

115TH CONGRESS  
2D SESSION

# S. 3795

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.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2018

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

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## 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,

9           “(B) the right to modify the selection at  
10 any time, or to elect at any time to receive  
11 paper versions of documents at no additional di-  
12 rect cost, and how to make such an election,  
13 and

14           “(C) if applicable, the election made by the  
15 participant, beneficiary, or other individual  
16 under paragraph (1)(B) to be furnished paper  
17 versions of such documents, and

18           “(3) the electronically furnished document—

19           “(A) is prepared and furnished in a man-  
20 ner that is consistent with the style, format,  
21 and content requirements applicable to the par-  
22 ticular document, and

23           “(B) includes a notice that apprises the in-  
24 dividual of the significance of the document

1           when it is not otherwise reasonably evident as  
2           transmitted.

3           For purposes of this section, the term ‘document’ in-  
4           cludes reports, statements, notices, notifications, and  
5           other information.”.

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

          “112. Electronic communication of pension plan information.”.

10          (b) AMENDMENT TO INTERNAL REVENUE CODE OF  
11          1986.—Section 414 of the Internal Revenue Code of 1986  
12          is amended by adding at the end the following:

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

19                 “(1) the system for furnishing such a docu-  
20                 ment—

21                         “(A) is designed to result in effective ac-  
22                         cess to the document by the participant, bene-  
23                         ficiary, or other specified individual through  
24                         electronic means, including—

1           “(i) the direct delivery of material to  
2           an electronic address of such participant,  
3           beneficiary, or individual,

4           “(ii) the posting of material to a  
5           website or other internet or electronic-  
6           based information repository to which ac-  
7           cess has been granted to such participant,  
8           beneficiary, or individual, but only if prop-  
9           er notice of the posting has been provided  
10          (which may include notice furnished by  
11          other electronic means if the content of the  
12          notice conveys the need to take action to  
13          access the posted material), and

14          “(iii) other electronic means reason-  
15          ably calculated to ensure actual receipt of  
16          the material by such participant, bene-  
17          ficiary, or individual,

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

1           “(C) protects the confidentiality of per-  
2           sonal information relating to such participant’s,  
3           beneficiary’s, or individual’s accounts and bene-  
4           fits,

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

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

13          “(B) the right to modify the selection at  
14          any time, or to elect at any time to receive  
15          paper versions of documents at no additional di-  
16          rect cost, and how to make such an election,  
17          and

18          “(C) if applicable, the election made by the  
19          participant, beneficiary, or other individual  
20          under paragraph (1)(B) to be furnished paper  
21          versions of such documents, and

22          “(3) the electronically furnished document—

23                 “(A) is prepared and furnished in a man-  
24                 ner that is consistent with the style, format,

1 and content requirements applicable to the par-  
2 ticular document, and

3 “(B) includes a notice that apprises the in-  
4 dividual of the significance of the document  
5 when it is not otherwise reasonably evident as  
6 transmitted.

7 For purposes of this subsection, the term ‘document’  
8 includes reports, statements, notices, notifications,  
9 and other information.”.

10 (c) PROTECTION OF EXISTING METHODS.—Nothing  
11 in the amendments made by this section shall be construed  
12 to prohibit—

13 (1) the furnishing of documents by electronic  
14 means under any law or under any regulations or  
15 guidance prescribed by the Secretary of Labor or the  
16 Secretary of the Treasury (referred to in this sub-  
17 section as the “Secretaries”) prior to the date of the  
18 enactment of this Act; or

19 (2) the Secretaries from prescribing additional  
20 methods for furnishing documents as the Secretaries  
21 deem necessary or appropriate.

22 (d) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply with respect to documents fur-



1 nished with respect to plan years beginning after Decem-  
2 ber 31, 2018.

