

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1400

To require the Secretary of Labor to issue guidance as to the application of the Employee Retirement Income Security Act of 1974 to insurance company general accounts.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 7, 1995

Mrs. KASSEBAUM (for herself, Mr. DODD, and Mr. JEFFORDS) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To require the Secretary of Labor to issue guidance as to the application of the Employee Retirement Income Security Act of 1974 to insurance company general accounts.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “ERISA Clarification  
5       Act of 1995”.

1 **SEC. 2. CLARIFICATION OF APPLICATION OF ERISA TO IN-**  
2 **SURANCE COMPANY GENERAL ACCOUNTS.**

3 (a) IN GENERAL.—Section 401 of the Employee Re-  
4 tirement Income Security Act of 1974 (29 U.S.C. 1101)  
5 is amended by adding at the end the following new sub-  
6 section:

7 “(c)(1) Not later than December 31, 1996, the Sec-  
8 retary of Labor shall issue (by regulation, ruling, exemp-  
9 tion, or otherwise) final guidance for the purposes of de-  
10 termining, in cases where an insurer issues 1 or more poli-  
11 cies to or for the benefit of an employee benefit plan,  
12 which assets of the insurer (other than plan assets held  
13 in its separate accounts) constitute assets of the plan for  
14 purposes of this part and section 4975 of the Internal  
15 Revenue Code of 1986.

16 “(2) In issuing final guidance under paragraph (1),  
17 the Secretary of Labor—

18 “(A) may exclude any assets of the insurer with  
19 respect to its operations, products, or services from  
20 treatment as plan assets, and

21 “(B) shall provide that assets not treated as  
22 plan assets under subsection (b)(2) shall not be  
23 treated as plan assets under paragraph (1).

24 “(3)(A) Subject to subparagraphs (B) and (C), any  
25 guidance issued under paragraph (1) shall not take effect  
26 before the date on which it becomes final.

1       “(B) Before the date which is 18 months following  
2 the date described in subparagraph (A), in the case of the  
3 issuance by an insurer of 1 or more policies to or for the  
4 benefit of an employee benefit plan assets of the insurer  
5 (other than plan assets held in its separate accounts) shall  
6 not, solely by reason of issuance of such policy or policies,  
7 constitute assets of the plan for purposes of this part and  
8 section 4975 of the Internal Revenue Code of 1986.

9       “(C) No person shall be subject to liability under this  
10 part or section 4975 of the Internal Revenue Code of 1986  
11 on the basis of a claim that the assets described in sub-  
12 paragraph (B) are plan assets with respect to any act or  
13 omission which took place before the date referred to in  
14 subparagraph (B), regardless of whether any such act or  
15 omission may be deemed to be continuing following such  
16 date.

17       “(4) POLICY.—For purposes of this subsection, the  
18 term ‘policy’ includes a contract.”

19       (b) EFFECTIVE DATE.—

20           (1) IN GENERAL.—Except as provided in para-  
21 graph (2), the amendment made by this section shall  
22 take effect on January 1, 1975.

1           (2) CIVIL ACTIONS.—The amendment made by  
2           this section shall not apply to any civil action com-  
3           menced before November 7, 1995.

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