title IX, § 9312(a), Dec. 22, 1987, 101 Stat. 1330-361.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-280, § 411(a)(2), substituted “under this subchapter, the Director, any member” for “under this subchapter, any member” and “designated by the Director or chairman” for “designated by the chairman”.

Subsec. (e)(1). Pub. L. 109-280, § 107(b)(2), 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)”.

1994—Subsec. (a). Pub. L. 103-465, § 776(b)(1), inserted “and whether section 1350(a) of this title has been satisfied” before period at end of second sentence.

Subsec. (e)(1). Pub. L. 103-465, § 773(a), inserted “(A)” after “enforce” and substituted “, and” and cl. (B) for period at end.

1986—Subsec. (a). Pub. L. 99-272, § 11016(c)(5), inserted provisions directing the corporation to audit annually a statistically significant number of plans terminating under section 1341(b) of this title to determine whether participants and beneficiaries have received their benefit commitments and to include a statistically significant number of participants and beneficiaries in each audit.

Subsec. (e)(6). Pub. L. 99-272, § 11014(b)(2), added par. (6).

Subsec. (f). Pub. L. 99-272, § 11014(b)(1), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “Except as provided in section 1451(a)(2) of this title, any participant, beneficiary, plan administrator, or employee adversely affected by any action of the corporation, or by a receiver or trustee appointed by the corporation, with respect to a plan in which such participant, beneficiary, plan administrator or employer has an interest, may bring an action against the corporation, receiver, or trustee in the appropriate court. For purposes of this subsection the term ‘appropriate court’ means the United States district court before which proceedings under section 1341 or 1342 of this title are being conducted, or if no such proceedings are being conducted the United States district court for the district in which the plan has its principal office, or the United States district court for the District of Columbia. The district courts of the United States have jurisdiction of actions brought under this subsection without regard to the amount in controversy. In any suit, action, or proceeding in which the corporation is a party, or intervenes under section 1451 of this title, in any State court, the corporation may, without bond or

security, remove such suit, action, or proceeding from the State court to the United States District Court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect.”

1984—Subsec. (e)(4). Pub. L. 98-620 struck out par. (4) which provided that upon application by the corporation to a court of the United States for expedited handling of any case in which the corporation was a party, it was the duty of that court to assign such case for hearing at the earliest practical date and to cause such case to be in every way expedited.

1980—Subsec. (a). Pub. L. 96-364, § 402(a)(2)(A), substituted “enforce” for “determine whether any person has violated or is about to violate”.

Subsec. (e)(1). Pub. L. 96-364, § 402(a)(2)(B), substituted “enforce” for “redress violations of”.

Subsec. (f). Pub. L. 96-364, §§ 402(a)(2)(C), 403(k), substituted “Except as provided in section 1451(a)(2) of the title, any” for “Any” and inserted provisions relating to removal of actions.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 107(b)(2) of Pub. L. 109-280 applicable to plan years beginning after 2007, see section 107(e) of Pub. L. 109-280, set out as a note under section 1021 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 773(b) of Pub. L. 103-465 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 plan 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

Section 11014(b)(3) of Pub. L. 99-272 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 (§§ 101-107) 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. Repealed. Pub. L. 99-272, title XI, § 11016(c)(6), Apr. 7, 1986, 100 Stat. 274

Section, 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.

EFFECTIVE DATE OF REPEAL

Repeal 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.

§ 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 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) funds borrowed under subsection (c) of this section,

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

(C) 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,

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

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

(F) attorney's fees awarded to the corporation, and

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

(2) Subject to the provisions of subsection (a) of this section, 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 repay to the Secretary of the Treasury such sums as may be borrowed (together with

interest thereon) under subsection (c) of this section,

(D) 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

(E) 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) 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 but, until all borrowings under subsection (c) of this section have been repaid, the obligations in which such excess moneys are invested may not yield a rate of return in excess of the rate of interest payable on such borrowings.

(c) Authority to issue notes or other obligations; purchase by Secretary of the Treasury as public debt transaction

The corporation is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount of not to exceed \$100,000,000, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations of the corporation. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations issued by the corporation under this subsection, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(d) Establishment of fifth fund; purpose, availability, etc.

(1) A fifth fund shall be established for the reimbursement of uncollectible withdrawal liability under section 1402 of this title, and shall be credited with the appropriate—

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