

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 is¹ 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 state² 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.

¹ So in original. Probably should be followed by “a”.

² So in original. Probably should be capitalized.

(f) Regulations

The Secretary may promulgate such regulations or other guidance as may be necessary or appropriate to carry out this section.

(g) Exception

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, §521, as added Pub. L. 111-148, title VI, §6605(a), Mar. 23, 2010, 124 Stat. 780.)

§ 1152. Coordination of enforcement regarding violations of certain health care provider requirements; complaint process

(a) Investigating violations

Upon receiving a notice from a State or the Secretary of Health and Human Services of violations of sections 300gg-131, 300gg-132, or 300gg-135 of title 42, the Secretary of Labor shall identify patterns of such violations with respect to participants or beneficiaries under a group health plan or group health insurance coverage offered by a health insurance issuer and conduct an investigation pursuant to section 1134 of this title where appropriate, as determined by the Secretary. The Secretary shall coordinate with States and the Secretary of Health and Human Services, in accordance with section 1136 of this title and with section 104 of Health Insurance Portability and Accountability Act of 1996, where appropriate, as determined by the Secretary, to ensure that appropriate measures have been taken to correct such violations retrospectively and prospectively with respect to participants or beneficiaries under a group health plan or group health insurance coverage offered by a health insurance issuer.

(b) Complaint process

Not later than January 1, 2022, the Secretary shall ensure a process under which the Secretary—

(1) may receive complaints from participants and beneficiaries of group health plans or group health insurance coverage offered by a health insurance issuer relating to alleged violations of the sections specified in subsection (a); and

(2) transmits such complaints to States or the Secretary of Health and Human Services (as determined appropriate by the Secretary) for potential enforcement actions.

(Pub. L. 93-406, title I, §522, as added Pub. L. 116-260, div. BB, title I, §104(b)(1), Dec. 27, 2020, 134 Stat. 2830.)

Editorial Notes**REFERENCES IN TEXT**

Section 104 of Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (a), is section 104 of Pub. L. 104-191, which is set out as a note under section 300gg-92 of Title 42, The Public Health and Welfare.

§ 1153. Retirement Savings Lost and Found**(a) Establishment****(1) In general**

Not later than 2 years after December 29, 2022, the Secretary, in consultation with the Secretary of the Treasury, shall establish an online searchable database (to be managed by the Secretary in accordance with this section) to be known as the “Retirement Savings Lost and Found”. The Retirement Savings Lost and Found shall—

(A) allow an individual to search for information that enables the individual to locate the administrator of any plan described in paragraph (2) with respect to which the individual is or was a participant or beneficiary, and provide contact information for the administrator of any such plan;

(B) allow the Secretary to assist such an individual in locating any such plan of the individual; and

(C) allow the Secretary to make any necessary changes to contact information on record for the administrator based on any changes to the plan due to merger or consolidation of the plan with any other plan, division of the plan into two or more plans, bankruptcy, termination, change in name of the plan, change in name or address of the administrator, or other causes.

(2) Plans described

A plan described in this paragraph is a plan to which the vesting standards of section 1053 of this title apply.

(b) Administration

The Retirement Savings Lost and Found established under subsection (a) shall provide individuals described in subsection (a)(1) only with the ability to search for information that enables the individual to locate the administrator and contact information for the administrator of any plan with respect to which the individual is or was a participant or beneficiary, sufficient to allow the individual to locate the individual's plan in order to make a claim for benefits owing to the individual under the plan.

(c) Safeguarding participant privacy and security

In establishing the Retirement Savings Lost and Found under subsection (a), the Secretary, in consultation with the Secretary of the Treasury, shall take all necessary and proper precautions to—

(1) ensure that individuals' plan and personal information maintained by the Retirement Savings Lost and Found is protected; and

(2) allow any individual to contact the Secretary to opt out of inclusion in the Retirement Savings Lost and Found.

(d) Definition of administrator

For purposes of this section, the term “administrator” has the meaning given such term in section 1002(16)(A) of this title.

(e) Information collection from plans

Effective with respect to plan years beginning after the second December 31 occurring after the