

107TH CONGRESS
2D SESSION

H. R. 3657

To amend the Employee Retirement Income Security Act of 1974 to provide for improved disclosure, diversification, account access, and accountability under individual account plans.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 2002

Mr. GEORGE MILLER of California (for himself, Mr. GEPHARDT, Ms. PELOSI, Mr. BONIOR, Mr. FROST, Mr. CUMMINGS, Mr. BROWN of Ohio, Mr. BARRETT of Wisconsin, Ms. LEE, Mr. STARK, Mr. FRANK, Mr. OWENS, Mr. MCGOVERN, Mr. TIERNEY, Mr. ANDREWS, Ms. MCCOLLUM, Ms. WOOLSEY, Ms. SOLIS, Mr. LAFALCE, Mr. HOLT, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WYNN, Mrs. TAUSCHER, Ms. WATSON of California, Mrs. CLAYTON, Ms. BERKLEY, Mr. ACEVEDO-VILÁ, Mr. HONDA, Mr. PASTOR, Mr. STUPAK, Ms. BALDWIN, Mr. SABO, Ms. MILLENDER-MCDONALD, Mrs. DAVIS of California, Ms. SCHAKOWSKY, Mr. PHELPS, Mr. OLVER, Mr. BACA, Mr. RODRIGUEZ, Mrs. CHRISTENSEN, Mr. SAWYER, Mr. FARR of California, Mr. HINCHEY, Mr. HILLIARD, Mr. SANDLIN, Ms. SLAUGHTER, Mr. LANTOS, Mr. FALEOMAVAEGA, Ms. KAPTUR, Mr. BLAGOJEVICH, Mr. DOGGETT, Mr. ROHRABACHER, Ms. NORTON, Ms. RIVERS, and Mr. DINGELL) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Employee Retirement Income Security Act of 1974 to provide for improved disclosure, diversification, account access, and accountability under individual account plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Employee Pension Freedom Act of 2002”.

4 (b) **TABLE OF CONTENTS.**—The table of contents is
5 as follows:

Sec. 1. Short title and table of contents.

TITLE I—IMPROVEMENTS IN DISCLOSURE

Sec. 101. Pension benefit information.

Sec. 102. Provision to participants and beneficiaries of material investment in-
formation in accurate form.

TITLE II—DIVERSIFICATION REQUIREMENTS

Sec. 201. Freedom to make investment decisions with plan assets.

Sec. 202. Effective date for title II.

TITLE III—APPROPRIATE ACCESS TO INDIVIDUAL ACCOUNTS

Sec. 301. One-year vesting of employer contributions to individual account
plans.

Sec. 302. Additional fiduciary protections relating to lockdowns.

TITLE IV—INCREASED ACCOUNTABILITY

Sec. 401. Bonding or insurance adequate to protect interest of participants and
beneficiaries.

Sec. 402. Participation of participants in trusteeship of individual account
plans.

Sec. 403. Liability for breach of fiduciary duty.

Sec. 404. Preservation of rights or claims.

Sec. 405. Office of pension participant advocacy.

Sec. 406. Study regarding insurance system for individual account plans.

TITLE V—GENERAL PROVISIONS

Sec. 501. General effective date.

Sec. 502. Plan amendments.

6 **TITLE I—IMPROVEMENTS IN**
7 **DISCLOSURE**

8 **SEC. 101. PENSION BENEFIT INFORMATION.**

9 (a) **PENSION BENEFIT STATEMENTS REQUIRED ON**
10 **PERIODIC BASIS.**—

1 (1) IN GENERAL.—Subsection (a) of section
2 105 of the Employee Retirement Income Security
3 Act of 1974 (29 U.S.C. 1025) is amended—

4 (A) by striking “shall furnish to any plan
5 participant or beneficiary who so requests in
6 writing,” and inserting “shall furnish at least
7 once every 3 years, in the case of a participant
8 in a defined benefit plan who has attained age
9 35, and annually, in the case of an individual
10 account plan, to each plan participant, and
11 shall furnish to any plan participant or bene-
12 ficiary who so requests,” and

13 (B) by adding at the end the following
14 flush sentence:

15 “Information furnished under the preceding sentence to
16 a participant in a defined benefit plan (other than at the
17 request of the participant) may be based on reasonable
18 estimates determined under regulations prescribed by the
19 Secretary.”.

20 (2) MODEL STATEMENT.—Section 105 of such
21 Act (29 U.S.C. 1025) is amended by adding at the
22 end the following new subsection:

23 “(e) The Secretary of Labor shall develop a model
24 benefit statement which shall be used by plan administra-

1 tors in complying with the requirements of subsection (a).

2 Such statement shall include—

3 “(1) the amount of nonforfeitable accrued bene-
4 fits as of the statement date which is payable at nor-
5 mal retirement age under the plan,

6 “(2) the amount of accrued benefits which are
7 forfeitable but which may become nonforfeitable
8 under the terms of the plan,

9 “(3) the amount or percentage of any reduction
10 due to integration of the benefit with the partici-
11 pant’s Social Security benefits or similar govern-
12 mental benefits,

13 “(4) the percentage of the net return on invest-
14 ment of plan assets for the preceding plan year (or,
15 with respect to investments directed by the partici-
16 pant, the net return on investment of plan assets for
17 such year so directed), and, stated separately, the
18 administrative and transaction fees incurred in con-
19 nection with such investment,

20 “(5) in the case of an individual account plan,
21 the percentage of assets in the individual account
22 that consists of employer securities and employer
23 real property (as defined in paragraphs (1) and (2),
24 respectively, of section 407(d)), as determined as of
25 the most recent valuation date of the plan,

1 “(6) information on how to contact the Social
2 Security Administration to obtain a participant’s
3 personal earnings and benefit estimate statement,

4 “(7) information on early retirement benefit
5 and joint and survivor annuity reductions, and

6 “(8) a notice advising participants and bene-
7 ficiaries of the importance of diversifying the invest-
8 ment of the assets in their accounts.”.

9 (3) RULE FOR MULTIEMPLOYER PLANS.—Sub-
10 section (d) of section 105 of such Act (29 U.S.C.
11 1025) is amended to read as follows:

12 “(d) Each administrator of a plan to which more than
13 1 unaffiliated employer is required to contribute shall fur-
14 nish to any plan participant or beneficiary who so requests
15 in writing, a statement described in subsection (a).”.

16 (b) DISCLOSURE OF BENEFIT CALCULATIONS.—

17 (1) IN GENERAL.—Section 105 of such Act (as
18 amended by subsection (a)) is amended further—

19 (A) by redesignating subsections (b), (c),
20 (d), and (e) as subsections (c), (d), (e), and (f),
21 respectively; and

22 (B) by inserting after subsection (a) the
23 following new subsection:

24 “(b)(1) In the case of a participant or beneficiary who
25 is entitled to a distribution of a benefit under an employee

1 pension benefit plan, the administrator of such plan shall
2 provide to the participant or beneficiary the information
3 described in paragraph (2) upon the written request of
4 the participant or beneficiary.

5 “(2) The information described in this paragraph
6 includes—

7 “(A) a worksheet explaining how the amount of
8 the distribution was calculated and stating the as-
9 sumptions used for such calculation,

10 “(B) upon written request of the participant or
11 beneficiary, any documents relating to the calcula-
12 tion (if available), and

13 “(C) such other information as the Secretary
14 may prescribe.

15 Any information provided under this paragraph shall be
16 in a form calculated to be understood by the average plan
17 participant.”.

18 (2) CONFORMING AMENDMENTS.—

19 (A) Section 101(a)(2) of such Act (29
20 U.S.C. 1021(a)(2)) is amended by striking
21 “105(a) and (c)” and inserting “105(a), (b),
22 and (d)”.

23 (B) Section 105(e) of such Act (as redesign-
24 nated by paragraph (1)(A) of this subsection) is

1 amended by inserting “or (b)” after “subsection
2 (a)”.

3 (C) Section 106(b) of such Act (29 U.S.C.
4 1026(b)) is amended by striking “sections
5 105(a) and 105(c)” and inserting “subsections
6 (a), (b), and (d) of section 105”.

7 **SEC. 102. PROVISION TO PARTICIPANTS AND BENE-**
8 **FICIARIES OF MATERIAL INVESTMENT IN-**
9 **FORMATION IN ACCURATE FORM.**

10 (a) IN GENERAL.—Section 404(c) of the Employee
11 Retirement Income Security Act of 1974 (29 U.S.C.
12 1104(c)) is amended by adding at the end the following
13 new paragraph:

14 “(4) The plan sponsor and plan administrator of a
15 pension plan described in paragraph (1) shall have a fidu-
16 ciary duty to ensure that each participant and beneficiary
17 under the plan, in connection with the investment by the
18 participant or beneficiary of plan assets in the exercise of
19 his or her control over assets in his account, is provided
20 with all material investment information regarding invest-
21 ment of such assets to the extent that the provision of
22 such information is generally required to be disclosed by
23 the plan sponsor to investors in connection with such an
24 investment under applicable securities laws. The provision
25 by the plan sponsor or plan administrator of any mis-

1 leading investment information shall be treated as a viola-
2 tion of this paragraph.”.

3 (b) ENFORCEMENT.—

4 (1) IN GENERAL.—Section 502(e) of such Act
5 (29 U.S.C. 1132(e)) is amended—

6 (A) by redesignating paragraph (7) as
7 paragraph (8); and

8 (B) by inserting after paragraph (6) the
9 following new paragraph:

10 “(7) The Secretary may assess a civil penalty against
11 any person of up to \$1,000 a day from the date of the
12 person’s failure or refusal to comply with the requirements
13 of section 404(c)(4) until such failure or refusal is cor-
14 rected.”.

15 (2) CONFORMING AMENDMENT.—Section
16 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is
17 amended by striking “(5), or (6)” and inserting
18 “(5), (6), or (7)”.

19 **TITLE II—DIVERSIFICATION** 20 **REQUIREMENTS**

21 **SEC. 201. FREEDOM TO MAKE INVESTMENT DECISIONS** 22 **WITH PLAN ASSETS.**

23 (a) IN GENERAL.—Section 404 of the Employee Re-
24 tirement Income Security Act of 1974 (29 U.S.C. 1104)

1 is amended by adding at the end the following new sub-
2 section:

3 “(e)(1)(A)(i) Subject to clause (ii) and paragraph (2),
4 an individual account plan under which a participant or
5 beneficiary is permitted to exercise control over assets in
6 his or her account shall provide that any participant or
7 beneficiary has the right to allocate his or her entire non-
8 forfeitable accrued benefit to any investment option pro-
9 vided under the plan. The application of any penalty or
10 any restriction based on age or years of service in connec-
11 tion with any exercise of such right shall be construed as
12 a violation of this clause.

13 “(ii) Clause (i) shall apply only to so much of a non-
14 forfeitable accrued benefit as consists of employer securi-
15 ties which are readily tradable on an established securities
16 market.

17 “(B)(i) Except as provided in clause (ii), within 30
18 days after the date of any election by a participant or ben-
19 eficiary allocating his or her nonforfeitable accrued benefit
20 to any investment option provided under the plan, the plan
21 administrator shall take such actions as are necessary to
22 effectuate such allocation.

23 “(ii) In any case in which the plan provides for elec-
24 tions periodically during prescribed periods, the 30-day pe-

1 riord described in clause (i) shall commence at the end of
2 each such prescribed period.

3 “(C) Nothing in this paragraph shall be construed to
4 limit the authority of a plan to impose limitations on the
5 portion of plan assets in any account which may be in-
6 vested in employer securities.

7 “(2) In the case of an employee stock ownership plan
8 (as defined in section 4975(e)(7) of the Internal Revenue
9 Code of 1986), paragraph (1) shall apply with respect to
10 the nonforfeitable accrued benefit derived from employer
11 matching contributions only after completion by the par-
12 ticipant of 10 years of participation (as defined in section
13 204(b)(4)) under the plan.

14 “(3) Not later than 30 days prior to the date on
15 which the right of a participant under an individual ac-
16 count plan to his or her accrued benefit becomes non-
17 forfeitable (or, in the case of an employee stock ownership
18 plan, the date on which the participant completes 10 years
19 of participation), the plan administrator shall provide to
20 such participant and his or her beneficiaries a written
21 notice—

22 “(A) setting forth their rights under this sec-
23 tion with respect to the accrued benefit, and

24 “(B) describing the importance of diversifying
25 the investment of account assets.”.

1 (b) RECOMMENDATIONS RELATING TO NON-PUB-
2 LICLY TRADED STOCK.—Within 1 year after the date of
3 the enactment of this Act, the Secretary of Labor shall
4 transmit to the Committee on Education and the Work-
5 force of the House of Representatives and the Committee
6 on Health, Education, Labor, and Pensions of the Senate
7 the Secretary’s recommendations regarding legislative
8 changes relating to treatment, under section 404(e) of the
9 Employee Retirement Income Security Act of 1974 (as
10 added by this section), of individual account plans under
11 which a participant or beneficiary is permitted to exercise
12 control over assets in his or her account, in cases in which
13 such assets do not include employer securities which are
14 readily tradable under an established securities market.

15 **SEC. 202. EFFECTIVE DATE FOR TITLE II.**

16 (a) IN GENERAL.—Subject to subsection (b), the
17 amendments made by this title shall apply with respect
18 to plan years beginning on or after January 1, 2003.

19 (b) DELAYED EFFECTIVE DATE FOR EXISTING
20 HOLDINGS.—In any case in which a portion of the non-
21 forfeitable accrued benefit of a participant or beneficiary
22 is held in the form of employer securities (as defined in
23 section 407(d)(1) of the Employee Retirement Income Se-
24 curity Act of 1974) immediately before the first date of
25 the first plan year to which the amendments made by this

1 title apply, such portion shall be taken into account only
2 with respect to plan years beginning on or after January
3 1, 2004.

4 **TITLE III—APPROPRIATE AC-**
5 **CESS TO INDIVIDUAL AC-**
6 **COUNTS**

7 **SEC. 301. ONE-YEAR VESTING OF EMPLOYER CONTRIBU-**
8 **TIONS TO INDIVIDUAL ACCOUNT PLANS.**

9 (a) IN GENERAL.—Section 203(a)(2) of the Em-
10 ployee Retirement Income Security Act of 1974 (29
11 U.S.C. 1053(a)(2)) is amended—

12 (1) by redesignating subparagraphs (A) and
13 (B) as clauses (i) and (ii), respectively;

14 (2) by inserting “(A)” after “(2)”;

15 (3) by inserting “defined benefit” before “plan”
16 each place it appears; and

17 (4) by adding at the end the following new sub-
18 paragraph:

19 “(B) An individual account plan satisfies the
20 requirements of this paragraph if an employee who
21 has completed at least 1 year of service has a non-
22 forfeitable right to 100 percent of the employee’s ac-
23 crued benefit derived from employer contributions.”.

24 (b) CONFORMING AMENDMENTS.—Section 203(a)(4)
25 of such Act (29 U.S.C. 1053(a)(4)) is amended—

1 (1) in subparagraph (A), by striking “subpara-
2 graph (A)” and inserting “subparagraph (A)(i)”;
3 and

4 (2) in subparagraph (B), by striking “subpara-
5 graph (B)” and inserting “subparagraph (A)(ii)”.

6 **SEC. 302. ADDITIONAL FIDUCIARY PROTECTIONS RELAT-**
7 **ING TO LOCKDOWNS.**

8 (a) IN GENERAL.—Section 404 of the Employee Re-
9 tirement Income Security Act of 1974 (as amended by sec-
10 tion 201) is amended further by adding at the end the
11 following new subsection:

12 “(f)(1) In the case of any eligible individual account
13 plan (as defined in section 407(d)(3))—

14 “(A) no lockdown may take effect until at least
15 30 days after written notice of such lockdown is pro-
16 vided by the plan administrator to such participant
17 or beneficiary, and

18 “(B) any lockdown may not continue for a pe-
19 riod in excess of 10 consecutive business days.

20 “(2) Subject to such regulations as the Secretary may
21 prescribe, the requirements of paragraph (1) shall not
22 apply in cases of emergency.

23 “(3) For purposes of this subsection, the term
24 ‘lockdown’ means any temporary lockdown, blackout, or
25 freeze with respect to, suspension of, or similar limitation

1 on the ability of a participant or beneficiary (who has met
2 minimum participation requirements applicable in accord-
3 ance with section 202) to exercise control over the assets
4 in his or her account as otherwise generally provided
5 under the plan (as determined under regulations of the
6 Secretary).”.

7 **TITLE IV—INCREASED**
8 **ACCOUNTABILITY**

9 **SEC. 401. BONDING OR INSURANCE ADEQUATE TO PRO-**
10 **TECT INTEREST OF PARTICIPANTS AND**
11 **BENEFICIARIES.**

12 Section 412 of the Employee Retirement Income Se-
13 curity Act of 1974 (29 U.S.C. 1112) is amended by adding
14 at the end the following new subsection:

15 “(f) Notwithstanding the preceding provisions of this
16 section, each fiduciary of an individual account plan shall
17 be bonded or insured, in accordance with regulations
18 which shall be prescribed by the Secretary, in an amount
19 sufficient to ensure coverage by the bond or insurance of
20 financial losses due to any failure to meet the require-
21 ments of this part.”.

1 **SEC. 402. PARTICIPATION OF PARTICIPANTS IN TRUSTEE-**
2 **SHIP OF INDIVIDUAL ACCOUNT PLANS.**

3 (a) IN GENERAL.—Section 403(a) of the Employee
4 Retirement Income Security Act of 1974 (29 U.S.C.
5 1103(a)) is amended—

6 (1) by redesignating paragraphs (1) and (2) as
7 subparagraphs (A) and (B), respectively;

8 (2) by inserting “(1)” after “(a)”; and

9 (3) by adding at the end the following new
10 paragraph:

11 “(2)(A) Subject to subparagraph (B), the assets of
12 a single-employer plan which is an individual account plan
13 and under which some or all of the assets are derived from
14 employee contributions shall be held in trust by a joint
15 board of trustees, which shall consist of two or more trust-
16 ees representing on an equal basis the interests of the em-
17 ployer or employers maintaining the plan and the interests
18 of the participants and their beneficiaries.

19 “(B) This paragraph shall apply for any plan year
20 only if a majority of the participants of the individual ac-
21 count plan indicates to the plan administrator, in such
22 form and manner as shall be prescribed in regulations of
23 the Secretary, its intention to have this paragraph so
24 apply.

25 “(C)(i) Except as provided in clause (ii), in any case
26 in which the plan is maintained pursuant to one or more

1 collective bargaining agreements between one or more em-
2 ployee organizations and one or more employers, the trust-
3 ees representing the interests of the participants and their
4 beneficiaries shall be designated by such employee organi-
5 zations.

6 “(ii) Clause (i) shall not apply with respect to a plan
7 described in such clause if the employee organization (or
8 all employee organizations, if more than one) referred to
9 in such clause file with the Secretary, in such form and
10 manner as shall be prescribed in regulations of the Sec-
11 retary, a written waiver of their rights under clause (i).

12 “(iii) In any case in which clause (i) does not apply
13 with respect to a single-employer plan because the plan
14 is not described in clause (i) or because of a waiver filed
15 pursuant to clause (ii), the trustee or trustees representing
16 the interests of the participants and their beneficiaries
17 shall be selected in accordance with regulations of the Sec-
18 retary. Such regulations may provide for selection of trust-
19 ees by the employer, but only from individuals who have
20 been demonstrated to be independent and to have no con-
21 flict of interest. An individual shall not be treated as ineli-
22 gible for selection as trustee solely because such individual
23 is an employee of the plan sponsor, except that the em-
24 ployee so selected may not be a highly compensated em-

1 ployee (as defined in section 414(q) of the Internal Rev-
2 enue Code of 1986).

3 “(iv) The Secretary shall provide by regulation for
4 the appointment of a neutral, in accordance with the pro-
5 cedures under section 203(f) of the Labor Management
6 Relations Act, 1947 (29 U.S.C. 173(f)), to cast votes as
7 necessary to resolve tie votes by the trustees.”.

8 (b) REGULATIONS.—The Secretary of Labor shall
9 prescribe the initial regulations necessary to carry out the
10 provisions of the amendments made by this section not
11 later than 90 days after the date of the enactment of this
12 Act.

13 **SEC. 403. LIABILITY FOR BREACH OF FIDUCIARY DUTY.**

14 (a) LIABILITY FOR PARTICIPATING IN OR CON-
15 CEALING FIDUCIARY BREACH.—

16 (1) IN GENERAL.—Section 409(a) of the Em-
17 ployee Retirement Income Security Act of 1974 (29
18 U.S.C. 1109(a)) is amended—

19 (A) by inserting “, or any other person
20 who, with notice of the facts constituting the
21 breach, participates in or undertakes to conceal
22 such breach,” after “duties imposed upon fidu-
23 ciaries by this title”;

24 (B) by inserting “and to each participant
25 and beneficiary of the plan” after “plan” the

1 second place it appears, and by inserting “or
2 such participant or beneficiary” after “plan”
3 the third place it appears;

4 (C) by inserting “or such other person”
5 after “profits of such fiduciary” and “by the fi-
6 duciary”; and

7 (D) by inserting “or entry of an order pro-
8 hibiting such fiduciary or such other person
9 from dealing with employee benefit plans” after
10 “removal of such fiduciary”.

11 (2) CONFORMING AMENDMENT.—Section
12 409(b) of such Act (29 U.S.C. 1109(b)) is amended
13 by inserting before the period the following:
14 “, unless his liability arises out of his role as a per-
15 son who, with notice of facts constituting such
16 breach, participates in or undertakes to conceal such
17 breach (as described in subsection (a))”.

18 (b) MAINTENANCE OF FIDUCIARY LIABILITY.—Sec-
19 tion 404(c)(1)(B) of such Act (29 U.S.C. 1104(c)(1)(B))
20 is amended by inserting before the period the following:
21 “, except that this subparagraph shall not be construed
22 to exempt any fiduciary from liability for any violation of
23 subsection (e) or (f)”.

24 (c) EXPANSION OF AVAILABLE REMEDIES.—Para-
25 graphs (3) and (5) of section 502(a) of the Employee Re-

1 tirement Income Security Act of 1974 (29 U.S.C.
2 1132(a)(3), (5)) are each amended by inserting after “eq-
3 uitable relief” the following: “and such additional relief
4 as a court of equity might have awarded in a case involv-
5 ing the enforcement or administration of a trust”.

6 **SEC. 404. PRESERVATION OF RIGHTS OR CLAIMS.**

7 Section 502 of the Employee Retirement Income Se-
8 curity Act of 1974 (29 U.S.C. 1132) is amended by adding
9 at the end the following new subsection:

10 “(n)(1) The rights under this title (including the
11 right to maintain a civil action) may not be waived, de-
12 ferred, or lost pursuant to any agreement not authorized
13 under this title with specific reference to this subsection.

14 “(2) Paragraph (1) shall not apply to an agreement
15 providing for arbitration or participation in any other non-
16 judicial procedure to resolve a dispute if the agreement
17 is entered into knowingly and voluntarily by the parties
18 involved after the dispute has arisen or is pursuant to the
19 terms of a collective bargaining agreement.”.

20 **SEC. 405. OFFICE OF PENSION PARTICIPANT ADVOCACY.**

21 (a) IN GENERAL.—Title III of the Employee Retire-
22 ment Income Security Act of 1974 (29 U.S.C. 3001 et
23 seq.) is amended by adding at the end the following:

1 “(1) IN GENERAL.—There is established in the
2 Department of Labor an office to be known as the
3 ‘Office of Pension Participant Advocacy’.

4 “(2) PENSION PARTICIPANT ADVOCATE.—The
5 Office of Pension Participant Advocacy shall be
6 under the supervision and direction of an official to
7 be known as the ‘Pension Participant Advocate’ who
8 shall—

9 “(A) have demonstrated experience in the
10 area of pension participant assistance, and

11 “(B) be selected by the Secretary after
12 consultation with pension participant advocacy
13 organizations.

14 The Pension Participant Advocate shall report di-
15 rectly to the Secretary and shall be entitled to com-
16 pensation at the same rate as the highest rate of
17 basic pay established for the Senior Executive Serv-
18 ice under section 5382 of title 5, United States
19 Code.

20 “(b) FUNCTIONS OF OFFICE.—It shall be the func-
21 tion of the Office of Pension Participant Advocacy to—

22 “(1) evaluate the efforts of the Federal Govern-
23 ment, business, and financial, professional, retiree,
24 labor, women’s, and other appropriate organizations

1 in assisting and protecting pension plan participants,
2 including—

3 “(A) serving as a focal point for, and ac-
4 tively seeking out, the receipt of information
5 with respect to the policies and activities of the
6 Federal Government, business, and such organi-
7 zations which affect such participants,

8 “(B) identifying significant problems for
9 pension plan participants and the capabilities of
10 the Federal Government, business, and such or-
11 ganizations to address such problems, and

12 “(C) developing proposals for changes in
13 such policies and activities to correct such prob-
14 lems, and communicating such changes to the
15 appropriate officials,

16 “(2) promote the expansion of pension plan cov-
17 erage and the receipt of promised benefits by in-
18 creasing the awareness of the general public of the
19 value of pension plans and by protecting the rights
20 of pension plan participants, including—

21 “(A) enlisting the cooperation of the public
22 and private sectors in disseminating informa-
23 tion, and

1 “(B) forming private-public partnerships
2 and other efforts to assist pension plan partici-
3 pants in receiving their benefits,

4 “(3) advocating for the full attainment of the
5 rights of pension plan participants, including by
6 making pension plan sponsors and fiduciaries aware
7 of their responsibilities,

8 “(4) giving priority to the special needs of low
9 and moderate income participants,

10 “(5) developing needed information with respect
11 to pension plans, including information on the types
12 of existing pension plans, levels of employer and em-
13 ployee contributions, vesting status, accumulated
14 benefits, benefits received, and forms of benefits,
15 and

16 “(6) pursuing claims on behalf of participants
17 and beneficiaries and providing appropriate assist-
18 ance in the resolution of disputes between partici-
19 pants and beneficiaries and pension plans, including
20 assistance in obtaining settlement agreements.

21 “(c) REPORTS.—

22 “(1) ANNUAL REPORT.—Not later than Decem-
23 ber 31 of each calendar year, the Pension Partici-
24 pant Advocate shall report to the Committee on
25 Education and the Workforce of the House of Rep-

1 representatives and the Committee on Health, Edu-
2 cation, Labor, and Pensions of the Senate on its ac-
3 tivities during the fiscal year ending in the calendar
4 year. Such report shall—

5 “(A) identify significant problems the Ad-
6 vocate has identified,

7 “(B) include specific legislative and regu-
8 latory changes to address the problems, and

9 “(C) identify any actions taken to correct
10 problems identified in any previous report.

11 The Advocate shall submit a copy of such report to
12 the Secretary and any other appropriate official at
13 the same time it is submitted to the committees of
14 Congress.

15 “(2) SPECIFIC REPORTS.—The Pension Partici-
16 pant Advocate shall report to the Secretary or any
17 other appropriate official any time the Advocate
18 identifies a problem which may be corrected by the
19 Secretary or such official.

20 “(3) REPORTS TO BE SUBMITTED DIRECTLY.—
21 The report required under paragraph (1) shall be
22 provided directly to the committees of Congress
23 without any prior review or comment than the Sec-
24 retary or any other Federal officer or employee.

25 “(d) SPECIFIC POWERS.—

1 “(1) RECEIPT OF INFORMATION.—Subject to
2 such confidentiality requirements as may be appro-
3 priate, the Secretary and other Federal officials
4 shall, upon request, provide such information (in-
5 cluding plan documents) as may be necessary to en-
6 able the Pension Participant Advocate to carry out
7 the Advocate’s responsibilities under this section.

8 “(2) APPEARANCES.—The Pension Participant
9 Advocate may represent the views and interests of
10 pension plan participants before any Federal agency,
11 including, upon request of a participant, in any pro-
12 ceeding involving the participant.

13 “(3) CONTRACTING AUTHORITY.—In carrying
14 out responsibilities under subsection (b)(5), the Pen-
15 sion Participant Advocate may, in addition to any
16 other authority provided by law—

17 “(A) contract with any person to acquire
18 statistical information with respect to pension
19 plan participants, and

20 “(B) conduct direct surveys of pension
21 plan participants.”

22 (b) CONFORMING AMENDMENT.—The table of con-
23 tents for title III of such Act is amended by adding at
24 the end the following:

“Subtitle C—Office of Pension Participant Advocacy

“3051. Office of Pension Participant Advocacy.”.

1 (c) EFFECTIVE DATE.—The amendment made by
2 this section shall take effect on January 1, 2003.

3 **SEC. 406. STUDY REGARDING INSURANCE SYSTEM FOR IN-**
4 **DIVIDUAL ACCOUNT PLANS.**

5 (a) STUDY.—As soon as practicable after the date of
6 the enactment of this Act, the Pension Benefit Guaranty
7 Corporation shall undertake a study relating to the estab-
8 lishment of an insurance system for individual account
9 plans. In conducting such study, the Corporation shall
10 consider—

11 (1) the feasibility of such a system, and

12 (2) options for developing such a system.

13 (b) REPORT.—Not later than 3 years after the date
14 of the enactment of this Act, the Corporation shall report
15 the results of its study, together with any recommenda-
16 tions for legislative changes, to the Committee on Edu-
17 cation and the Workforce of the House of Representatives
18 and the Committee on Health, Education, Labor, and
19 Pensions of the Senate.

20 **TITLE V—GENERAL PROVISIONS**

21 **SEC. 501. GENERAL EFFECTIVE DATE.**

22 (a) IN GENERAL.—Except as otherwise provided in
23 this Act, the amendments made by this Act shall apply

1 with respect to plan years beginning on or after January
2 1, 2003.

3 (b) SPECIAL RULE FOR COLLECTIVELY BARGAINED
4 PLANS.—In the case of a plan maintained pursuant to 1
5 or more collective bargaining agreements between em-
6 ployee representatives and 1 or more employers ratified
7 on or before the date of the enactment of this Act, sub-
8 section (a) shall be applied to benefits pursuant to, and
9 individuals covered by, any such agreement by substituting
10 for “January 1, 2003” the date of the commencement of
11 the first plan year beginning on or after the earlier of—

12 (1) the later of—

13 (A) January 1, 2004, or

14 (B) the date on which the last of such col-
15 lective bargaining agreements terminates (de-
16 termined without regard to any extension there-
17 of after the date of the enactment of this Act),

18 or

19 (2) January 1, 2005.

20 **SEC. 502. PLAN AMENDMENTS.**

21 If any amendment made by this Act requires an
22 amendment to any plan, such plan amendment shall not
23 be required to be made before the first plan year beginning
24 on or after the effective date specified in section 501, if—

1 (1) during the period after such amendment
2 made by this Act takes effect and before such first
3 plan year, the plan is operated in accordance with
4 the requirements of such amendment made by this
5 Act, and

6 (2) such plan amendment applies retroactively
7 to the period after such amendment made by this
8 Act takes effect and before such first plan year.

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