

114TH CONGRESS
2D SESSION

H. R. 5805

To increase portability of and access to retirement savings, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2016

Mr. MESSER (for himself, Ms. BONAMICI, and Mr. NEAL) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To increase portability of and access to retirement savings,
and for other purposes.

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 “Retirement Savings
5 Lost and Found Act of 2016”.

6 **SEC. 2. RETIREMENT SAVINGS LOST AND FOUND.**

7 (a) ESTABLISHMENT.—

1 (1) IN GENERAL.—Not later than 2 years after
2 the date of the enactment of this Act, the Commis-
3 sioner of Social Security and the Secretary of the
4 Treasury in cooperation shall establish an online
5 mechanism to be known as the “Retirement Savings
6 Lost and Found”, to be managed by the Director of
7 the Retirement Savings Lost and Found established
8 under section 3(e) of this Act—

9 (A) to allow an individual to search for in-
10 formation that enables the individual to locate
11 the plan administrator of any plans with re-
12 spect to which the individual is a participant or
13 beneficiary, and to provide contact information
14 for the plan administrator of any plan described
15 in paragraph (2) with respect to which the indi-
16 vidual may be entitled to a benefit,

17 (B) to allow such Director to assist such
18 an individual in locating any plan of the indi-
19 vidual, and

20 (C) to allow such Director to make any
21 necessary changes to contact information on
22 record for the plan administrator based on any
23 changes to the plan due to merger, bankruptcy,
24 termination, or other causes.

1 (2) PLANS DESCRIBED.—A plan described in
2 this paragraph is a plan to which the vesting stand-
3 ards of section 203 of part 2 of subtitle B of title
4 I of the Employee Retirement Income Security Act
5 of 1974 apply with respect to any plan year to which
6 the amendments made by subsection (c)(2)(C) apply.

7 (b) ADMINISTRATION.—The Retirement Savings Lost
8 and Found established under subsection (a) shall provide
9 individuals described in subsection (a)(1) only with the
10 ability to view contact information for the plan adminis-
11 trator of any plan with respect to which the individual is
12 a participant or beneficiary, sufficient to allow the indi-
13 vidual to locate the individual’s account.

14 (c) CURRENT INFORMATION.—

15 (1) IN GENERAL.—Paragraph (2) of section
16 6057(a) of the Internal Revenue Code of 1986 is
17 amended—

18 (A) by redesignating subparagraph (E) as
19 subparagraph (G),

20 (B) by striking “and” at the end of sub-
21 paragraph (D), and

22 (C) by inserting after subparagraph (D)
23 the following new subparagraphs:

1 “(E) the name and taxpayer identifying
2 number of each participant or former partici-
3 pant in the plan—

4 “(i) who, during any previous plan
5 year, was reported under subparagraph
6 (C), and with respect to whom the benefits
7 described in subparagraph (C)(ii) were
8 fully paid during the plan year,

9 “(ii) with respect to whom any
10 amount was distributed under section
11 401(a)(31)(B) during the plan year, or

12 “(iii) with respect to whom an annuity
13 contract was distributed during the plan
14 year,

15 “(F) in the case of a participant or former
16 participant to whom subparagraph (E) ap-
17 plies—

18 “(i) the amount distributed,

19 “(ii) in the case of a participant de-
20 scribed in clause (ii) thereof, the name and
21 address of the designated trustee or issuer
22 described in section 401(a)(31)(B)(i) and
23 the account number of the individual re-
24 tirement plan to which the amount was
25 distributed, and

1 “(iii) in the case of a participant de-
 2 scribed in clause (iii) thereof, the name
 3 and address of the issuer of such annuity
 4 contract and the contract or certificate
 5 number, and”.

6 (2) RULES RELATING TO DIRECT TRUSTEE-TO-
 7 TRUSTEE TRANSFERS.—

8 (A) IN GENERAL.—Paragraph (6) of sec-
 9 tion 402(e) of such Code is amended—

10 (i) by striking “TRANSFERS.—Any”
 11 and inserting “TRANSFERS.—

12 “(A) IN GENERAL.—Any”, and

13 (ii) by adding at the end the following
 14 new subparagraph:

15 “(B) NOTIFICATION OF TRUSTEE.—In the
 16 case of a distribution under section
 17 401(a)(31)(B), the plan administrator shall no-
 18 tify the designated trustee or issuer described
 19 in clause (i) thereof that the transfer is a man-
 20 datory distribution required by such section.”.

21 (B) PENALTY.—Subsection (i) of section
 22 6652 of such Code is amended—

23 (i) by striking “TO RECIPIENTS” in
 24 the heading and inserting “OR NOTIFICA-
 25 TION”,

(ii) by striking “402(f),” and inserting “402(f) or a notification as required by section 402(e)(6)(B),” and

(iii) by striking “such written explanation” and inserting “such written explanation or notification”.

(C) REPORTS.—Subsection (i) of section 408 of such Code is amended—

(i) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively, and by moving such clauses 2 ems to the right,

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and by moving such subparagraphs 2 ems to the right,

(iii) by striking “as the Secretary prescribes” in subparagraph (B)(ii), as so redesignated, and all that follows through “a simple retirement account” and inserting “as the Secretary prescribes.

“(3) SIMPLE RETIREMENT ACCOUNTS.—In the case of a simple retirement account”,

(iv) by striking “REPORTS.—The trustee of” and inserting “REPORTS.—

1 “(1) IN GENERAL.—The trustee of”,
2 (v) by striking “under paragraph (2)”
3 in paragraph (3), as redesignated by clause
4 (iii), and inserting “under paragraph
5 (1)(B)”, and
6 (vi) by inserting after paragraph
7 (1)(B)(ii), as redesignated by the pre-
8 ceding clauses, the following new para-
9 graph:

10 “(2) MANDATORY DISTRIBUTIONS.—In the case
11 of an account, contract, or annuity to which a trans-
12 fer of a distribution under section 401(a)(31)(B) is
13 made (including a transfer of such an amount from
14 the individual retirement plan to which the amount
15 was originally transferred to another individual re-
16 tirement plan), the report required by this sub-
17 section shall—

18 “(A) identify the distribution of such
19 amount as a mandatory distribution required by
20 such section,

21 “(B) include the name, address, and tax-
22 payer identifying number of the trustee or
23 issuer of the individual retirement plan to which
24 the amount is transferred, and

1 “(C) be filed with the Director of the Re-
 2 tirement Savings Lost and Found established
 3 under section 2(a) of the Retirement Savings
 4 Lost and Found Act of 2016 as well as with the
 5 Secretary.”.

6 (3) EFFECTIVE DATE.—The amendments made
 7 by this subsection shall apply to distributions made,
 8 and returns and reports the due date for which is,
 9 after the date that is one year after the date of the
 10 enactment of this Act.

11 (d) REQUIREMENT OF ELECTRONIC FILING.—

12 (1) IN GENERAL.—Paragraph (2) of section
 13 6011(e) of the Internal Revenue Code of 1986 is
 14 amended—

15 (A) by redesignating subparagraphs (A)
 16 and (B) as clauses (i) and (ii), respectively, and
 17 by moving such clauses 2 ems to the right,

18 (B) by striking “the requirements of such
 19 regulations” and all that follows through “the
 20 Secretary shall require” and inserting “the re-
 21 quirements of such regulations.

22 “(B) CERTAIN PARTNERSHIPS.—Notwith-
 23 standing subparagraph (A), the Secretary shall
 24 require”,

1 (C) by striking “REGULATIONS.—In pre-
 2 scribing” and inserting “REGULATIONS.—

3 “(A) IN GENERAL.—In prescribing”, and

4 (D) by adding at the end the following new
 5 subparagraph:

6 “(C) EXCEPTIONS.—Notwithstanding sub-
 7 paragraph (A), the Secretary shall require re-
 8 turns or reports required under—

9 “(i) sections 6057, 6058, and 6059,
 10 and

11 “(ii) sections 408(i), 6041, and 6047
 12 to the extent such return or report relates
 13 to the tax treatment of a distribution from
 14 a plan, account, contract, or annuity,
 15 to be filed on magnetic media, but only with re-
 16 spect to persons who are required to file at
 17 least 50 returns during the calendar year that
 18 includes the first day of the plan year to which
 19 such returns or reports relate.”.

20 (2) EFFECTIVE DATE.—The amendments made
 21 by this subsection shall apply to returns and reports
 22 the due date for which is after the date of the enact-
 23 ment of this Act.

24 (e) SAFEGUARDING PARTICIPANT PRIVACY AND SE-
 25 CURITY.—In establishing the Retirement Savings Lost

1 and Found under subsection (a), the Commissioner of So-
 2 cial Security and the Secretary of the Treasury shall take
 3 all necessary and proper precautions, including consulting
 4 with the Secretary of Health and Human Services, to en-
 5 sure that participants' plan information maintained by the
 6 Retirement Savings Lost and Found is protected and that
 7 persons other than the participant cannot fraudulently
 8 claim the benefits to which any participant is entitled, and
 9 to allow any participant to opt out of inclusion in the Lost
 10 and Found at the election of the participant.

11 **SEC. 3. MANDATORY TRANSFERS OF ROLLOVER DISTRIBUTIONS.**
 12

13 (a) INVESTMENT OPTIONS.—

14 (1) IN GENERAL.—Subparagraph (B) of section
 15 404(c)(3) of the Employee Retirement Income Secu-
 16 rity Act of 1974 (29 U.S.C. 1104(c)(3)) is amended
 17 by inserting “, and, to the extent the Secretary pro-
 18 vides in guidance or regulations issued after the en-
 19 actment of the Retirement Savings Lost and Found
 20 Act of 2016, is made to a target date or life cycle
 21 fund or to such other option as the Secretary may
 22 so provide” before the period.

23 (2) REGULATIONS.—Not later than 180 days
 24 after the date of the enactment of this Act, the Sec-
 25 retary of Labor shall promulgate regulations identi-

1 fying the target date or life cycle funds, or speci-
 2 fying the characteristics of a target date or life cycle
 3 fund, that will be deemed to meet the requirements
 4 of section 404(c)(3)(B) of the Employee Retirement
 5 Income Security Act of 1974 (29 U.S.C.
 6 1104(c)(3)(B)), as amended by paragraph (1).

7 (b) EXPANSION OF CAP; AUTHORITY TO TRANSFER
 8 LESSER AMOUNTS.—

9 (1) IN GENERAL.—Clause (ii) of section
 10 401(a)(31)(B) of the Internal Revenue Code of 1986
 11 is amended by striking “\$5,000” and inserting
 12 “\$6,000”.

13 (2) LESSER AMOUNTS.—Subparagraph (B) of
 14 section 401(a)(31) of such Code is amended by add-
 15 ing at the end the following new clauses:

16 “(iii) TRANSFERS OF LESSER
 17 AMOUNTS TO RETIREMENT SAVINGS LOST
 18 AND FOUND OR TREASURY.—In the case of
 19 a trust which is part of an eligible plan,
 20 such trust shall not be a qualified trust
 21 under this section unless such plan pro-
 22 vides that if—

23 “(I) a participant in the plan
 24 separates from the service covered by
 25 the plan and the deferred vested ben-

1 efit to which such participant is enti-
2 tled is not in excess of \$1,000, and

3 “(II) the participant does not
4 make an election under subparagraph
5 (A) and does not elect to receive the
6 distribution directly,

7 the plan administrator shall, after noti-
8 fying the participant that the participant is
9 entitled to such benefit, transfer the
10 amount of such benefit to the Director of
11 the Retirement Savings Lost and Found in
12 accordance with section 3(c)(2) of the Re-
13 tirement Savings Lost and Found Act of
14 2016, or to an individual retirement ac-
15 count (as defined in section 408(a)) estab-
16 lished by the Secretary. Such transfer shall
17 not be made before the later of the date
18 that is 6 months after the date on which
19 the participant receives the notification re-
20 quired under the preceding sentence, or, if
21 the plan administrator attempts to pay the
22 distribution to the participant directly but
23 the participant has not claimed the dis-
24 tribution, the date that is 6 months after

1 the date on which the attempted payment
2 was sent to the participant.

3 “(iv) INCOME TAX TREATMENT OF
4 TRANSFERS TO RETIREMENT SAVINGS
5 LOST AND FOUND.—For purposes of deter-
6 mining the income tax treatment of trans-
7 fers to the Director of the Retirement Sav-
8 ings Lost and Found under clause (iii)—

9 “(I) such a transfer shall be
10 treated as a transfer to an individual
11 retirement plan under clause (i), and

12 “(II) the distribution of such
13 amounts by the Director of the Re-
14 tirement Savings Lost and Found
15 shall be treated as a distribution from
16 an individual retirement plan.

17 “(v) NOTIFICATION TO RETIREMENT
18 SAVINGS LOST AND FOUND.—In the case
19 of a trust which is part of an eligible plan,
20 if a participant in the plan separates from
21 the service covered by the plan, the plan
22 administrator shall report—

23 “(I) the total amount of the de-
24 ferred vested benefit to which the par-
25 ticipant is entitled, and

1 “(II) the amount of any distribu-
2 tion of such benefit made to and
3 claimed by the participant,
4 to the Director of the Retirement Savings
5 Lost and Found for purposes of the Re-
6 tirement Savings Lost and Found estab-
7 lished under section 2(a) of the Retirement
8 Savings Lost and Found Act of 2016.”.

9 (c) OFFICE OF THE RETIREMENT SAVINGS LOST
10 AND FOUND.—

11 (1) IN GENERAL.—Not later than one year
12 after the date of the enactment of this Act, the
13 Commissioner of Social Security and the Secretary
14 of the Treasury shall establish within the appro-
15 priate agency or subdivision thereof an Office of the
16 Retirement Savings Lost and Found, to be adminis-
17 tered by a Director of the Retirement Savings Lost
18 and Found who (without regard to the agency or
19 subdivision where such Office is established) shall
20 report to both such Commissioner and such Sec-
21 retary.

22 (2) RESPONSIBILITIES OF DIRECTOR.—

23 (A) IN GENERAL.—In addition to admin-
24 istering the Retirement Savings Lost and
25 Found under section 2, the Director of the Re-

1 tirement Savings Lost and Found established
2 under this subsection shall—

3 (i) invest any amount transferred
4 under section 401(a)(31)(B)(iii) of the In-
5 ternal Revenue Code of 1986 in United
6 States Treasury securities; and

7 (ii) upon application filed by the par-
8 ticipant or beneficiary in such form and
9 manner as may be prescribed in regula-
10 tions, pay to the participant or beneficiary
11 the amount transferred (or the appropriate
12 survivor benefit) either—

13 (I) in a single sum (plus inter-
14 est), or

15 (II) in such other form as is
16 specified in regulations; and

17 (iii) identify such amount as eligible
18 to be paid into an eligible retirement plan
19 described in section 402(c)(8)(B) of the
20 Internal Revenue Code of 1986.

21 (B) OPTION TO CONTRACT.—The Director
22 of the Retirement Savings Lost and Found may
23 contract with a third party to carry out the re-
24 sponsibilities under subparagraph (A).

25 (d) EFFECTIVE DATES.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the amendments made by this section
3 shall apply to distributions made after the date that
4 is 2 years after the date of the enactment of this
5 Act.

6 (2) MANDATORY TRANSFER OF VESTED BENE-
7 FITS.—The amendments made by subsection (b)
8 shall apply to vested benefits with respect to partici-
9 pants who separate from service connected to the
10 plan before, on, or after the date that is 2 years
11 after the date of the enactment of this Act.

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