

SECOND REGULAR SESSION

HOUSE BILL NO. 1540

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VESCOVO.

4632H.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 285.100 and 285.105, RSMo, and to enact in lieu thereof three new sections relating to employee retirement or welfare plans, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 285.100 and 285.105, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 285.100, 285.105, and 285.115, to read as follows:

285.100. Any employer who promises in writing to make payments to an employee retirement **plan** or **employee** welfare plan, either by contract with an individual employee, by a collective bargaining agreement, or by agreement with the employee retirement **plan** or **employee** welfare plan, and who willfully fails to make the payment within sixty days after they become due and payable is guilty of a misdemeanor.

285.105. [The term "employee retirement or welfare plan", as defined in sections 285.100 to 285.110, includes any plan, trust or fund established by an employer organization, or by an employer and a labor organization or by an employer and an employee organization, the funds for which are derived in whole or in part from contributions by employers, and which exists for the purpose of paying or providing for employees or their families or dependents medical or hospital care, recreation facilities, pensions, annuities, benefits on retirement or death or unemployment of beneficiaries, severance pay, compensation for injuries or illness, insurance to provide any of the foregoing, vacation or holiday benefits, apprenticeship training, or life insurance, disability or sickness or accident insurance.] **As used in sections 285.100 to 285.125, the following terms mean:**

(1) **"Employee", any individual employed by an employer;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 (2) "Employee organization", any labor union; any agency, organization, or
13 employee representation committee, association, group, or plan in which employees
14 participate and which exists for the purpose, in whole or in part, of dealing with employers
15 concerning an employee retirement plan or employee welfare plan or other matters
16 incidental to employment relationships; or any employees' beneficiary association
17 organized for the purpose, in whole or in part, of establishing such a plan;

18 (3) "Employee retirement plan", any plan, trust, fund, or program:

19 (a) Established by an employer, by an employer and a labor organization, or by an
20 employer and an employee organization;

21 (b) Whose funds are derived, in whole or in part, from contributions by employers;
22 and

23 (c) That exists for the purpose of paying or providing for employees or their
24 families or dependents benefits on retirement;

25 (4) "Employee welfare plan", any plan, trust, fund, or program:

26 (a) Established by an employer, by an employer and a labor organization, or by an
27 employer and an employee organization;

28 (b) Whose funds are derived, in whole or in part, from contributions by employers;
29 and

30 (c) That exists for the purpose of paying or providing for employees' or their
31 families' or dependents' medical or hospital care, recreation facilities, severance pay,
32 compensation for injuries or illness, insurance to provide any of the foregoing, vacation or
33 holiday benefits, apprenticeship training, life insurance, or insurance for disability,
34 sickness, or accident;

35 (5) "Employer", any person, group, or association acting directly as an employer
36 or indirectly in the interest of an employer in relation to an employee retirement plan;

37 (6) "Labor organization", any organization that exists for the purpose, in whole or
38 in part, of collective bargaining or of dealing with employers concerning grievances, terms
39 or conditions of employment, or other mutual aid or protection in relation to employment;

40 (7) "Multiemployer Plan", any employee retirement plan or employee welfare plan
41 that is maintained under one or more collective bargaining agreements to which more than
42 one employer contributes;

43 (8) "Participant", any current or former employee of an employer or current or
44 former member of an employee organization who is or may become eligible to receive a
45 benefit of any type, or whose beneficiaries may be eligible to receive such benefit, from an
46 employee retirement plan or employee welfare plan that covers such employees or such
47 members.

285.115. 1. Except as otherwise required by law, the administrator of any
2 multiemployer retirement plan shall furnish annually to each participant of such plan and
3 to each beneficiary receiving benefits under such plan a summary annual report
4 conforming to the requirements of this section. Such report shall be furnished within nine
5 months after the close of such plan year.

6 2. (1) The information used to complete the summary annual report shall be based
7 on the most recent annual report of such plan, which is required to be filed in accordance
8 with the Employee Retirement Income Security Act of 1974, as amended.

9 (2) The summary annual report shall contain the following information:

10 (a) A basic financial statement, including:

11 a. Who is providing benefits under such plan;

12 b. Plan expenses including administrative expenses, benefits paid to participants
13 and beneficiaries, and any other expenses;

14 c. Total number of participants or beneficiaries of such plan at the end of the plan
15 year; and

16 d. If such plan is funded other than solely by allocated insurance contracts, the
17 following:

18 (i) The value of such plan's assets after subtracting liabilities as of the end of the
19 plan year and as of the beginning of plan year;

20 (ii) Whether such plan experienced an increase or decrease in its net assets during
21 the plan year; and

22 (iii) Such plan's total income, including employer contributions, employee
23 contributions, gains or losses from the sale of assets, and earnings from investments; and

24 e. If such plan's funds are used to purchase allocated insurance contracts, the
25 following:

26 (i) The name of the insurance carrier that allocates funds toward individual policies
27 or group deferred annuities; and

28 (ii) The total premiums paid for the plan year;

29 (b) Minimum funding standards, including:

30 a. If such plan is a defined benefit plan:

31 (i) An actuary's statement showing whether enough money was contributed to such
32 plan to keep it funded in accordance with the minimum funding standards under the
33 Employee Retirement Income Security Act of 1974, as amended; and

34 (ii) The deficit amount, if applicable; or

35 b. If such plan is a defined contribution plan covered by funding requirements:

- 36 **(i) An actuary's statement showing whether enough money was contributed to such**
37 **plan to keep it funded in accordance with the minimum standards of the Employee**
38 **Retirement Income Security Act of 1974, as amended; and**
- 39 **(ii) The deficit amount, if applicable; and**
40 **(c) Additional information, including:**
- 41 **a. An accountant's report;**
42 **b. Financial information and information on payments to service providers;**
43 **c. Assets held for investment;**
44 **d. Fiduciary information, including nonexempt transactions between such plan and**
45 **parties-in-interest;**
46 **e. Loans or other obligations in default or classified as uncollectible;**
47 **f. Leases in default or classified as uncollectible;**
48 **g. Transactions in excess of five percent of such plan assets;**
49 **h. Insurance information, including sales commissions paid by insurance carriers;**
50 **i. Information regarding any common or collective trusts, pooled separate accounts,**
51 **or master trusts in which such plan participates; and**
52 **j. Actuarial information regarding the funding of such plan.**

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