

106TH CONGRESS
1ST SESSION

S. 1309

AN ACT

To amend title I of the Employee Retirement Income Security Act of 1974 to provide for the preemption of State law in certain cases relating to certain church plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. PURPOSE.**

2 The purpose of this Act is only to clarify the applica-
3 tion to a church plan that is a welfare plan of State insur-
4 ance laws that require or solely relate to licensing, sol-
5 vency, insolvency, or the status of such plan as a single
6 employer plan.

7 **SEC. 2. CLARIFICATION OF CHURCH WELFARE PLAN STA-**
8 **TUS UNDER STATE INSURANCE LAW.**

9 (a) IN GENERAL.—For purposes of determining the
10 status of a church plan that is a welfare plan under provi-
11 sions of a State insurance law described in subsection (b),
12 such a church plan (and any trust under such plan) shall
13 be deemed to be a plan sponsored by a single employer
14 that reimburses costs from general church assets, or pur-
15 chases insurance coverage with general church assets, or
16 both.

17 (b) STATE INSURANCE LAW.—A State insurance law
18 described in this subsection is a law that—

19 (1) requires a church plan, or an organization
20 described in section 414(e)(3)(A) of the Internal
21 Revenue Code of 1986 and section 3(33)(C)(i) of the
22 Employee Retirement Income Security Act of 1974
23 (29 U.S.C. 1002(33)(C)(i)) to the extent that it is
24 administering or funding such a plan, to be licensed;
25 or

1 (2) relates solely to the solvency or insolvency
2 of a church plan (including participation in State
3 guaranty funds and associations).

4 (c) DEFINITIONS.—For purposes of this section:

5 (1) CHURCH PLAN.—The term “church plan”
6 has the meaning given such term by section 414(e)
7 of the Internal Revenue Code of 1986 and section
8 3(33) of the Employee Retirement Income Security
9 Act of 1974 (29 U.S.C. 1002(33)).

10 (2) REIMBURSES COSTS FROM GENERAL
11 CHURCH ASSETS.—The term “reimburses costs from
12 general church assets” means engaging in an activ-
13 ity that is not the spreading of risk solely for the
14 purposes of the provisions of State insurance laws
15 described in subsection (b).

16 (3) WELFARE PLAN.—The term “welfare
17 plan”—

18 (A) means any church plan to the extent
19 that such plan provides medical, surgical, or
20 hospital care or benefits, or benefits in the
21 event of sickness, accident, disability, death or
22 unemployment, or vacation benefits, apprentice-
23 ship or other training programs, or day care
24 centers, scholarship funds, or prepaid legal
25 services; and

1 (B) does not include any entity, such as a
2 health insurance issuer described in section
3 9832(b)(2) of the Internal Revenue Code of
4 1986 or a health maintenance organization de-
5 scribed in section 9832(b)(3) of such Code, or
6 any other organization that does business with
7 the church plan or organization sponsoring or
8 maintaining such a plan.

9 (d) ENFORCEMENT AUTHORITY.—Notwithstanding
10 any other provision of this section, for purposes of enforce-
11 ing provisions of State insurance laws that apply to a
12 church plan that is a welfare plan, the church plan shall
13 be subject to State enforcement as if the church plan were
14 an insurer licensed by the State.

15 (e) APPLICATION OF SECTION.—Except as provided
16 in subsection (d), the application of this section is limited
17 to determining the status of a church plan that is a wel-
18 fare plan under the provisions of State insurance laws de-
19 scribed in subsection (b). This section shall not otherwise
20 be construed to recharacterize the status, or modify or af-
21 fect the rights, of any plan participant or beneficiary, in-

- 1 cluding participants or beneficiaries who make plan con-
- 2 tributions.

Passed the Senate November 19, 1999.

Attest:

Secretary.

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