

# Details of the SECURE Act: Lifetime Income Options



RETIREMENT MANAGEMENT SERVICES, LLC  
*Plan Consulting • Administration • Design*

RETIREMENT MANAGEMENT SERVICES, LLC  
905 Lily Creek Road Louisville, KY 40243  
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# ***SECURE Act: Lifetime Income Options***

*Leisha Gosling, MBA, CEBS, QKA*

In late December of 2019 President Trump signed into law a budget bill to fund the government for the remainder of the fiscal year. Included as an addition to the bill was the SECURE Act (Setting Every Community Up for Retirement Enhancement Act of 2019). Some of the changes within the SECURE ACT addressed Lifetime Income products.

## ***Section 203, 204 and 109 of the Act addressed participant statement requirements, portability of balances and selecting a provider for Lifetime Income products.***

Prior to the SECURE Act, plans wishing to move to a new recordkeeping platform faced the dilemma of either surrendering the lifetime product in order to transition to the new platform or “leaving behind” its lifetime income product with the original recordkeeper, resulting in a plan having two recordkeepers.

Effective for tax years beginning after December 31, 2021, the SECURE ACT included three provisions that is designed to encourage the adoption of guaranteed lifetime income products in order to aid defined contribution participants to be retirement ready.

The three provisions were:

- the inclusion of lifetime income illustrations to plan participant statements;
- the fiduciary safe harbor rules for the prudent selection of lifetime income providers; and
- allowing for the portability of "in-plan" lifetime income benefits when changing providers.

### **Inclusion of Lifetime Income Illustrations to plan participants:**

The lifetime income disclosure is required to be provided on one individual account benefit statement during each 12-month period. The disclosure requires that the participants total balance be expressed as a “lifetime income stream” in the form of a single life annuity or a qualified joint and survivor annuity (if the participant is married and their spouse is of equal age) as well as their accumulated balances. The assumptions for these disclosures were not provided in the SECURE ACT but guidance and interim final rules with assumptions and model lifetime income disclosures



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Louisville, KY 40243

[www.consultRMS.com](http://www.consultRMS.com) Phone: 502-429-0767

has been issued by the Department of Labor and awaiting changes from the comment period. The assumptions are:

- All participants are age 67,
- Did not include future contributions, and
- Interest rate is 10%.

This legislation relieves plan sponsors and fiduciaries of the liability under Title I of ERISA, as long as the disclosures comply with the rules which will be specified by the DOL at a later date.

*Author note: The primary intent behind this provision is to get plan participants to start looking at their account balances as a stream of income rather than a lump sum balance. The guidance that was issued for the assumptions were not received well in the retirement industry and I would not be surprised if they were adjusted. The illustrations will not be an accurate picture for that particular participant and may discourage participants saving instead of encouraging. Some vendors have asked that other assumption be allowed.*

### **Fiduciary Safe Harbor**

The SECURE ACT gave a more definitive definition of which safe harbor lifetime income product options can be included within a plan. The act specified the selection of “guaranteed retirement investment contracts,” including an annuity contract for a fixed term or a contract which provides guaranteed benefits at least annually for the remainder of the life of the participant or the joint lives of the participant and beneficiary will satisfy the safe harbor provisions.

### **Portability of ‘In-plan’ Benefits**

The SECURE Act added a provision to allow new lifetime income portability to Code Sections 401(a), 401(k), 403(b)(11) and 457(d)(i) plans. The ACT permitted both in-service trustee-to-trustee transfers of participants’ lifetime income product interests to other eligible plans which includes IRAs. As well as the purchase of distributed annuities for purposes of preserving a participant’s accumulated benefit, during the 90-day period preceding the plan’s discontinuance of the product.

*Author note: These three provisions seek to address a perceived issue that was believed to inhibit the broader adoption of lifetime income products by plan sponsors, as well as a lack of awareness by participants about how their account balances would translate into retirement income.*

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