

**44-319a. Automatic enrollment in an employee retirement plan; requirements.** (a) Any employer which provides automatic enrollment in an employee retirement plan described in sections 401(k) or 403(b) of the internal revenue code, or a governmental deferred compensation plan described in section 457 of the internal revenue code, or a payroll deduction IRA plan described in section 408 or 408A of the internal revenue code, shall be relieved of liability for the actual decisions made by the employer on behalf of any participating employee as to the default investment of contributions made for that employee to the plan or program provided that:

(1) The plan allows the participating employee at least quarterly opportunities to select investments for the employee's contributions between investment alternatives available under the plan;

(2) the employee is given notice of the investment decisions that will be made in the absence of participant direction, a description of all the investment alternatives available for employee investment direction under the plan and a brief description of procedures available for the employee to change investments; and

(3) the employee is given at least annual notice of the actual default investments made of contributions attributable to the employee.

(b) As used in this section, "automatic enrollment" means a plan provision under which the employee will have a specified contribution made to the plan equal to a compensation reduction that will be made for the employee unless the employee affirmatively elects no compensation reduction contributions or a compensation reduction contribution in another amount. The relief from liability of the employer under this section shall extend to any other plan official which actually makes the default investment decisions on behalf of participating employees.

(c) Nothing in this section shall modify any existing responsibility of employers or other plan officials for the selection of investment funds for participating employees.

**History:** L. 2006, ch. 68, § 1; July 1.