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## Book Review [Primer on Employee Retirement Income Security Act]

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## BOOK REVIEW

PRIMER ON EMPLOYEE RETIREMENT INCOME SECURITY ACT, by Barbara J. Coleman, The Bureau of National Affairs, Inc., Washington, D.C., 1985. Pp. v + 166. Softcover. \$18.00.

*Reviewed by Abigail S. Kelly\**

The Employee Retirement Income Security Act (ERISA) was designed to address the problems of workers—and their families—who were victimized by unscrupulous or improvident employers. These employers promised to provide retirement pensions to their workers but were unwilling or unable to deliver when those promises came due. Thus, this safeguard will compel employers who promise to provide employee benefits to honor those promises, and to be sure that they have the means to do so.

Yet, while the problems addressed by ERISA seem to be straightforward and basic, ERISA itself is a complex law which employs a number of technical legal and actuarial concepts. It occupies almost an entire volume of United States Code Annotated, and it has been augmented by a formidable body of federal regulation. In fact, it is a body of law which could intimidate even the most intrepid researcher. Thus, Ms. Coleman's achievement in summarizing the principal features of the law in only eighty-seven pages of text is remarkable. It is even more remarkable that she has done so in a reasonably readable form. As such, her *Primer on Employee Retirement Income Security Act* provides a useful overview of ERISA for nonspecialists who need to acquire a general understanding of the organization of ERISA, the benefits available to employees, or the rights of spouses to such employee benefits. The principal usefulness of the book, however, is in outlining the obligations of employers, employee organizations, and other individuals and entities engaged in setting up or implementing employee benefit plans.

The *Primer* is divided into five chapters. Chapter 1 is an overview of ERISA. It describes the nature and scope of the legislation,

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its relation to other law and the amendments to the Act since 1975. In fact, the overview provides the reader with a history of ERISA, including precursors and amendments, which permits the reader to understand particular provisions of ERISA in light of the specific problems addressed by the law. The following chapters provide a more detailed explanation of the principal requirements of ERISA. The reader's understanding of these chapters is enhanced by the brief but useful glossary contained in the back of the book. Chapter 2, *Operation of Pension Plans*, outlines the basic requirements for the operation of a pension plan. It describes various types of pension plans offered by ERISA; the standards for employee eligibility for participation in the plan; the alternative schedules for vesting; alternative schedules for determining accrued benefits; the limitations with respect to integrating plan benefits with social security; limits on benefits and contributions; the rights of surviving spouses; and the employers' obligations with respect to financing the pension plan.

Chapter 3, *Termination of Pension Plans*, describes the operation of the Pension Benefit Guaranty Corporation, PBGC, a tax-exempt corporation established by Congress to provide plan termination insurance. PBGC was designed to guarantee that workers with vested benefit rights would receive at least a portion of their benefits even if the employer went out of business and the employer did not provide funds for payment of pensions. The chapter outlines the exemptions from mandatory participation in PBGC, calculation of the mandatory premiums, the extent of the insurance provided, and the standards affecting both voluntary and involuntary termination of an insured plan. This chapter also discusses the special problems applicable to the Multiemployer Plans, which are pension plans established pursuant to collective bargaining and which involve contributions by more than one employer. The inclusion of Multiemployer Plans in PBGC was accomplished in 1980 by the Multiemployer Pension Plan Amendments Act.

Chapter 4, *Operation of Employee Benefit Plans*, describes the obligations of administrators, trustees, and fiduciaries of employee benefit plans. The chapter includes information on the standards to be applied in investing plan funds and outlines specific restrictions on such investment. For the convenience of the reader, the author has included a Labor Department outline of the standards for plan fiduciaries. The chapter also describes the requirements for reporting to the relevant government agencies, the IRS, the Department of Labor, and the PBGC. The chapter includes a reporting calendar which outlines the reporting requirements. In addition, certain re-

porting forms are included in the appendices, albeit without much explanation as to how the forms are to be used. Finally, this chapter includes the requirements for disclosure to plan participants. Again, this discussion is supplemented by a reproduction of a checklist of items to be included in the Summary Plan Description which must be provided to plan participants, a model statement of ERISA rights to be provided to plan participants, and sample instruction for filing a pension claim, which the author obtained from the Department of Labor and the Code of Federal Regulations.

Finally, in Chapter 5, Administration and Enforcement, the book briefly outlines the oversight responsibilities of the IRS and the Department of Labor, and very briefly alludes to the availability of a private right of action to plan participants who are denied benefits or who are not provided with the required information pertaining to their rights. The author, however, inexplicably neglects to mention one item which must be of great interest to her readers: the availability of attorney's fees to the prevailing party.

As indicated above, the principal usefulness of the book is with respect to compliance by the individuals and entities operating and administrating employee benefit plans. To a lesser extent, the book is useful in outlining employee rights, although it provides very little guidance with respect to how a plan participant or beneficiary could enforce these rights. The Primer does not purport to be a complete guide to either the rights ERISA guarantees to plan participants or the obligations it imposes on the plan administrators and fiduciaries. Thus, the greatest weakness of the book is the failure to provide usable references to the applicable sections of the United States Code and the supplementary regulations in the Code of Federal Regulations, relevant case law, or useful articles and monographs. Such references are needed to assist the reader in expanding his knowledge with respect to areas of particular interest.

