

**TITLE 29 - LABOR**

**CHAPTER 18 - EMPLOYEE RETIREMENT INCOME SECURITY PROGRAM**

**SUBCHAPTER III - PLAN TERMINATION INSURANCE**

**Subtitle D - Liability**

**§ 1370. Enforcement authority relating to terminations of single-employer plans**

**(a) In general**

Any person who is with respect to a single-employer plan a fiduciary, contributing sponsor, member of a contributing sponsor's controlled group, participant, or beneficiary, and is adversely affected by an act or practice of any party (other than the corporation) in violation of any provision of section 1341, 1342, 1362, 1363, 1364, or 1369 of this title, or who is an employee organization representing such a participant or beneficiary so adversely affected for purposes of collective bargaining with respect to such plan, may bring an action—

- (1) to enjoin such act or practice, or
- (2) to obtain other appropriate equitable relief
  - (A) to redress such violation or
  - (B) to enforce such provision.

**(b) Status of plan as party to action and with respect to legal process**

A single-employer plan may be sued under this section as an entity. Service of summons, subpoena, or other legal process of a court upon a trustee or an administrator of a single-employer plan in such trustee's or administrator's capacity as such shall constitute service upon the plan. If a plan has not designated in the summary plan description of the plan an individual as agent for the service of legal process, service upon any contributing sponsor of the plan shall constitute such service. Any money judgment under this section against a single-employer plan shall be enforceable only against the plan as an entity and shall not be enforceable against any other person unless liability against such person is established in such person's individual capacity.

**(c) Jurisdiction and venue**

The district courts of the United States shall have exclusive jurisdiction of civil actions under this section. Such actions may be brought in the district where the plan is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to grant the relief provided for in subsection (a) of this section in any action.

**(d) Right of corporation to intervene**

A copy of the complaint or notice of appeal in any action under this section shall be served upon the corporation by certified mail. The corporation shall have the right in its discretion to intervene in any action.

**(e) Awards of costs and expenses**

**(1) General rule**

In any action brought under this section, the court in its discretion may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to any party who prevails or substantially prevails in such action.

**(2) Exemption for plans**

Notwithstanding the preceding provisions of this subsection, no plan shall be required in any action to pay any costs and expenses (including attorney's fees).

**(f) Limitation on actions**

**(1) In general**

Except as provided in paragraph (3), an action under this section may not be brought after the later of—

- (A) 6 years after the date on which the cause of action arose, or
- (B) 3 years after the applicable date specified in paragraph (2).

**(2) Applicable date**

**(A) General rule**

Except as provided in subparagraph (B), the applicable date specified in this paragraph is the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

**(B) Special rule for plaintiffs who are fiduciaries**

In the case of a plaintiff who is a fiduciary bringing the action in the exercise of fiduciary duties, the applicable date specified in this paragraph is the date on which the plaintiff became a fiduciary with respect to the plan if such date is later than the date described in subparagraph (A).

**(3) Cases of fraud or concealment**

In the case of fraud or concealment, the period described in paragraph (1)(B) shall be extended to 6 years after the applicable date specified in paragraph (2).

(Pub. L. 93–406, title IV, § 4070, as added Pub. L. 99–272, title XI, § 11014(a), Apr. 7, 1986, 100 Stat. 261; amended Pub. L. 101–239, title VII, § 7881(f)(8), Dec. 19, 1989, 103 Stat. 2440.)

**Amendments**

1989—Subsec. (a). Pub. L. 101–239 struck out “1349,” after “section 1341, 1342,”.

**Effective Date of 1989 Amendment**

Amendment by Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Pension Protection Act, Pub. L. 100–203, §§ 9302–9346, to which such amendment relates, see section 7882 of Pub. L. 101–239, set out as a note under section 401 of Title 26, Internal Revenue Code.

**Effective Date**

Section effective Jan. 1, 1986, with certain exceptions, see section 11019 of Pub. L. 99–272, set out as an Effective Date of 1986 Amendment note under section 1341 of this title.