

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.

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

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.

