

withholding which would directly or indirectly prohibit or restrict the inclusion in any church plan (as defined in section 414(e) of the Internal Revenue Code of 1986) of an automatic contribution arrangement.

(2) DEFINITION OF AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection, the term “automatic contribution arrangement” means an arrangement—

(A) under which a participant may elect to have the plan sponsor or the employer make payments as contributions under the plan on behalf of the participant, or to the participant directly in cash,

(B) under which a participant is treated as having elected to have the plan sponsor or the employer make such contributions in an amount equal to a uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage), and

(C) under which the notice and election requirements of paragraph (3), and the investment requirements of paragraph (4), are satisfied.

(3) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—The plan sponsor of, or plan administrator or employer maintaining, an automatic contribution arrangement shall, within a reasonable period before the first day of each plan year, provide to each participant to whom the arrangement applies for such plan year notice of the participant's rights and obligations under the arrangement which—

(i) is sufficiently accurate and comprehensive to apprise the participant of such rights and obligations, and

(ii) is written in a manner calculated to be understood by the average participant to whom the arrangement applies.

(B) ELECTION REQUIREMENTS.—A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to a participant unless—

(i) the notice includes an explanation of the participant's right under the arrangement not to have elective contributions made on the participant's behalf (or to elect to have such contributions made at a different percentage),

(ii) the participant has a reasonable period of time, after receipt of the explanation described in clause (i) and before the first elective contribution is made, to make such election, and

(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the participant.

(4) DEFAULT INVESTMENT.—If no affirmative investment election has been made with respect to any automatic contribution arrangement, contributions to such arrangement shall be invested in a default investment selected with the care, skill, prudence, and diligence that a prudent person selecting an investment option would use.

(5) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act.

(d) ALLOW CERTAIN PLAN TRANSFERS AND MERGERS.—

(1) IN GENERAL.—Section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(z) CERTAIN PLAN TRANSFERS AND MERGERS.—

“(1) IN GENERAL.—Under rules prescribed by the Secretary, except as provided in paragraph (2), no amount shall be includible in gross income by reason of—

“(A) a transfer of all or a portion of the accrued benefit of a participant or beneficiary, whether or not vested, from a church plan that is a plan described in section 401(a) or

an annuity contract described in section 403(b) to an annuity contract described in section 403(b), if such plan and annuity contract are both maintained by the same church or convention or association of churches,

“(B) a transfer of all or a portion of the accrued benefit of a participant or beneficiary from an annuity contract described in section 403(b) to a church plan that is a plan described in section 401(a) or an annuity contract described in section 403(b), if such plan and annuity contract are both maintained by the same church or convention or association of churches, or

“(C) a merger of a church plan that is a plan described in section 401(a), or an annuity contract described in section 403(b) with an annuity contract described in section 403(b), if such plan and annuity contract are both maintained by the same church or convention or association of churches.

“(2) LIMITATION.—Paragraph (1) shall not apply to a transfer or merger unless the participant's or beneficiary's total accrued benefit immediately after the transfer or merger is equal to or greater than the participant's or beneficiary's total accrued benefit immediately before the transfer or merger, and such total accrued benefit is nonforfeitable after the transfer or merger.

“(3) QUALIFICATION.—A plan or annuity contract shall not fail to be considered to be described in sections 401(a) or 403(b) merely because such plan or annuity contract engages in a transfer or merger described in this subsection.

“(4) DEFINITIONS.—For purposes of this subsection:

“(A) CHURCH OR CONVENTION OR ASSOCIATION OF CHURCHES.—The term ‘church or convention or association of churches’ includes an organization described in subparagraph (A) or (B)(ii) of subsection (e)(3).

“(B) ANNUITY CONTRACT.—The term ‘annuity contract’ includes a custodial account described in section 403(b)(7) and a retirement income account described in section 403(b)(9).

“(C) ACCRUED BENEFIT.—The term ‘accrued benefit’ means—

“(i) in the case of a defined benefit plan, the employee's accrued benefit determined under the plan, and

“(ii) in the case of a plan other than a defined benefit plan, the balance of the employee's account under the plan.”

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to transfers or mergers occurring after the date of the enactment of this Act.

(e) INVESTMENTS BY CHURCH PLANS IN COLLECTIVE TRUSTS.—

(1) IN GENERAL.—In the case of—

(A) a church plan (as defined in section 414(e) of the Internal Revenue Code of 1986), including a plan described in section 401(a) of such Code and a retirement income account described in section 403(b)(9) of such Code, and

(B) an organization described in section 414(e)(3)(A) of such Code the principal purpose or function of which is the administration of such a plan or account,

the assets of such plan, account, or organization (including any assets otherwise permitted to be commingled for investment purposes with the assets of such a plan, account, or organization) may be invested in a group trust otherwise described in Internal Revenue Service Revenue Ruling 81-100 (as modified by Internal Revenue Service Revenue Rulings 2004-67, 2011-1, and 2014-24), or any subsequent revenue ruling that supersedes or modifies such revenue ruling, without adversely affecting the tax status of the group trust, such plan, account, or organization, or any other plan or trust that invests in the group trust.

(2) EFFECTIVE DATE.—This subsection shall apply to investments made after the date of the enactment of this Act.

PHYLLIS E. GALANTI ARBORETUM

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of H.R. 2693 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2693) to designate the arboretum at the Hunter Holmes McGuire VA Medical Center in Richmond, Virginia, as the “Phyllis E. Galanti Arboretum.”

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. I ask unanimous consent that the bill be read a third time and passed and the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2693) was ordered to a third reading, was read the third time, and passed.

FORECLOSURE RELIEF AND EXTENSION FOR SERVICEMEMBERS ACT OF 2015

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2393, submitted earlier today by Senator WHITEHOUSE.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2393) to extend temporarily the extended period of protection for members of uniformed services relating to mortgages, mortgage foreclosure, and eviction, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. I ask unanimous consent that the bill be read a third time and passed and the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2393) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2393

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Foreclosure Relief and Extension for Servicemembers Act of 2015”.

**SEC. 2. TEMPORARY EXTENSION OF EXTENDED PERIOD OF PROTECTIONS FOR MEMBERS OF UNIFORMED SERVICES RELATING TO MORTGAGES, MORTGAGE FORECLOSURE, AND EVICTION.**

Section 710(d) of the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012 (Public Law 112-154; 50 U.S.C. 3953 note) is amended—

(1) in paragraph (1), by striking “December 31, 2015” and inserting “December 31, 2017”; and

(2) in paragraph (3), by striking “January 1, 2016” and inserting “January 1, 2018”.

#### DIRECTING SENATE LEGAL COUNSEL

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 333, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 333) to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in *Bank Markazi, The Central Bank of Iran v. Deborah D. Peterson, et al.* (S. Ct.).

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, the Supreme Court has taken up a case presenting the question whether a provision of the Iran Threat Reduction and Syria Human Rights Act of 2012, which provides terrorism victims in the case of *Peterson v. Islamic Republic of Iran*, Case No. 10 Civ. 4518, filed in the Southern District of New York, with the right, notwithstanding any other law, to obtain money damages for existing judgments against Iran from certain Iranian bonds held in the United States, violates the separation of powers.

The plaintiffs here are victims and families of victims of Iran-sponsored terrorist attacks, including the 1983 Beirut Marine barracks bombing and the 1996 Khobar Towers bombing, who hold billions of dollars in unpaid compensatory damages judgments against Iran. In 2010, they initiated an action in Federal court seeking turnover of \$1.75 billion in bond assets held by Citibank in New York, which through two foreign intermediary banks were ultimately owned by Bank Markazi, the Central Bank of Iran, which is wholly owned by the Iranian Government.

Plaintiffs argued they were entitled to the assets under the Terrorism Risk Insurance Act of 2002, TRIA, which permits the satisfaction of terrorism judgments from “the blocked assets of any agency or instrumentality of th[e] terrorist party.” Pub. L. No. 107-297, §201(a), 116 Stat. 2322, 2337. Bank Markazi argued the assets were not subject to execution under TRIA because they were held on behalf of intermediaries and therefore, under controlling state law, those assets could not be considered Iran’s property.

Against that backdrop and with plaintiffs’ motion for seeking execution pending, Congress enacted section 502 of the Iran Threat Reduction and Syria Human Rights Act of 2012. 22 U.S.C. §8772. That statute identified plaintiffs’ case by name and docket number and directed that, “notwithstanding any other provision of law”

the assets “shall be subject to execution or attachment in aid of execution in order to satisfy any judgment to the extent of any compensatory damages awarded against Iran.” 22 U.S.C. §8772(a)(1), (b). It also expressly disclaimed any effect on “any [other] proceedings.” 22 U.S.C. §8772(c)(1). Before permitting execution against the assets, the statute required the court to determine both whether Iran holds title or interest in the assets and whether any “other person possesses a constitutionally protected interest in the assets.” 22 U.S.C. §8772(a)(2).

Bank Markazi challenged section 502 as unconstitutional for violating the separation of powers between the legislative and judicial branches explicated in *United States v. Klein*, 80 U.S. (13 Wall.) 128 (1871), by effectively dictating the outcome of a single case. After making the statutory determinations that Iran and only Iran held a beneficial interest in the assets, the district court rejected Bank Markazi’s constitutional challenge. *Peterson v. Islamic Republic of Iran*, slip op (S.D.N.Y. March 13, 2013), 2013 WL 1155576. The court, noting it was required to determine whether Iran holds title or interest in the assets, as well as whether any other party holds a protected interest in the assets, held that “[t]he statute does not itself ‘find’ turnover required; such determination is specifically left to the Court.” *Id.* at 31.

On appeal, a unanimous Second Circuit panel affirmed. *Peterson v. Islamic Republic of Iran*, 758 F.3d 185 (2d Cir. 2014). The appellate court noted that “while *Klein* illustrates that Congress may not ‘usurp[] the adjudicative function assigned to the federal courts,’ later cases have explained that Congress may ‘chang[e] the law applicable to pending cases,’ even when the result under the revised law is clear.” *Id.* at 191 (citations omitted).

Bank Markazi filed a petition for certiorari with the Supreme Court. After calling for and receiving the views of the United States Solicitor General, who filed an opposition to certiorari defending the constitutionality of section 502, the Supreme Court granted certiorari.

Title VII of the Ethics in Government Act authorizes the Senate to appear as an amicus curiae in any legal action in which the powers and responsibilities of the Congress under the Constitution are placed in issue. Appearance as an amicus curiae in this case would enable the Senate to respond to Bank Markazi’s contention that this law infringes on the judiciary’s constitutional power to decide cases and controversies and to present to the Court the basis for the Senate’s conviction that the law is consistent with the Constitution.

This resolution would authorize the Senate legal counsel to appear in this case in the Senate’s name as amicus curiae to support the constitutionality of the statute.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 333) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today’s RECORD under “Submitted Resolutions.”)

#### ORDERS FOR MONDAY, DECEMBER 14, 2015

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 3 p.m. on Monday, December 14; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; further, that following leader remarks, the Senate be in a period of morning business until 5 p.m., with Senators permitted to speak therein for up to 10 minutes each; finally, that at 5 p.m., the Senate then proceed to executive session as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ADJOURNMENT UNTIL MONDAY, DECEMBER 14, 2015, AT 3 P.M.

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:32 p.m., adjourned until Monday, December 14, 2015, at 3 p.m.

#### DISCHARGED NOMINATION

The Senate Committee on Environment and Public Works was discharged from further consideration of the following nomination unanimous consent and the nomination was confirmed:

RICHARD CAPEL HOWORTH, OF MISSISSIPPI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2020.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate December 10, 2015:

##### DEPARTMENT OF ENERGY

CHERRY ANN MURRAY, OF KANSAS, TO BE DIRECTOR OF THE OFFICE OF SCIENCE, DEPARTMENT OF ENERGY.

MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

ERIC DRAKE EBERHARD, OF WASHINGTON, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2018.

##### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A