

Secretary of Health and Human Services pursuant to section 247d of title 42, the Secretary may” for “or a terroristic or military action (as defined in section 692(c)(2) of such title), the Secretary may”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section applicable to disasters and terroristic or military actions occurring on or after Sept. 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after Jan. 23, 2002, see section 112(f) of Pub. L. 107-134, set out as an Effective Date of 2002 Amendment note under section 6081 of Title 26, Internal Revenue Code.

#### § 1149. Prohibition on false statements and representations

No person, in connection with a plan or other arrangement that is<sup>1</sup> multiple employer welfare arrangement described in section 1002(40) of this title, shall make a false statement or false representation of fact, knowing it to be false, in connection with the marketing or sale of such plan or arrangement, to any employee, any member of an employee organization, any beneficiary, any employer, any employee organization, the Secretary, or any State, or the representative or agent of any such person, State, or the Secretary, concerning—

- (1) the financial condition or solvency of such plan or arrangement;
- (2) the benefits provided by such plan or arrangement;
- (3) the regulatory status of such plan or other arrangement under any Federal or State law governing collective bargaining, labor management relations, or intern union affairs; or
- (4) the regulatory status of such plan or other arrangement regarding exemption from state<sup>2</sup> regulatory authority under this chapter.

This section shall not apply to any plan or arrangement that does not fall within the meaning of the term “multiple employer welfare arrangement” under section 1002(40)(A) of this title.

(Pub. L. 93-406, title I, § 519, as added Pub. L. 111-148, title VI, § 6601(a), Mar. 23, 2010, 124 Stat. 779.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in par. (4), 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.

#### § 1150. Applicability of State law to combat fraud and abuse

The Secretary may, for the purpose of identifying, preventing, or prosecuting fraud and abuse, adopt regulatory standards establishing,

or issue an order relating to a specific person establishing, that a person engaged in the business of providing insurance through a multiple employer welfare arrangement described in section 1002(40) of this title is subject to the laws of the States in which such person operates which regulate insurance in such State, notwithstanding section 1144(b)(6) of this title or the Liability Risk Retention Act of 1986 [15 U.S.C. 3901 et seq.], and regardless of whether the law of the State is otherwise preempted under any of such provisions. This section shall not apply to any plan or arrangement that does not fall within the meaning of the term “multiple employer welfare arrangement” under section 1002(40)(A) of this title.

(Pub. L. 93-406, title I, § 520, as added Pub. L. 111-148, title VI, § 6604(a), Mar. 23, 2010, 124 Stat. 780.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Liability Risk Retention Act of 1986, referred to in text, is Pub. L. 97-45, Sept. 25, 1981, 95 Stat. 949, which is classified generally to chapter 65 (§ 3901 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 15 and Tables.

#### § 1151. Administrative summary cease and desist orders and summary seizure orders against multiple employer welfare arrangements in financially hazardous condition

##### (a) In general

The Secretary may issue a cease and desist (ex parte) order under this subchapter if it appears to the Secretary that the alleged conduct of a multiple employer welfare arrangement described in section 1002(40) of this title, other than a plan or arrangement described in subsection (g), is fraudulent, or creates an immediate danger to the public safety or welfare, or is causing or can be reasonably expected to cause significant, imminent, and irreparable public injury.

##### (b) Hearing

A person that is adversely affected by the issuance of a cease and desist order under subsection (a) may request a hearing by the Secretary regarding such order. The Secretary may require that a proceeding under this section, including all related information and evidence, be conducted in a confidential manner.

##### (c) Burden of proof

The burden of proof in any hearing conducted under subsection (b) shall be on the party requesting the hearing to show cause why the cease and desist order should be set aside.

##### (d) Determination

Based upon the evidence presented at a hearing under subsection (b), the cease and desist order involved may be affirmed, modified, or set aside by the Secretary in whole or in part.

##### (e) Seizure

The Secretary may issue a summary seizure order under this subchapter if it appears that a multiple employer welfare arrangement is in a financially hazardous condition.

<sup>1</sup> So in original. Probably should be followed by “a”.

<sup>2</sup> So in original. Probably should be capitalized.