

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 1984 AMENDMENT

Amendment by Pub. L. 98-397 applicable to plan years beginning after Dec. 31, 1984, except as otherwise provided, see sections 302 and 303 of Pub. L. 98-397, set out as a note under section 1001 of this title.

IMPLEMENTATION OF 2022 AMENDMENT

Pub. L. 117-328, div. T, title III, § 338(b), Dec. 29, 2022, 136 Stat. 5373, provided that:

“(1) IN GENERAL.—The Secretary of Labor shall, not later than December 31, 2024, update section 2520.104b-1(c) of title 29, Code of Federal Regulations, to provide that a plan may furnish the statements referred to in subparagraph (E) of section 105(a)(2) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1025(a)(2)(E)] by electronic delivery only if, with respect to participants who first become eligible to participate, and beneficiaries who first become eligible for benefits, after December 31, 2025, in addition to meeting the other requirements under the regulations such plan furnishes each participant or beneficiary a one-time initial notice on paper in written form, prior to the electronic delivery of any pension benefit statement, of their right to request that all documents required to be disclosed under title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 et seq.] be furnished on paper in written form.

“(2) OTHER GUIDANCE.—In implementing the amendment made by subsection (a) with respect to a plan that discloses required documents or statements electronically, in accordance with applicable guidance governing electronic disclosure by the Department of Labor (with the exception of section 2520.104b-1(c) of title 29, Code of Federal Regulations), the Secretary of Labor shall, not later than December 31, 2024, update such guidance to the extent necessary to ensure that—

“(A) a participant or beneficiary under such a plan is permitted the opportunity to request that any disclosure required to be delivered on paper under applicable guidance by the Department of Labor shall be furnished by electronic delivery;

“(B) each paper statement furnished under such a plan pursuant to the amendment shall include—

“(i) an explanation of how to request that all such statements, and any other document required to be disclosed under title I of the Employee Retirement Income Security Act of 1974, be furnished by electronic delivery; and

“(ii) contact information for the plan sponsor, including a telephone number;

“(C) the plan may not charge any fee to a participant or beneficiary for the delivery of any paper statements;

“(D) each document required to be disclosed that is furnished by electronic delivery under such a plan shall include an explanation of how to request that all such documents be furnished on paper in written form; and

“(E) a plan is permitted to furnish a duplicate electronic statement in any case in which the plan furnishes a paper pension benefit statement.”

REGULATIONS

Secretary of Labor authorized, effective Sept. 2, 1974, to promulgate regulations wherever provisions of this subchapter call for the promulgation of regulations by him, see section 1031 of this title.

MODEL STATEMENTS

Pub. L. 109-280, title V, § 508(b), Aug. 17, 2006, 120 Stat. 951, provided that:

“(1) IN GENERAL.—The Secretary of Labor shall, within 1 year after the date of the enactment of this section [Aug. 17, 2006], develop 1 or more model benefit state-

ments that are written in a manner calculated to be understood by the average plan participant and that may be used by plan administrators in complying with the requirements of section 105 of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1025].

“(2) INTERIM FINAL RULES.—The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.”

§ 1026. Reports made public information

(a) Except as provided in subsection (b), the contents of the annual reports, statements, and other documents filed with the Secretary pursuant to this part shall be public information and the Secretary shall make any such information and data available for inspection in the public document room of the Department of Labor. The Secretary may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based thereon as he may deem appropriate.

(b) Information described in sections 1025(a) and 1025(c) of this title with respect to a participant may be disclosed only to the extent that information respecting that participant's benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] may be disclosed under such Act.

(Pub. L. 93-406, title I, § 106, Sept. 2, 1974, 88 Stat. 850; Pub. L. 101-239, title VII, § 7894(b)(6), Dec. 19, 1989, 103 Stat. 2448; Pub. L. 105-34, title XV, § 1503(d)(4), Aug. 5, 1997, 111 Stat. 1062.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-34 struck out “descriptions,” before “annual reports.”

1989—Subsec. (b). Pub. L. 101-239 substituted “sections” for “section”.

Statutory Notes and Related Subsidiaries

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.

§ 1027. Retention of records

Every person subject to a requirement to file any report (including the documents described in subparagraphs (E) through (I) of section 1021(k) of this title) or to certify any information therefor under this subchapter or who would be subject to such a requirement but for an exemption or simplified reporting requirement under section 1024(a)(2) or (3) of this title shall maintain a copy of such report and records on the matters of which disclosure is required which will provide in sufficient detail the nec-

essary basic information and data from which the documents thus required may be verified, explained, or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than six years after the filing date of the documents based on the information which they contain, or six years after the date on which such documents would have been filed but for an exemption or simplified reporting requirement under section 1024(a)(2) or (3) of this title.

(Pub. L. 93-406, title I, §107, Sept. 2, 1974, 88 Stat. 850; Pub. L. 105-34, title XV, §1503(d)(5), Aug. 5, 1997, 111 Stat. 1062; Pub. L. 113-235, div. O, title I, §111(c), Dec. 16, 2014, 128 Stat. 2793.)

Editorial Notes

AMENDMENTS

2014—Pub. L. 113-235 inserted “(including the documents described in subparagraphs (E) through (I) of section 1021(k) of this title)” after “file any report” and “a copy of such report and” after “shall maintain”.

1997—Pub. L. 105-34 struck out “description or” after “requirement to file any”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-235 applicable with respect to plan years beginning after Dec. 31, 2014, see section 111(e) of Pub. L. 113-235, set out as a note under section 1021 of this title.

§ 1028. Reliance on administrative interpretations

In any criminal proceeding under section 1131 of this title, based on any act or omission in alleged violation of this part or section 1112 of this title, no person shall be subject to any liability or punishment for or on account of the failure of such person to (1) comply with this part or section 1112 of this title, if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any regulation or written ruling of the Secretary, or (2) publish and file any information required by any provision of this part if he pleads and proves that he published and filed such information in good faith, and in conformity with any regulation or written ruling of the Secretary issued under this part regarding the filing of such reports. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the annual reports and other reports required by this subchapter, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this part.

(Pub. L. 93-406, title I, §108, Sept. 2, 1974, 88 Stat. 850; Pub. L. 101-239, title VII, §7894(b)(7), Dec. 19, 1989, 103 Stat. 2448; Pub. L. 105-34, title XV, §1503(d)(6), Aug. 5, 1997, 111 Stat. 1062.)

Editorial Notes

AMENDMENTS

1997—Pub. L. 105-34, which directed the amendment of cl. (2)(B) by substituting “annual reports” for “plan descriptions, annual reports,” was executed by making the substitution for “plan description, annual reports,” to reflect the probable intent of Congress.

1989—Pub. L. 101-239 substituted “act or omission” for “act of omission” before “complained of”.

Statutory Notes and Related Subsidiaries

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.

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.

§ 1029. Forms

(a) Information required on forms

Except as provided in subsection (b) of this section, the Secretary may require that any information required under this subchapter to be submitted to him, including but not limited to the information required to be filed by the administrator pursuant to section 1023(b)(3) and (c) of this title, must be submitted on such forms as he may prescribe.

(b) Information not required on forms

The financial statement and opinion required to be prepared by an independent qualified public accountant pursuant to section 1023(a)(3)(A) of this title, the actuarial statement required to be prepared by an enrolled actuary pursuant to section 1023(a)(4)(A) of this title and the summary plan description required by section 1022(a) of this title shall not be required to be submitted on forms.

(c) Format and content of summary plan description, annual report, etc., required to be furnished to plan participants and beneficiaries

The Secretary may prescribe the format and content of the summary plan description, the summary of the annual report described in section 1024(b)(3) of this title and any other report, statements or documents (other than the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated), which are required to be furnished or made available to plan participants and beneficiaries receiving benefits under the plan.

(Pub. L. 93-406, title I, §109, Sept. 2, 1974, 88 Stat. 850.)

Statutory Notes and Related Subsidiaries

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.