

section [enacting this section] shall be effective on the date of enactment of this Act [Dec. 8, 1994].”

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.

**§ 1311. Repealed. Pub. L. 109-280, title V,  
§ 501(b)(1), Aug. 17, 2006, 120 Stat. 939**

Section, Pub. L. 93-406, title IV, §4011, as added Pub. L. 103-465, title VII, §775(a), Dec. 8, 1994, 108 Stat. 5046, related to notice to participants of plan's funding status and limitations on corporation's guaranty.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF REPEAL

Repeal applicable to plan years beginning after Dec. 31, 2006, see section 501(d)(1) of Pub. L. 109-280, set out as an Effective Date of 2006 Amendment note under section 1021 of this title.

SUBTITLE B—COVERAGE

**§ 1321. Coverage**

**(a) Plans covered**

Except as provided in subsection (b), this subchapter applies to any plan (including a successor plan) which, for a plan year—

(1) is an employee pension benefit plan (as defined in paragraph (2) of section 1002 of this title) established or maintained—

(A) by an employer engaged in commerce or in any industry or activity affecting commerce, or

(B) by any employee organization, or organization representing employees, engaged in commerce or in any industry or activity affecting commerce, or

(C) by both,

which has, in practice, met the requirements of part I of subchapter D of chapter 1 of title 26 (as in effect for the preceding 5 plan years of the plan) applicable to the plans described in paragraph (2) for the preceding 5 plan years; or

(2) is, or has been determined by the Secretary of the Treasury to be, a plan described in section 401(a) of title 26, or which meets, or has been determined by the Secretary of the Treasury to meet, the requirements of section 404(a)(2) of title 26.

For purposes of this subchapter, a successor plan is considered to be a continuation of a predecessor plan. For this purpose, unless otherwise specifically indicated in this subchapter, a successor plan is a plan which covers a group of employees which includes substantially the same employees as a previously established plan, and provides substantially the same benefits as that plan provided.

**(b) Plans not covered**

This section does not apply to any plan—

(1) which is an individual account plan, as defined in paragraph (34) of section 1002 of this title,<sup>1</sup>

(2) established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing, or to which the Railroad Retirement Act of 1935 or 1937 [45 U.S.C. 231 et seq.] applies and which is financed by contributions required under that Act, or which is described in the last sentence of section 1002(32) of this title<sup>2</sup>

(3) which is a church plan as defined in section 414(e) of title 26, unless that plan has made an election under section 410(d) of title 26, and has notified the corporation in accordance with procedures prescribed by the corporation, that it wishes to have the provisions of this part<sup>3</sup> apply to it,<sup>1</sup>

(4)(A) established and maintained by a society, order, or association described in section 501(c)(8) or (9) of title 26, if no part of the contributions to or under the plan is made by employers of participants in the plan, or

(B) of which a trust described in section 501(c)(18) of title 26 is a part;

(5) which has not at any time after September 2, 1974, provided for employer contributions;

(6) which is unfunded and which is maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees;

(7) which is established and maintained outside of the United States primarily for the benefit of individuals substantially all of whom are nonresident aliens;

(8) which is maintained by an employer solely for the purpose of providing benefits for certain employees in excess of the limitations on contributions and benefits imposed by section 415 of title 26 on plans to which that section applies, without regard to whether the plan is funded, and, to the extent that a separable part of a plan (as determined by the corporation) maintained by an employer is maintained for such purpose, that part shall be treated for purposes of this subchapter, as a separate plan which is an excess benefit plan;

(9) which is established and maintained exclusively for substantial owners;

(10) of an international organization which is exempt from taxation under the International Organizations Immunities Act [22 U.S.C. 288 et seq.];

(11) maintained solely for the purpose of complying with applicable workmen's compensation laws or unemployment compensation or disability insurance laws;

(12) which is a defined benefit plan, to the extent that it is treated as an individual account plan under paragraph (35)(B) of section 1002 of this title; or

(13) established and maintained by a professional service employer which does not at any

<sup>1</sup> So in original. The comma probably should be a semicolon.

<sup>2</sup> So in original. A semicolon probably should appear.

<sup>3</sup> So in original. Subtitle B of title IV of Pub. L. 93-406, classified to this subtitle, does not contain parts.