

108TH CONGRESS  
1ST SESSION

# H. R. 2084

To amend title I of the Employee Retirement Income Security Act of 1974 to provide for prompt compliance with annual reporting requirements thereunder and prompt enforcement of such requirements.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2003

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

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## A BILL

To amend title I of the Employee Retirement Income Security Act of 1974 to provide for prompt compliance with annual reporting requirements thereunder and prompt enforcement of such requirements.

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 “ERISA Reporting  
5 Compliance Act of 2003”.

1 **SEC. 2. PROMPT COMPLIANCE WITH, AND ENFORCEMENT**  
2 **OF, ANNUAL REPORTING REQUIREMENTS.**

3 (a) FASTER FILING OF ANNUAL REPORTS.—Section  
4 104(a) of the Employee Retirement Income Security Act  
5 of 1974 (29 U.S.C. 1024(a)) is amended—

6 (1) by inserting “(A)” after “SEC. 104. (a)(1)”;

7 (2) by striking “within 210 days after the close  
8 of such year (or within such time as may be required  
9 by regulations promulgated by the Secretary in  
10 order to reduce duplicative filing)” and insert “with-  
11 in 90 days after the close of such year”; and

12 (3) by adding at the end the following new sub-  
13 paragraph:

14 “(B) In the case of any plan whose administrator has  
15 filed the annual report for any plan year under this part,  
16 if 450 days have elapsed since the latest date for timely  
17 filing of the annual report for such plan year and the an-  
18 nual report has not been filed with respect to the following  
19 plan year, the Secretary shall immediately log the fact that  
20 the annual report for such following plan year has not  
21 been filed. Within 30 days thereafter, the Secretary shall  
22 issue a written notification to the administrator of the  
23 plan that the Secretary has not received the annual report  
24 for such following plan year and that, if such annual re-  
25 port is not received within 30 days after the issuance of  
26 such notice, additional actions will be commenced by the

1 Secretary under section 502(c)(8). Such notice shall in-  
2 clude a description of the actions to be taken under section  
3 502(c)(8).”.

4 (b) ADDITIONAL REMEDIES FOR FAILURE TO TIME-  
5 LY FILE ANNUAL REPORT.—Section 502 of such Act is  
6 amended—

7 (1) by redesignating paragraph (8) as para-  
8 graph (9); and

9 (2) by inserting after paragraph (7) the fol-  
10 lowing new paragraph:

11 “(8) If, within 30 days after the issuance of a written  
12 notification under section 104(a)(1)(B) indicating that the  
13 annual report under part 1 has not been received for a  
14 plan year, the Secretary has received neither the annual  
15 report for such plan year nor a written certification, in  
16 a form and manner which shall be prescribed by the Sec-  
17 retary, that such a report is not required for such plan  
18 year, the Secretary shall—

19 “(A) bring an action under subsection (a)(5) to  
20 freeze an appropriate portion of the assets of each  
21 fiduciary of such plan until such time as—

22 “(i) the annual report, or the written cer-  
23 tification with respect to such plan year, is re-  
24 ceived by the Secretary, or

1           “(ii) a showing is made that no liability  
2           has been incurred by such fiduciary in connec-  
3           tion with the plan under section 409, and

4           “(B) take immediate action under section 504  
5           to investigate the extent to which any requirement  
6           of this title has not been met by the plan sponsor,  
7           the plan administrator, or any other fiduciary of the  
8           plan.”.

9           (b) EFFECTIVE DATE.—The amendments made by  
10          this section shall apply with respect to annual reports re-  
11          quired to be filed under part 1 of subtitle B of title I of  
12          the Employee Retirement Income Security Act of 1974 on  
13          or after the date of the enactment of this Act.

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