

114TH CONGRESS
2D SESSION

S. 3417

To amend the Employee Retirement and Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide for the electronic delivery of pension plan information.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2016

Mr. BROWN (for himself and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Employee Retirement and Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide for the electronic delivery of pension plan information.

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 “Receiving Electronic
5 Statements To Improve Retiree Earnings Act”.

1 **SEC. 2. ELECTRONIC COMMUNICATION OF PENSION PLAN**
 2 **INFORMATION.**

3 (a) AMENDMENTS TO EMPLOYEE RETIREMENT IN-
 4 COME SECURITY ACT OF 1974.—

5 (1) IN GENERAL.—Part 1 of subtitle B of title
 6 I of the Employee Retirement Income Security Act
 7 of 1974 (29 U.S.C. 1021 et seq.) is amended by
 8 adding at the end the following:

9 **“SEC. 112. ELECTRONIC COMMUNICATION OF PENSION**
 10 **PLAN INFORMATION.**

11 “A document of any type that is required under this
 12 title to be furnished to a plan participant, beneficiary, or
 13 other individual with respect to a pension plan may be fur-
 14 nished in electronic form if—

15 “(1) the system for furnishing such a docu-
 16 ment—

17 “(A) is designed to result in effective ac-
 18 cess to the document by the participant, bene-
 19 ficiary, or other specified individual through
 20 electronic means, including—

21 “(i) the direct delivery of material to
 22 an electronic address of such participant,
 23 beneficiary, or individual,

24 “(ii) the posting of material to a
 25 website or other internet or electronic-
 26 based information repository to which ac-

1 cess has been granted to such participant,
2 beneficiary, or individual, but only if prop-
3 er notice of the posting has been provided
4 (which may include notice furnished by
5 other electronic means if the content of the
6 notice conveys the need to take action to
7 access the posted material), and

8 “(iii) other electronic means reason-
9 ably calculated to ensure actual receipt of
10 the material by such participant, bene-
11 ficiary, or individual,

12 “(B) permits the participant, beneficiary,
13 or other individual to select among the specific
14 electronic means made available through which
15 such a document shall be furnished, to modify
16 that selection at any time, or to elect at any
17 time to begin receiving paper versions of such
18 documents at no additional direct cost to the in-
19 dividual, and

20 “(C) protects the confidentiality of per-
21 sonal information relating to such participant’s,
22 beneficiary’s, or individual’s accounts and bene-
23 fits,

1 “(2) an annual paper notice is provided to each
2 participant, beneficiary, or other individual that de-
3 scribes—

4 “(A) the selection of the specific electronic
5 means for the furnishing of such documents
6 made by the participant, beneficiary, or other
7 individual under paragraph (1)(B) in effect at
8 the time of the provision of the notice, or

9 “(B) if applicable, the election made by the
10 participant, beneficiary, or other individual
11 under paragraph (1)(B) to be furnished paper
12 versions of such documents, and

13 “(3) the electronically furnished document—

14 “(A) is prepared and furnished in a man-
15 ner that is consistent with the style, format,
16 and content requirements applicable to the par-
17 ticular document, and

18 “(B) includes a notice that apprises the in-
19 dividual of the significance of the document
20 when it is not otherwise reasonably evident as
21 transmitted.

22 For purposes of this section, the term ‘document’ in-
23 cludes reports, statements, notices, notifications, and
24 other information.”.

1 (2) CONFORMING AMENDMENT.—The table of
2 contents in section 1 of such Act (29 U.S.C. 1001
3 note) is amended by inserting after the item relating
4 to section 111 the following:

112. Electronic communication of pension plan information.

5 (b) AMENDMENT TO INTERNAL REVENUE CODE OF
6 1986.—Section 414 of the Internal Revenue Code of 1986
7 is amended by adding at the end the following:

8 “(aa) ELECTRONIC COMMUNICATION OF PENSION
9 PLAN INFORMATION.—A document of any type that is re-
10 quired under this title to be furnished to a plan partici-
11 pant, beneficiary, or other individual with respect to a plan
12 to which this subchapter or section 457 applies may be
13 furnished in electronic form if—

14 “(1) the system for furnishing such a docu-
15 ment—

16 “(A) is designed to result in effective ac-
17 cess to the document by the participant, bene-
18 ficiary, or other specified individual through
19 electronic means, including—

20 “(i) the direct delivery of material to
21 an electronic address of such participant,
22 beneficiary, or individual,

23 “(ii) the posting of material to a
24 website or other internet or electronic-
25 based information repository to which ac-

1 cess has been granted to such participant,
2 beneficiary, or individual, but only if prop-
3 er notice of the posting has been provided
4 (which may include notice furnished by
5 other electronic means if the content of the
6 notice conveys the need to take action to
7 access the posted material), and

8 “(iii) other electronic means reason-
9 ably calculated to ensure actual receipt of
10 the material by such participant, bene-
11 ficiary, or individual,

12 “(B) permits the participant, beneficiary,
13 or other individual to select among the specific
14 electronic means made available through which
15 such a document shall be furnished, to modify
16 that selection at any time, or to elect at any
17 time to begin receiving paper versions of such
18 documents at no additional direct cost to the in-
19 dividual, and

20 “(C) protects the confidentiality of per-
21 sonal information relating to such participant’s,
22 beneficiary’s, or individual’s accounts and bene-
23 fits,

1 “(2) an annual paper notice is provided to each
2 participant, beneficiary, or other individual that de-
3 scribes—

4 “(A) the selection of the specific electronic
5 means for the furnishing of such documents
6 made by the participant, beneficiary, or other
7 individual under paragraph (1)(B) in effect at
8 the time of the provision of the notice, or

9 “(B) if applicable, the election made by the
10 participant, beneficiary, or other individual
11 under paragraph (1)(B) to be furnished paper
12 versions of such documents, and

13 “(3) the electronically furnished document—

14 “(A) is prepared and furnished in a man-
15 ner that is consistent with the style, format,
16 and content requirements applicable to the par-
17 ticular document, and

18 “(B) includes a notice that apprises the in-
19 dividual of the significance of the document
20 when it is not otherwise reasonably evident as
21 transmitted.

22 For purposes of this subsection, the term ‘document’
23 includes reports, statements, notices, notifications,
24 and other information.”.

1 (c) PROTECTION OF EXISTING METHODS.—Nothing
2 in the amendments made by this section shall be construed
3 to prohibit—

4 (1) the furnishing of documents by electronic
5 means under any law or under any regulations or
6 guidance prescribed by the Secretary of Labor or the
7 Secretary of the Treasury (referred to in this sub-
8 section as the “Secretaries”) prior to the date of the
9 enactment of this Act, or

10 (2) the Secretaries from prescribing additional
11 methods for furnishing documents as the Secretaries
12 deem necessary or appropriate.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply with respect to documents fur-
15 nished with respect to plan years beginning after Decem-
16 ber 31, 2016.

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