

translated as “title 26” thus requiring no change in text.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-147 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, to which such amendment relates, see section 411(x) of Pub. L. 107-147, set out as a note under section 25B of Title 26, Internal Revenue Code.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to plan years beginning after Dec. 31, 2002, see section 602(c) of Pub. L. 107-16, set out as a note under section 408 of Title 26, Internal Revenue Code.

#### EFFECTIVE DATE OF 1996 AMENDMENTS

Section 603(c) of Pub. L. 104-204 provided that: “The amendments made by this section [enacting section 1185 of this title and amending this section and sections 1021, 1022, 1024, 1132, 1136, 1144, 1181, 1191, and 1191a of this title] shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.”

Amendment by Pub. L. 104-191 applicable with respect to group health plans for plan years beginning after June 30, 1997, except as otherwise provided, see section 101(g) of Pub. L. 104-191, set out as an Effective Date note under section 1181 of this title.

#### 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.

### SUBTITLE B—REGULATORY PROVISIONS

#### PART 1—REPORTING AND DISCLOSURE

### § 1021. Duty of disclosure and reporting

#### (a) Summary plan description and information to be furnished to participants and beneficiaries

The administrator of each employee benefit plan shall cause to be furnished in accordance with section 1024(b) of this title to each participant covered under the plan and to each beneficiary who is receiving benefits under the plan—

- (1) a summary plan description described in section 1022(a)(1)<sup>1</sup> of this title; and
- (2) the information described in subsection (f) and sections 1024(b)(3) and 1025(a) and (c) of this title.

#### (b) Reports to be filed with Secretary of Labor

The administrator shall, in accordance with section 1024(a) of this title, file with the Secretary—

- (1) the annual report containing the information required by section 1023 of this title; and
- (2) terminal and supplementary reports as required by subsection (c) of this section.

#### (c) Terminal and supplementary reports

(1) Each administrator of an employee pension benefit plan which is winding up its affairs (without regard to the number of participants remaining in the plan) shall, in accordance with

regulations prescribed by the Secretary, file such terminal reports as the Secretary may consider necessary. A copy of such report shall also be filed with the Pension Benefit Guaranty Corporation.

(2) The Secretary may require terminal reports to be filed with regard to any employee welfare benefit plan which is winding up its affairs in accordance with regulations promulgated by the Secretary.

(3) The Secretary may require that a plan described in paragraph (1) or (2) file a supplementary or terminal report with the annual report in the year such plan is terminated and that a copy of such supplementary or terminal report in the case of a plan described in paragraph (1) be also filed with the Pension Benefit Guaranty Corporation.

#### (d) Notice of failure to meet minimum funding standards

##### (1) In general

If an employer maintaining a plan other than a multiemployer plan fails to make a required installment or other payment required to meet the minimum funding standard under section 1082 of this title to a plan before the 60th day following the due date for such installment or other payment, the employer shall notify each participant and beneficiary (including an alternate payee as defined in section 1056(d)(3)(K) of this title) of such plan of such failure. Such notice shall be made at such time and in such manner as the Secretary may prescribe.

##### (2) Subsection not to apply if waiver pending

This subsection shall not apply to any failure if the employer has filed a waiver request under section 1083 of this title with respect to the plan year to which the required installment relates, except that if the waiver request is denied, notice under paragraph (1) shall be provided within 60 days after the date of such denial.

##### (3) Definitions

For purposes of this subsection, the terms “required installment” and “due date” have the same meanings given such terms by section 1083(j) of this title.

#### (e) Notice of transfer of excess pension assets to health benefits accounts

##### (1) Notice to participants

Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities expected to be provided with the assets transferred, and the amount of pension benefits of the participant which will be nonforfeitable immediately after the transfer.

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

**(2) Notice to Secretaries, administrator, and employee organizations**

**(A) In general**

Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

**(B) Information relating to transfer**

Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

**(C) Authority for additional reporting requirements**

The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

**(3) Definitions**

For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of title 26 (as in effect on August 17, 2006) shall have the same meaning as when used in such section.

**(f) Defined benefit plan funding notices**

**(1) In general**

The administrator of a defined benefit plan to which subchapter III applies shall for each plan year provide a plan funding notice to the Pension Benefit Guaranty Corporation, to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, to each employer that has an obligation to contribute to the plan.

**(2) Information contained in notices**

**(A) Identifying information**

Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal administrative officer, each plan sponsor's employer identification number, and the plan number of the plan.

**(B) Specific information**

A plan funding notice under paragraph (1) shall include—

- (i)(I) in the case of a single-employer plan, a statement as to whether the plan's funding target attainment percentage (as defined in section 1083(d)(2) of this title) for the plan year to which the notice relates, and for the 2 preceding plan years, is at least 100 percent (and, if not, the actual percentages), or

- (II) in the case of a multiemployer plan, a statement as to whether the plan's funded percentage (as defined in section 1085(i) of this title) for the plan year to which the notice relates, and for the 2 preceding plan years, is at least 100 percent (and, if not, the actual percentages),

- (ii)(I) in the case of a single-employer plan, a statement of—

- (aa) the total assets (separately stating the prefunding balance and the funding standard carryover balance) and liabilities of the plan, determined in the same manner as under section 1083 of this title, for the plan year to which the notice relates and for the 2 preceding plan years, as reported in the annual report for each such plan year, and

- (bb) the value of the plan's assets and liabilities for the plan year to which the notice relates as of the last day of the plan year to which the notice relates determined using the asset valuation under subclause (II) of section 1306(a)(3)(E)(iii) of this title and the interest rate under section 1306(a)(3)(E)(iv) of this title, and

- (II) in the case of a multiemployer plan, a statement, for the plan year to which the notice relates and the preceding 2 plan years, of the value of the plan assets (determined both in the same manner as under section 1084 of this title and under the rules of subclause (I)(bb)) and the value of the plan liabilities (determined in the same manner as under section 1084 of this title except that the method specified in section 1085(i)(8) of this title shall be used),

- (iii) a statement of the number of participants who are—

- (I) retired or separated from service and are receiving benefits,

- (II) retired or separated participants entitled to future benefits, and

- (III) active participants under the plan,

- (iv) a statement setting forth the funding policy of the plan and the asset allocation of investments under the plan (expressed as percentages of total assets) as of the end of the plan year to which the notice relates,

- (v) in the case of a multiemployer plan, whether the plan was in critical or endangered status under section 1085 of this title for such plan year and, if so—

- (I) a statement describing how a person may obtain a copy of the plan's funding improvement or rehabilitation plan, as appropriate, adopted under section 1085 of this title and the actuarial and financial data that demonstrate any action taken by the plan toward fiscal improvement, and

- (II) a summary of any funding improvement plan, rehabilitation plan, or modification thereof adopted under section 1085 of this title during the plan year to which the notice relates,

- (vi) in the case of any plan amendment, scheduled benefit increase or reduction, or

other known event taking effect in the current plan year and having a material effect on plan liabilities or assets for the year (as defined in regulations by the Secretary), an explanation of the amendment, schedule increase or reduction, or event, and a projection to the end of such plan year of the effect of the amendment, scheduled increase or reduction, or event on plan liabilities,

(vii)(I) in the case of a single-employer plan, a summary of the rules governing termination of single-employer plans under subtitle C of subchapter III, or

(II) in the case of a multiemployer plan, a summary of the rules governing reorganization or insolvency, including the limitations on benefit payments,

(viii) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply,

(ix) a statement that a person may obtain a copy of the annual report of the plan filed under section 1024(a) of this title upon request, through the Internet website of the Department of Labor, or through an Intranet website maintained by the applicable plan sponsor (or plan administrator on behalf of the plan sponsor), and

(x) if applicable, a statement that each contributing sponsor, and each member of the contributing sponsor's controlled group, of the single-employer plan was required to provide the information under section 1310 of this title for the plan year to which the notice relates.

#### **(C) Other information**

Each notice under paragraph (1) shall include—

(i) in the case of a multiemployer plan, a statement that the plan administrator shall provide, upon written request, to any labor organization representing plan participants and beneficiaries and any employer that has an obligation to contribute to the plan, a copy of the annual report filed with the Secretary under section 1024(a) of this title, and

(ii) any additional information which the plan administrator elects to include to the extent not inconsistent with regulations prescribed by the Secretary.

#### **(3) Time for providing notice**

##### **(A) In general**

Any notice under paragraph (1) shall be provided not later than 120 days after the end of the plan year to which the notice relates.

##### **(B) Exception for small plans**

In the case of a small plan (as such term is used under section 1083(g)(2)(B) of this title) any notice under paragraph (1) shall be provided upon filing of the annual report under section 1024(a) of this title.

#### **(4) Form and manner**

Any notice under paragraph (1)—

(A) shall be provided in a form and manner prescribed in regulations of the Secretary,

(B) shall be written in a manner so as to be understood by the average plan participant, and

(C) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.

#### **(g) Reporting by certain arrangements**

The Secretary shall, by regulation, require multiple employer welfare arrangements providing benefits consisting of medical care (within the meaning of section 1191b(a)(2) of this title) which are not group health plans to register with the Secretary prior to operating in a State and may, by regulation, require such multiple employer welfare arrangements to report, not more frequently than annually, in such form and such manner as the Secretary may require for the purpose of determining the extent to which the requirements of part 7 are being carried out in connection with such benefits.

#### **(h) Simple retirement accounts**

##### **(1) No employer reports**

Except as provided in this subsection, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under section 408(p) of title 26.

##### **(2) Summary description**

The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of title 26 shall provide to the employer maintaining the arrangement each year a description containing the following information:

(A) The name and address of the employer and the trustee.

(B) The requirements for eligibility for participation.

(C) The benefits provided with respect to the arrangement.

(D) The time and method of making elections with respect to the arrangement.

(E) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

##### **(3) Employee notification**

The employer shall notify each employee immediately before the period for which an election described in section 408(p)(5)(C) of title 26 may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in paragraph (2).

#### **(i) Notice of blackout periods to participant or beneficiary under individual account plan**

##### **(1) Duties of plan administrator**

In advance of the commencement of any blackout period with respect to an individual account plan, the plan administrator shall notify the plan participants and beneficiaries who are affected by such action in accordance with this subsection.

**(2) Notice requirements****(A) In general**

The notices described in paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall include—

- (i) the reasons for the blackout period,
- (ii) an identification of the investments and other rights affected,
- (iii) the expected beginning date and length of the blackout period,
- (iv) in the case of investments affected, a statement that the participant or beneficiary should evaluate the appropriateness of their current investment decisions in light of their inability to direct or diversify assets credited to their accounts during the blackout period, and
- (v) such other matters as the Secretary may require by regulation.

**(B) Notice to participants and beneficiaries**

Except as otherwise provided in this subsection, notices described in paragraph (1) shall be furnished to all participants and beneficiaries under the plan to whom the blackout period applies at least 30 days in advance of the blackout period.

**(C) Exception to 30-day notice requirement**

In any case in which—

- (i) a deferral of the blackout period would violate the requirements of subparagraph (A) or (B) of section 1104(a)(1) of this title, and a fiduciary of the plan reasonably so determines in writing, or
- (ii) the inability to provide the 30-day advance notice is due to events that were unforeseeable or circumstances beyond the reasonable control of the plan administrator, and a fiduciary of the plan reasonably so determines in writing,

subparagraph (B) shall not apply, and the notice shall be furnished to all participants and beneficiaries under the plan to whom the blackout period applies as soon as reasonably possible under the circumstances unless such a notice in advance of the termination of the blackout period is impracticable.

**(D) Written notice**

The notice required to be provided under this subsection shall be in writing, except that such notice may be in electronic or other form to the extent that such form is reasonably accessible to the recipient.

**(E) Notice to issuers of employer securities subject to blackout period**

In the case of any blackout period in connection with an individual account plan, the plan administrator shall provide timely notice of such blackout period to the issuer of any employer securities subject to such blackout period.

**(3) Exception for blackout periods with limited applicability**

In any case in which the blackout period applies only to 1 or more participants or beneficiaries in connection with a merger, acquisi-

tion, divestiture, or similar transaction involving the plan or plan sponsor and occurs solely in connection with becoming or ceasing to be a participant or beneficiary under the plan by reason of such merger, acquisition, divestiture, or transaction, the requirement of this subsection that the notice be provided to all participants and beneficiaries shall be treated as met if the notice required under paragraph (1) is provided to such participants or beneficiaries to whom the blackout period applies as soon as reasonably practicable.

**(4) Changes in length of blackout period**

If, following the furnishing of the notice pursuant to this subsection, there is a change in the beginning date or length of the blackout period (specified in such notice pursuant to paragraph (2)(A)(iii)), the administrator shall provide affected participants and beneficiaries notice of the change as soon as reasonably practicable. In relation to the extended blackout period, such notice shall meet the requirements of paragraph (2)(D) and shall specify any material change in the matters referred to in clauses (i) through (v) of paragraph (2)(A).

**(5) Regulatory exceptions**

The Secretary may provide by regulation for additional exceptions to the requirements of this subsection which the Secretary determines are in the interests of participants and beneficiaries.

**(6) Guidance and model notices**

The Secretary shall issue guidance and model notices which meet the requirements of this subsection.

**(7) Blackout period**

For purposes of this subsection—

**(A) In general**

The term “blackout period” means, in connection with an individual account plan, any period for which any ability of participants or beneficiaries under the plan, which is otherwise available under the terms of such plan, to direct or diversify assets credited to their accounts, to obtain loans from the plan, or to obtain distributions from the plan is temporarily suspended, limited, or restricted, if such suspension, limitation, or restriction is for any period of more than 3 consecutive business days.

**(B) Exclusions**

The term “blackout period” does not include a suspension, limitation, or restriction—

- (i) which occurs by reason of the application of the securities laws (as defined in section 78c(a)(47) of title 15),
- (ii) which is a change to the plan which provides for a regularly scheduled suspension, limitation, or restriction which is disclosed to participants or beneficiaries through any summary of material modifications, any materials describing specific investment alternatives under the plan, or any changes thereto, or
- (iii) which applies only to 1 or more individuals, each of whom is the participant,

an alternate payee (as defined in section 1056(d)(3)(K) of this title), or any other beneficiary pursuant to a qualified domestic relations order (as defined in section 1056(d)(3)(B)(i) of this title).

**(8) Individual account plan**

**(A) In general**

For purposes of this subsection, the term “individual account plan” shall have the meaning provided such term in section 1002(34) of this title, except that such term shall not include a one-participant retirement plan.

**(B) One-participant retirement plan**

For purposes of subparagraph (A), the term “one-participant retirement plan” means a retirement plan that on the first day of the plan year—

(i) covered only one individual (or the individual and the individual’s spouse) and the individual (or the individual and the individual’s spouse) owned 100 percent of the plan sponsor (whether or not incorporated), or

(ii) covered only one or more partners (or partners and their spouses) in the plan sponsor.

**(j) Notice of funding-based limitation on certain forms of distribution**

The plan administrator of a single-employer plan shall provide a written notice to plan participants and beneficiaries within 30 days—

(1) after the plan has become subject to a restriction described in paragraph (1) or (3) of section 1056(g) of this title;<sup>2</sup>

(2) in the case of a plan to which section 1056(g)(4) of this title applies, after the valuation date for the plan year described in section 1056(g)(4)(A) of this title for which the plan’s adjusted funding target attainment percentage for the plan year is less than 60 percent (or, if earlier, the date such percentage is deemed to be less than 60 percent under section 1056(g)(7) of this title), and

(3) at such other time as may be determined by the Secretary of the Treasury.

The notice required to be provided under this subsection shall be in writing, except that such notice may be in electronic or other form to the extent that such form is reasonably accessible to the recipient. The Secretary of the Treasury, in consultation with the Secretary, shall have the authority to prescribe rules applicable to the notices required under this subsection.

**(k) Multiemployer plan information made available on request**

**(1) In general**

Each administrator of a multiemployer plan shall, upon written request, furnish to any plan participant or beneficiary, employee representative, or any employer that has an obligation to contribute to the plan—

(A) a copy of any periodic actuarial report (including any sensitivity testing) received

by the plan for any plan year which has been in the plan’s possession for at least 30 days,

(B) a copy of any quarterly, semi-annual, or annual financial report prepared for the plan by any plan investment manager or advisor or other fiduciary which has been in the plan’s possession for at least 30 days, and

(C) a copy of any application filed with the Secretary of the Treasury requesting an extension under section 1084 of this title or section 431(d) of title 26 and the determination of such Secretary pursuant to such application.

**(2) Compliance**

Information required to be provided under paragraph (1)—

(A) shall be provided to the requesting participant, beneficiary, or employer within 30 days after the request in a form and manner prescribed in regulations of the Secretary,

(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the information is required to be provided, and

(C) shall not—

(i) include any individually identifiable information regarding any plan participant, beneficiary, employee, fiduciary, or contributing employer, or

(ii) reveal any proprietary information regarding the plan, any contributing employer, or entity providing services to the plan.

Subparagraph (C)(i) shall not apply to individually identifiable information with respect to any plan investment manager or adviser, or with respect to any other person (other than an employee of the plan) preparing a financial report required to be included under paragraph (1)(B).

**(3) Limitations**

In no case shall a participant, beneficiary, or employer be entitled under this subsection to receive more than one copy of any report or application described in paragraph (1) during any one 12-month period. The administrator may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.

**(l) Notice of potential withdrawal liability**

**(1) In general**

The plan sponsor or administrator of a multiemployer plan shall, upon written request, furnish to any employer who has an obligation to contribute to the plan a notice of—

(A) the estimated amount which would be the amount of such employer’s withdrawal liability under part 1 of subtitle E of subchapter III if such employer withdrew on the last day of the plan year preceding the date of the request, and

(B) an explanation of how such estimated liability amount was determined, including

<sup>2</sup>So in original. The closing parenthesis probably should not appear.

the actuarial assumptions and methods used to determine the value of the plan liabilities and assets, the data regarding employer contributions, unfunded vested benefits, annual changes in the plan's unfunded vested benefits, and the application of any relevant limitations on the estimated withdrawal liability.

For purposes of subparagraph (B), the term "employer contribution" means, in connection with a participant, a contribution made by an employer as an employer of such participant.

### (2) Compliance

Any notice required to be provided under paragraph (1)—

(A) shall be provided in a form and manner prescribed in regulations of the Secretary to the requesting employer within—

- (i) 180 days after the request, or
- (ii) subject to regulations of the Secretary, such longer time as may be necessary in the case of a plan that determines withdrawal liability based on any method described under paragraph (4) or (5) of section 1391(c) of this title; and

(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to employers to whom the information is required to be provided.

### (3) Limitations

In no case shall an employer be entitled under this subsection to receive more than one notice described in paragraph (1) during any one 12-month period. The person required to provide such notice may make a reasonable charge to cover copying, mailing, and other costs of furnishing such notice pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.

### (m) Notice of right to divest

Not later than 30 days before the first date on which an applicable individual of an applicable individual account plan is eligible to exercise the right under section 1054(j) of this title to direct the proceeds from the divestment of employer securities with respect to any type of contribution, the administrator shall provide to such individual a notice—

- (1) setting forth such right under such section, and
- (2) describing the importance of diversifying the investment of retirement account assets.

The notice required by this subsection shall be written in a manner calculated to be understood by the average plan participant and may be delivered in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to the recipient.

### (n) Cross reference

**For regulations relating to coordination of reports to the Secretaries of Labor and the Treasury, see section 1204 of this title.**

(Pub. L. 93-406, title I, §101, Sept. 2, 1974, 88 Stat. 840; Pub. L. 100-203, title IX, §9304(d), Dec. 22,

1987, 101 Stat. 1330-348; Pub. L. 101-239, title VII, §§7881(b)(5)(A), 7894(b)(2), Dec. 19, 1989, 103 Stat. 2438, 2448; Pub. L. 101-508, title XII, §12012(d)(1), Nov. 5, 1990, 104 Stat. 1388-572; Pub. L. 103-66, title IV, §4301(b)(1), Aug. 10, 1993, 107 Stat. 375; Pub. L. 103-465, title VII, §731(c)(4)(A), Dec. 8, 1994, 108 Stat. 5004; Pub. L. 104-188, title I, §1421(d)(1), Aug. 20, 1996, 110 Stat. 1799; Pub. L. 104-191, title I, §101(e)(1), Aug. 21, 1996, 110 Stat. 1952; Pub. L. 104-204, title VI, §603(b)(3)(B), Sept. 26, 1996, 110 Stat. 2938; Pub. L. 105-34, title XV, §1503(a), Aug. 5, 1997, 111 Stat. 1061; Pub. L. 105-200, title IV, §401(h)(1)(A), July 16, 1998, 112 Stat. 668; Pub. L. 106-170, title V, §535(a)(2)(A), Dec. 17, 1999, 113 Stat. 1934; Pub. L. 107-204, title III, §306(b)(1), July 30, 2002, 116 Stat. 780; Pub. L. 108-218, title I, §103(a), title II, §204(b)(1), Apr. 10, 2004, 118 Stat. 602, 609; Pub. L. 108-357, title VII, §709(a)(1), Oct. 22, 2004, 118 Stat. 1551; Pub. L. 109-280, title I, §§103(b)(1), 108(a)(1), (11), formerly §107(a)(1), (11), title V, §§501(a), 502(a)(1), (b)(1), 503(c)(2), 507(a), 509(a), Aug. 17, 2006, 120 Stat. 814, 818, 819, 936, 939, 940, 944, 948, 952, renumbered Pub. L. 111-192, title II, §202(a), June 25, 2010, 124 Stat. 1297; Pub. L. 110-458, title I, §§101(c)(1)(A), 105(a), (b)(1), (g), Dec. 23, 2008, 122 Stat. 5097, 5104, 5105; Pub. L. 111-148, title VI, §6606, Mar. 23, 2010, 124 Stat. 781.)

### REFERENCES IN TEXT

Section 1022(a)(1) of this title, referred to in subsec. (a)(1), was redesignated section 1022(a) of this title by Pub. L. 105-34, title XV, §1503(b)(1)(B), Aug. 5, 1997, 111 Stat. 1061.

### AMENDMENTS

2010—Subsec. (g). Pub. L. 111-148, §6606(2), inserted "to register with the Secretary prior to operating in a State and may, by regulation, require such multiple employer welfare arrangements" after "not group health plans".

Pub. L. 111-148, §6606(1), which directed substitution of "Secretary shall" for "Secretary may", was executed by making the substitution the first place appearing, to reflect the probable intent of Congress.

2008—Subsec. (f)(2)(B)(ii)(I)(aa). Pub. L. 110-458, §105(a)(1), substituted "to which the notice relates" for "for which the latest annual report filed under section 1024(a) of this title was filed".

Subsec. (f)(2)(B)(ii)(II). Pub. L. 110-458, §105(a)(2), added subcl. (II) and struck out former subcl. (II) which read as follows: "in the case of a multiemployer plan, a statement of the value of the plan's assets and liabilities for the plan year to which the notice relates as the last day of such plan year and the preceding 2 plan years."

Subsec. (i)(8)(B). Pub. L. 110-458, §105(g), amended subpar. (B) generally. Prior to amendment, text read as follows: "For purposes of subparagraph (A), the term 'one-participant retirement plan' means a retirement plan that—

"(i) on the first day of the plan year—

"(I) covered only one individual (or the individual and the individual's spouse) and the individual (or the individual and the individual's spouse) owned 100 percent of the plan sponsor (whether or not incorporated), or

"(II) covered only one or more partners (or partners and their spouses) in the plan sponsor, and

"(ii) does not cover a business that leases employees."

Subsec. (j). Pub. L. 110-458, §101(c)(1)(A), substituted "section 1056(g)(4)(A)" for "section 1056(g)(4)(B)" in par. (2) and inserted "The Secretary of the Treasury, in consultation with the Secretary, shall have the authority to prescribe rules applicable to the notices required under this subsection." in concluding provisions.

Subsec. (k)(2). Pub. L. 110-458, § 105(b)(1), inserted concluding provisions.

2006—Subsec. (a)(2). Pub. L. 109-280, § 503(c)(2), inserted “subsection (f) and” after “described in”.

Subsec. (d)(3). Pub. L. 109-280, § 108(a)(1), formerly § 107(a)(1), as renumbered by Pub. L. 111-192, substituted “1083(j)” for “1082(e)”.

Subsec. (e)(3). Pub. L. 109-280, § 108(a)(11), formerly § 107(a)(11), as renumbered by Pub. L. 111-192, substituted “August 17, 2006” for “October 22, 2004”.

Subsec. (f). Pub. L. 109-280, § 501(a), amended heading and text of subsec. (f) generally, substituting provisions relating to defined benefit plan funding notices for provisions relating to multiemployer defined benefit plan funding notices.

Subsec. (i)(8)(B). Pub. L. 109-280, § 509(a), added cl. (i), redesignated cl. (v) as (ii), and struck out former cls. (i) to (iv) which read as follows:

“(i) on the first day of the plan year—

“(I) covered only the employer (and the employer’s spouse) and the employer owned the entire business (whether or not incorporated), or

“(II) covered only one or more partners (and their spouses) in a business partnership (including partners in an S or C corporation (as defined in section 1361(a) of title 26)),

“(ii) meets the minimum coverage requirements of section 410(b) of title 26 (as in effect on July 30, 2002) without being combined with any other plan of the business that covers the employees of the business,

“(iii) does not provide benefits to anyone except the employer (and the employer’s spouse) or the partners (and their spouses),

“(iv) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and”.

Subsec. (j). Pub. L. 109-280, § 103(b)(1)(B), added subsec. (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 109-280, § 502(a)(1)(B), added subsec. (k). Former subsec. (k) redesignated (l).

Pub. L. 109-280, § 103(b)(1)(A), redesignated subsec. (j) as (k).

Subsec. (l). Pub. L. 109-280, § 502(b)(1)(B), added subsec. (l). Former subsec. (l) redesignated (m).

Pub. L. 109-280, § 502(a)(1)(A), redesignated subsec. (k) as (l).

Subsec. (m). Pub. L. 109-280, § 507(a), added subsec. (m). Former subsec. (m) redesignated (n).

Pub. L. 109-280, § 502(b)(1)(A), redesignated subsec. (l) as (m).

Subsec. (n). Pub. L. 109-280, § 507(a), redesignated subsec. (m) as (n).

2004—Subsec. (e)(3). Pub. L. 108-357 substituted “October 22, 2004” for “April 10, 2004”.

Pub. L. 108-218, § 204(b)(1), substituted “April 10, 2004” for “December 17, 1999”.

Subsec. (f). Pub. L. 108-218, § 103(a), added subsec. (f).

2002—Subsecs. (h) to (j). Pub. L. 107-204 added subsec. (i) and redesignated subsec. (h) relating to cross reference as (j).

1999—Subsec. (e)(3). Pub. L. 106-170 substituted “December 17, 1999” for “January 1, 1995”.

1998—Subsec. (f). Pub. L. 105-200 struck out subsec. (f) relating to information necessary to comply with Medicare and Medicaid Coverage Data Bank requirements.

1997—Subsec. (b). Pub. L. 105-34 redesignated pars. (4) and (5) as (1) and (2), respectively, and struck out former pars. (1) to (3), which read as follows:

“(1) the summary plan description described in section 1022(a)(1) of this title;

“(2) a plan description containing the matter required in section 1022(b) of this title;

“(3) modifications and changes referred to in section 1022(a)(2) of this title;”.

1996—Subsec. (g). Pub. L. 104-204 made technical amendment to reference in original act which appears in text as reference to section 1191b of this title.

Pub. L. 104-191, § 101(e)(1)(B), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 104-188 added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 104-191, § 101(e)(1)(A), redesignated subsec. (g), relating to simple retirement accounts, as (h).

Pub. L. 104-188, § 1421(d)(1), redesignated subsec. (g), relating to cross references, as (h).

1994—Subsec. (e)(3). Pub. L. 103-465 substituted “1995” for “1991”.

1993—Subsecs. (f), (g). Pub. L. 103-66 added subsec. (f) and redesignated former subsec. (f) as (g).

1990—Subsecs. (e), (f). Pub. L. 101-508 added subsec. (e) and redesignated former subsec. (e) as (f).

1989—Subsec. (a)(2). Pub. L. 101-239, § 7894(b)(2), substituted “sections” for “section”.

Subsec. (d)(1). Pub. L. 101-239, § 7881(b)(5)(A), substituted “an employer maintaining a plan” for “an employer of a plan”.

1987—Subsecs. (d), (e). Pub. L. 100-203 added subsec. (d) and redesignated former subsec. (d) as (e).

#### 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 Title 26, Internal Revenue Code.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title I, § 103(c), Aug. 17, 2006, 120 Stat. 816, as amended by Pub. L. 110-458, title I, § 101(c)(3), Dec. 23, 2008, 122 Stat. 5098, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 1056 and 1132 of this title] shall apply to plan years beginning after December 31, 2007.

“(2) COLLECTIVE BARGAINING EXCEPTION.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before January 1, 2008, the amendments made by this section shall not apply to plan years beginning before the earlier of—

“(A) the later of—

“(i) the date on which the last collective bargaining agreement relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act [Aug. 17, 2006]), or

“(ii) the first day of the first plan year to which the amendments made by this section would (but for this paragraph) apply, or

“(B) January 1, 2010.

For purposes of subparagraph (A)(i), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.”

Pub. L. 109-280, title I, § 108(e), formerly § 107(e), Aug. 17, 2006, 120 Stat. 820, renumbered Pub. L. 111-192, title II, § 202(a), June 25, 2010, 124 Stat. 1297, provided that: “The amendments made by this section [amending this section, sections 1023, 1053, 1054, 1056, 1103, 1108, 1301, 1303, 1310, 1362, 1371, and 1423 of this title, and Reorganization Plan No. 4 of 1978, set out as a note under section 1001 of this title and in the Appendix to Title 5, Government Organization and Employees, and repealing section 1057 of this title] shall apply to plan years beginning after 2007.”

Pub. L. 109-280, title V, § 501(d), Aug. 17, 2006, 120 Stat. 939, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and repealing section 1311 of this title] shall apply to plan years beginning after December 31, 2007, except that the amendment made by subsection (b) [repealing section 1311 of this title] shall apply to plan years beginning after December 31, 2006.

“(2) TRANSITION RULE.—Any requirement under section 101(f) of the Employee Retirement Income Secu-

rity Act of 1974 [29 U.S.C. 1021(f)] (as amended by this section) to report the funding target attainment percentage or funded percentage of a plan with respect to any plan year beginning before January 1, 2008, shall be treated as met if the plan reports—

“(A) in the case of a plan year beginning in 2006, the funded current liability percentage (as defined in section 302(d)(8) of such Act [29 U.S.C. 1082(d)(8)]) of the plan for such plan year, and

“(B) in the case of a plan year beginning in 2007, the funding target attainment percentage or funded percentage as determined using such methods of estimation as the Secretary of the Treasury may provide.”

Amendment by section 502(a)(1), (b)(1) of Pub. L. 109-280 applicable to plan years beginning after Dec. 31, 2007, see section 502(d) of Pub. L. 109-280, set out as a note under section 4980F of Title 26, Internal Revenue Code.

Pub. L. 109-280, title V, §503(f), Aug. 17, 2006, 120 Stat. 945, provided that: “The amendments made by this section [amending this section and sections 1023 and 1024 of this title] shall apply to plan years beginning after December 31, 2007.”

Pub. L. 109-280, title V, §507(d), Aug. 17, 2006, 120 Stat. 949, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 1132 of this title] shall apply to plan years beginning after December 31, 2006.

“(2) TRANSITION RULE.—If notice under section 101(m) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1021(m)] (as added by this section) would otherwise be required to be provided before the 90th day after the date of the enactment of this Act [Aug. 17, 2006], such notice shall not be required to be provided until such 90th day.”

Pub. L. 109-280, title V, §509(b), Aug. 17, 2006, 120 Stat. 952, provided that: “The amendments made by this subsection [probably means this section, amending this section] shall take effect as if included in the provisions of section 306 of Public Law 107-204 (116 Stat. 745 et seq.).”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-218, title I, §103(d), Apr. 10, 2004, 118 Stat. 604, provided that: “The amendments made by this section [amending this section and section 1132 of this title] shall apply to plan years beginning after December 31, 2004.”

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-204 effective 180 days after July 30, 2002, see section 7244(c) of Title 15, Commerce and Trade.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 applicable to qualified transfers occurring after Dec. 17, 1999, see section 535(c)(1) of Pub. L. 106-170, set out as a note under section 420 of Title 26, Internal Revenue Code.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-200, title IV, §401(h)(1)(B), July 16, 1998, 112 Stat. 668, provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect as if included in the enactment of the Act entitled ‘An Act to repeal the Medicare and Medicaid Coverage Data Bank’, approved October 2, 1996 (Public Law 104-226; 110 Stat. 3033).”

#### EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104-204 applicable with respect to group health plans for plan years beginning on or after Jan. 1, 1998, see section 603(c) of Pub. L. 104-204 set out as a note under section 1003 of this title.

Amendment of Pub. L. 104-191 applicable with respect to group health plans for plan years beginning after June 30, 1997, except as otherwise provided, see section

101(g) of Pub. L. 104-191, set out as an Effective Date note under section 1181 of this title.

Amendment by Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1996, see section 1421(e) of Pub. L. 104-188, set out as a note under section 72 of Title 26, Internal Revenue Code.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 4301(d) of Pub. L. 103-66 provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting section 1169 of this title and amending this section and sections 1132 and 1144 of this title] shall take effect on the date of the enactment of this Act [Aug. 10, 1993].

“(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the first plan year beginning on or after January 1, 1994, if—

“(A) during the period after the date before the date of the enactment of this Act and before such first plan year, the plan is operated in accordance with the requirements of the amendments made by this section, and

“(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such first plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Section 12012(e) of Pub. L. 101-508 provided that: “The amendments made by this section [amending this section and sections 1082, 1103, 1108, and 1132 of this title] shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 [26 U.S.C. 420] made after the date of the enactment of this Act [Nov. 5, 1990].”

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7881(b)(5)(A) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Pension Protection Act, Pub. L. 100-203, §§9302-9346, to which such amendment relates, see section 7882 of Pub. L. 101-239, set out as a note under section 401 of Title 26, Internal Revenue Code.

Amendment by section 7894(b)(2) of 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.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Section 9304(d) of Pub. L. 100-203, as amended by Pub. L. 101-239, title VII, §7881(b)(5)(C), Dec. 19, 1989, 103 Stat. 2438, provided that the amendment made by that section is effective with respect to plan years beginning after Dec. 31, 1987.

#### REGULATIONS

Pub. L. 109-280, title V, §502(a)(3), Aug. 17, 2006, 120 Stat. 940, provided that: “The Secretary shall prescribe regulations under section 101(k)(2) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1021(k)(2)] (as added by paragraph (1)) not later than 1 year after the date of the enactment of this Act [Aug. 17, 2006].”

Pub. L. 108-218, title I, §103(c), Apr. 10, 2004, 118 Stat. 604, provided that: “The Secretary of Labor shall, not later than 1 year after the date of the enactment of this Act [Apr. 10, 2004], issue regulations (including a model notice) necessary to implement the amendments made by this section [amending this section and section 1132 of this title].”

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.

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.

MODEL NOTICES AND FORMS

Pub. L. 109-280, title V, §501(c), Aug. 17, 2006, 120 Stat. 939, provided that: “Not later than 1 year after the date of the enactment of this Act [Aug. 17, 2006], the Secretary of Labor shall publish a model version of the notice required by section 101(f) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1021(f)]. The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.”

Pub. L. 109-280, title V, §503(e), Aug. 17, 2006, 120 Stat. 945, as amended by Pub. L. 110-458, title I, §105(c)(2), Dec. 23, 2008, 122 Stat. 5105, provided that: “Not later than 1 year after the date of the enactment of this Act [Aug. 17, 2006], the Secretary of Labor shall publish a model form for providing the statements, schedules, and other material required to be provided under section 104(d) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1024(d)], as amended by this section. The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.”

Pub. L. 109-280, title V, §507(c), Aug. 17, 2006, 120 Stat. 949, provided that: “The Secretary of the Treasury shall, within 180 days after the date of the enactment of this subsection [Aug. 17, 2006], prescribe a model notice for purposes of satisfying the requirements of the amendments made by this section [amending this section and section 1132 of this title].”

PLAN AMENDMENTS NOT REQUIRED UNTIL JULY 30, 2002

For provisions directing that if any amendment made by section 306(b) of Pub. L. 107-204 requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after July 30, 2002, see section 7244(b)(3) of Title 15, Commerce and Trade.

PLAN AMENDMENTS NOT REQUIRED UNTIL  
JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of Title 26, Internal Revenue Code.

**§ 1022. Summary plan description**

(a) A summary plan description of any employee benefit plan shall be furnished to participants and beneficiaries as provided in section 1024(b) of this title. The summary plan description shall include the information described in subsection (b) of this section, shall be written in a manner calculated to be understood by the average plan participant, and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the plan. A summary of any material modification in the terms of the plan and any change in the information required under subsection (b) of this section shall be written in a manner calculated to be understood by the average plan participant and

shall be furnished in accordance with section 1024(b)(1) of this title.

(b) The summary plan description shall contain the following information: The name and type of administration of the plan; in the case of a group health plan (as defined in section 1191b(a)(1) of this title), whether a health insurance issuer (as defined in section 1191b(b)(2) of this title) is responsible for the financing or administration (including payment of claims) of the plan and (if so) the name and address of such issuer; the name and address of the person designated as agent for the service of legal process, if such person is not the administrator; the name and address of the administrator; names, titles, and addresses of any trustee or trustees (if they are persons different from the administrator); a description of the relevant provisions of any applicable collective bargaining agreement; the plan's requirements respecting eligibility for participation and benefits; a description of the provisions providing for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibility, or denial or loss of benefits; the source of financing of the plan and the identity of any organization through which benefits are provided; the date of the end of the plan year and whether the records of the plan are kept on a calendar, policy, or fiscal year basis; the procedures to be followed in presenting claims for benefits under the plan including the office at the Department of Labor through which participants and beneficiaries may seek assistance or information regarding their rights under this chapter and the Health Insurance Portability and Accountability Act of 1996 with respect to health benefits that are offered through a group health plan (as defined in section 1191b(a)(1) of this title), the remedies available under the plan for the redress of claims which are denied in whole or in part (including procedures required under section 1133 of this title), and if the employer so elects for purposes of complying with section 1181(f)(3)(B)(i) of this title, the model notice applicable to the State in which the participants and beneficiaries reside.

(Pub. L. 93-406, title I, §102, Sept. 2, 1974, 88 Stat. 841; Pub. L. 104-191, title I, §101(c)(2), Aug. 21, 1996, 110 Stat. 1951; Pub. L. 104-204, title VI, §603(b)(3)(C), Sept. 26, 1996, 110 Stat. 2938; Pub. L. 105-34, title XV, §1503(b), Aug. 5, 1997, 111 Stat. 1061; Pub. L. 111-3, title III, §311(b)(1)(B), Feb. 4, 2009, 123 Stat. 67.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), 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 Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (b), is Pub. L. 104-191, Aug. 21, 1996, 110 Stat. 1936. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 201 of Title 42, The Public Health and Welfare, and Tables.

AMENDMENTS

2009—Subsec. (b). Pub. L. 111-3 substituted “, the remedies” for “and the remedies” and inserted “, and