

111TH CONGRESS
1ST SESSION

S. 2832

To amend the Employee Retirement Income Security Act of 1974 to require a lifetime income disclosure.

IN THE SENATE OF THE UNITED STATES

DECEMBER 3, 2009

Mr. BINGAMAN (for himself, Mr. ISAKSON, and Mr. KOHL) 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 Income Security Act of 1974 to require a lifetime income disclosure.

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 “Lifetime Income Dis-
5 closure Act”.

6 **SEC. 2. DISCLOSURE REGARDING LIFETIME INCOME.**

7 (a) IN GENERAL.—Subparagraph (B) of section
8 105(a)(2) of the Employee Retirement Income Security
9 Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—

10 (1) in clause (i), by striking “and” at the end;

1 (2) in clause (ii), by striking “diversification.”
 2 and inserting “diversification, and”; and
 3 (3) by inserting at the end the following:

4 “(iii) the lifetime income disclosure
 5 described in subparagraph (D)(i).

6 In the case of pension benefit statements de-
 7 scribed in clause (i) of paragraph (1)(A), a life-
 8 time income disclosure under clause (iii) of this
 9 subparagraph shall only be required to be in-
 10 cluded in one pension benefit statement in each
 11 calendar year.”.

12 (b) LIFETIME INCOME.—Paragraph (2) of section
 13 105(a) of such Act (29 U.S.C. 1025(a)) is amended by
 14 adding at the end the following new subparagraph:

15 “(D) LIFETIME INCOME DISCLOSURE.—

16 “(i) IN GENERAL.—

17 “(I) DISCLOSURE.—A lifetime in-
 18 come disclosure shall set forth the an-
 19 nuity equivalent of the total benefits
 20 accrued with respect to the partici-
 21 pant or beneficiary.

22 “(II) ANNUITY EQUIVALENT OF
 23 THE TOTAL BENEFITS ACCRUED.—

24 For purposes of this subparagraph,
 25 the ‘annuity equivalent of the total

1 benefits accrued' means the amount of
2 monthly payments the participant or
3 beneficiary would receive at the plan's
4 normal retirement age if the total ac-
5 crued benefits of such participant or
6 beneficiary were used on the date of
7 the lifetime income disclosure to pur-
8 chase the life annuities described in
9 subclause (III), with payments under
10 such annuities commencing at the
11 plan's normal retirement age.

12 “(III) LIFE ANNUITIES.—The
13 life annuities described in this sub-
14 clause are a qualified joint and sur-
15 vivor annuity (as defined in section
16 205(d)), based on assumptions speci-
17 fied in rules prescribed by the Sec-
18 retary, including the assumption that
19 the participant or beneficiary has a
20 spouse of equal age, and a single life
21 annuity. Such annuities may have a
22 term certain or other features to the
23 extent permitted under rules pre-
24 scribed by the Secretary.

1 “(ii) MODEL DISCLOSURE.—Not later
2 than 1 year after the date of the enact-
3 ment of the Lifetime Income Disclosure
4 Act, the Secretary shall issue a model life-
5 time income disclosure, written in a man-
6 ner so as to be understood by the average
7 plan participant, that—

8 “(I) explains that the annuity
9 equivalent is only provided as an illus-
10 tration;

11 “(II) explains that the actual an-
12 nuity payments that may be pur-
13 chased with the total benefits accrued
14 will depend on numerous factors and
15 may vary substantially from the annu-
16 ity equivalent in the disclosures;

17 “(III) explains the assumptions
18 upon which the annuity equivalent
19 was determined; and

20 “(IV) provides such other similar
21 explanations as the Secretary con-
22 siders appropriate.

23 “(iii) ASSUMPTIONS AND RULES.—
24 Not later than 1 year after the date of the

1 enactment of the Lifetime Income Disclo-
2 sure Act, the Secretary shall—

3 “(I) prescribe assumptions that
4 administrators of individual account
5 plans may use in converting total ac-
6 crued benefits into annuity equiva-
7 lents for purposes of this subpara-
8 graph; and

9 “(II) issue interim final rules
10 under clause (i).

11 In prescribing assumptions under sub-
12 clause (I), the Secretary may prescribe a
13 single set of specific assumptions (in which
14 case the Secretary may issue tables or fac-
15 tors that facilitate such conversions), or
16 ranges of permissible assumptions. To the
17 extent that an accrued benefit is or may be
18 invested in an annuity contract, the as-
19 sumptions prescribed under subclause (I)
20 shall, to the extent appropriate, permit ad-
21 ministrators of individual account plans to
22 use the amounts payable under such con-
23 tract as an annuity equivalent.

24 “(iv) LIMITATION ON LIABILITY.—No
25 plan fiduciary, plan sponsor, or other per-

1 son shall have any liability under this title
2 solely by reason of the provision of annuity
3 equivalents which are derived in accord-
4 ance with the assumptions and rules de-
5 scribed in clause (iii) and which include the
6 explanations contained in the model life-
7 time income disclosure described in clause
8 (ii). This clause shall apply without regard
9 to whether the provision of such annuity
10 equivalent is required by subparagraph
11 (B)(iii).

12 “(v) EFFECTIVE DATE.—The require-
13 ment in subparagraph (B)(iii) shall apply
14 to pension benefit statements furnished
15 more than 12 months after the latest of
16 the issuance by the Secretary of—

17 “(I) interim final rules under
18 clause (i);

19 “(II) the model disclosure under
20 clause (ii); or

21 “(III) the assumptions under
22 clause (iii).”

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