

# STATE OF NEW YORK

5931

2019-2020 Regular Sessions

## IN ASSEMBLY

February 20, 2019

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the  
Committee on Governmental Employees

AN ACT to amend the elder law, in relation to prohibiting a diminution  
of certain employee benefits

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. The elder law is amended by adding a new article 4 to read  
2 as follows:

### ARTICLE IV

#### EMPLOYEE BENEFIT PLANS

#### Section 401. Prohibition against diminution of benefits.

6 § 401. Prohibition against diminution of benefits. Any other provision  
7 of any other law to the contrary notwithstanding, an employer shall not  
8 diminish the benefits granted a participant, or for which such partic-  
9 ipant is eligible, under an employee welfare benefit plan as such plan  
10 was in existence at the time of the retirement of such participant, and  
11 which applied to such participant. Any reduction in such plan or bene-  
12 fits to such participant is hereby declared null and void as against  
13 state policy. As used in this article:

14 1. The terms "employee welfare benefit plan" and "welfare plan" have  
15 the same meaning as such terms are defined in section 1002 of subtitle A  
16 of Subchapter I of Chapter 18 of USC title 29.

17 2. "Employer" means any person acting directly as an employer, or  
18 indirectly in the interest of an employer, in relation to an employee  
19 benefit plan; and includes a group or association of employers acting  
20 for an employer in such capacity. The term employer includes without  
21 restriction any employee organization, and public, private, or not for  
22 profit entity or entities, individual or individuals, including entities  
23 or individuals doing business as, which are engaged in any trade or  
24 occupation which employs employees in this state.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1     3. "Employee" means any individual employed by an employer.

2     4. "Participant" means any former employee of an employer, or any  
3 former member of an employee organization, who is eligible to receive a  
4 benefit of any type from an employee welfare benefit plan which covers  
5 employees of such employer or members of such organization, or whose  
6 beneficiaries may be eligible to receive any such benefit.

7     5. "Employee organization" means any labor union or any organization  
8 of any kind, or any agency or employee representation committee, associ-  
9 ation, group or plan, in which employees participate and which exists  
10 for the purpose, in whole or in part, of dealing with employers concern-  
11 ing an employee welfare benefit plan or other matters incidental to  
12 employment relationships; or any employees' beneficiary association  
13 organized for the purpose in whole or in part, of establishing such a  
14 plan.

15     6. "Beneficiary" means a person designated by a participant, or by the  
16 terms of an employee benefit plan, who is or may become entitled to a  
17 benefit thereunder.

18     7. "Person" means an individual, partnership, joint venture, limited  
19 liability company, corporation, mutual company, joint-stock company,  
20 trust, estate, unincorporated organization, association, or employee  
21 organization.

22     § 2. This act shall take effect on the ninetieth day after it shall  
23 have become a law.