

CHAPTER 4
EMPLOYEE BENEFITS

Chapter Editor: Otto S. Shill, III

ARTICLE 4.1
BASIC BENEFITS

§ 4.1.1	This Article’s Scope	4.1-1
§ 4.1.2	Overview	4.1-1
§ 4.1.3	Statutes of Limitations	4.1-1
§ 4.1.4	Introduction	4.1-1
§ 4.1.5	“Payroll Practices”	4.1-1
§ 4.1.6	Individual Contracts	4.1-2
	§ 4.1.6.1 “Owner Only” Coverage	4.1-3
§ 4.1.7	No Coverage, No Preemption	4.1-3
§ 4.1.8	Estoppel	4.1-4
§ 4.1.9	Other Sources	4.1-5

ARTICLE 4.2
COBRA

§ 4.2.1	This Article’s Scope	4.2-1
§ 4.2.2	Overview	4.2-1
§ 4.2.3	Statute of Limitations	4.2-3
§ 4.2.4	The General Obligation and the Small Employer Exception	4.2-4
§ 4.2.5	Qualifying Events	4.2-5
§ 4.2.6	The COBRA Election	4.2-6
§ 4.2.7	Applicable Premium	4.2-7
§ 4.2.8	Maximum Duration of Coverage	4.2-7
§ 4.2.9	Conversion Options vs. Continuation Coverage	4.2-9
§ 4.2.10	Notice Requirements	4.2-9
§ 4.2.11	Other Sources	4.2-10

ARTICLE 4.3
ERISA

§ 4.3.1	This Article’s Scope.....	4.3-1
§ 4.3.2	Overview.....	4.3-2
§ 4.3.3	Statute of Limitations.....	4.3-2
§ 4.3.4	Introduction.....	4.3-4
§ 4.3.5	ERISA Coverage.....	4.3-4
§ 4.3.5.1	Employee Benefit Plans.....	4.3-5
§ 4.3.5.1.1	The Effect of Insurance.....	4.3-5
§ 4.3.5.1.2	Benefit Programs That Are Not “Plans”	4.3-5
§ 4.3.5.1.3	Payroll Practices	4.3-6
§ 4.3.5.1.4	The Employee Requirement	4.3-6
§ 4.3.5.1.5	Welfare Benefits Plans	4.3-7
§ 4.3.5.2	Pension Plans	4.3-7
§ 4.3.5.3	The Commerce Requirement.....	4.3-8
§ 4.3.5.4	Plans Exempt from ERISA.....	4.3-8
§ 4.3.6	ERISA Preemption.....	4.3-9
§ 4.3.6.1	The General Rule.....	4.3-9
§ 4.3.6.2	State Law.....	4.3-11
§ 4.3.6.3	“Relates To”	4.3-12
§ 4.3.6.4	Scope of Preemption.....	4.3-12
§ 4.3.6.5	The Exemptions From Preemption.....	4.3-12
§ 4.3.6.5.1	Pre-ERISA Acts or Conduct.....	4.3-13
§ 4.3.6.5.2	State Laws Regulating Insurance Banking and Securities	4.3-13
§ 4.3.6.5.3	Qualified Domestic Relations Orders and Child Support Orders.....	4.3-15
§ 4.3.6.5.4	Generally Applicable Criminal Law	4.3-16
§ 4.3.6.5.5	The Federal Savings Clause.....	4.3-16
§ 4.3.6.5.6	Tenuous, Remote, or Peripheral State Laws.....	4.3-17
§ 4.3.6.5.7	ERISA Preemption As Applied to Employment Issues	4.3-19
§ 4.3.6.5.8	Wrongful Termination Cases	4.3-19
§ 4.3.6.5.9	Breach of Contract Claims	4.3-20
§ 4.3.6.5.10	Tort Theories.....	4.3-20
§ 4.3.6.5.11	Professional Negligence Claims.....	4.3-21
§ 4.3.7	ERISA Litigation	4.3-22

CHAPTER 4 — TABLE OF CONTENTS

§ 4.3.7.1	Standing, Jurisdiction, and Venue	4.3-23
§ 4.3.7.2	The Intraplan Claims Process	4.3-25
§ 4.3.7.3	Exhaustion	4.3-25
§ 4.3.7.4	The Standard of Review	4.3-25
§ 4.3.7.5	The Right to Jury Trial	4.3-27
§ 4.3.7.6	Remedies	4.3-27
§ 4.3.8	ERISA Discrimination	4.3-28
§ 4.3.9	Other Sources	4.3-31

