

107TH CONGRESS
2D SESSION

H. R. 3642

To amend title I of the Employee Retirement Income Security Act of 1974 to require plan administrators of 401(k) plans to provide semiannual reports to participants and beneficiaries fully and accurately disclosing the financial health of the plan sponsor and promoting diversification of investment of their plan assets.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 2002

Mr. BONIOR introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend title I of the Employee Retirement Income Security Act of 1974 to require plan administrators of 401(k) plans to provide semiannual reports to participants and beneficiaries fully and accurately disclosing the financial health of the plan sponsor and promoting diversification of investment of their plan assets.

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 “401(k) Pension Right
5 to Know Act of 2002”.

1 **SEC. 2. SEMIANNUAL REPORTS PROMOTING DIVERSIFICA-**
2 **TION AND DISCLOSING PLAN SPONSOR'S FI-**
3 **NANCIAL HEALTH.**

4 Section 404 of the Employee Retirement Income Se-
5 curity Act of 1974 (29 U.S.C. 1104) is amended by adding
6 at the end the following new subsection:

7 “(e)(1) The plan sponsor of an individual account
8 plan that includes a cash or deferred arrangement (as de-
9 fined in section 401(k)(2) of the Internal Revenue Code
10 of 1986) shall provide semiannually a written notice to
11 each participant or beneficiary—

12 “(A) setting forth a full and complete disclosure
13 of the financial health of the plan sponsor, and

14 “(B) advising participants and beneficiaries of
15 the importance of diversifying the investment of the
16 assets in their accounts and of the risk of holding
17 in their portfolios securities of any one entity, in-
18 cluding employer securities.

19 “(2) The written notice required under paragraph (1)
20 shall be in such form as may be prescribed in regulations
21 of the Secretary.

22 “(3) Any failure by a plan administrator to carry out
23 the requirements of paragraph (1) shall be treated as a
24 failure by the plan administrator to carry out the plan
25 administrator’s fiduciary duties under subsection (a)(1).
26 Subsection (c)(1)(B) shall not apply with respect to liabil-

1 ity of the plan administrator in connection with any loss
2 resulting from a participant's or beneficiary's exercise of
3 control of the assets in his or her account in the absence
4 of full and complete disclosure by the plan administrator
5 as required under paragraph (1).”.

6 **SEC. 3 EFFECTIVE DATE.**

7 The first written notice issued by a plan adminis-
8 trator in connection with any plan pursuant to the amend-
9 ment made by this Act shall be issued not later than 30
10 days after the first day of the first plan year beginning
11 after 60 days after the date of the enactment of this Act.

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