

114TH CONGRESS
2D SESSION

S. 3078

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

IN THE SENATE OF THE UNITED STATES

JUNE 21, 2016

Ms. WARREN (for herself and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Finance

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.—

8 (1) IN GENERAL.—Not later than 2 years after
9 the date of the enactment of this Act, the Commis-
10 sioner of Social Security and the Secretary of the

1 Treasury in cooperation shall establish an online
2 mechanism to be known as the “Retirement Savings
3 Lost and Found”, to be managed by the Director of
4 the Retirement Savings Lost and Found established
5 under section 3(e) of this Act—

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

14 (B) to allow such Director to assist such
15 an individual in locating any plan of the indi-
16 vidual, and

17 (C) to allow such Director to make any
18 necessary changes to contact information on
19 record for the plan administrator based on any
20 changes to the plan due to merger or consolida-
21 tion of the plan with any other plan, division of
22 the plan into 2 or more plans, bankruptcy, ter-
23 mination, change in name of the plan, change
24 in name or address of the plan administrator,
25 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 plan.

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”,

1 (ii) by striking “402(f),” and insert-
2 ing “402(f) or a notification as required by
3 section 402(e)(6)(B),” and

4 (iii) by striking “such written expla-
5 nation” and inserting “such written expla-
6 nation or notification”.

7 (C) REPORTS.—Subsection (i) of section
8 408 of such Code is amended—

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

13 (ii) by redesignating paragraphs (1)
14 and (2) as subparagraphs (A) and (B), re-
15 spectively, and by moving such subpara-
16 graphs 2 ems to the right,

17 (iii) by striking “as the Secretary pre-
18 scribes” in subparagraph (B)(ii), as so re-
19 designated, and all that follows through “a
20 simple retirement account” and inserting
21 “as the Secretary prescribes.

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

24 (iv) by striking “REPORTS.—The
25 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 (f) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated such sums as may be
13 necessary to carry out the purposes of this section.

14 **SEC. 3. MANDATORY TRANSFERS OF ROLLOVER DISTRIBUTIONS.**
15 **TIONS.**

16 (a) INVESTMENT OPTIONS.—

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

1 (2) REGULATIONS.—Not later than 180 days
 2 after the date of the enactment of this Act, the Sec-
 3 retary of Labor shall promulgate regulations identi-
 4 fying the target date or lifecycle funds, or specifying
 5 the characteristics of a target date or lifecycle fund,
 6 that will be deemed to meet the requirements of sec-
 7 tion 404(c)(3)(B) of the Employee Retirement In-
 8 come Security Act of 1974 (29 U.S.C.
 9 1104(c)(3)(B)), as amended by paragraph (1).

10 (b) EXPANSION OF CAP; AUTHORITY TO TRANSFER
 11 LESSER AMOUNTS.—

12 (1) IN GENERAL.—Clause (ii) of section
 13 401(a)(31)(B) of the Internal Revenue Code of 1986
 14 is amended by striking “\$5,000” and inserting
 15 “\$6,000”.

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

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

1 “(I) a participant in the plan
2 separates from the service covered by
3 the plan and the deferred vested ben-
4 efit to which such participant is enti-
5 tled is not in excess of \$1,000, and

6 “(II) the participant does not
7 make an election under subparagraph
8 (A) and does not elect to receive the
9 distribution directly,

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

1 the participant has not claimed the dis-
2 tribution, the date that is 6 months after
3 the date on which the attempted payment
4 was sent to the participant.

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

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

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

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

1 “(I) the total amount of the de-
2 ferred vested benefit to which the par-
3 ticipant is entitled, and

4 “(II) the amount of any distribu-
5 tion of such benefit made to and
6 claimed by the participant,

7 to the Director of the Retirement Savings
8 Lost and Found for purposes of the Re-
9 tirement Savings Lost and Found estab-
10 lished under section 2(a) of the Retirement
11 Savings Lost and Found Act of 2016.”.

12 (c) OFFICE OF THE RETIREMENT SAVINGS LOST
13 AND FOUND.—

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

25 (2) RESPONSIBILITIES OF DIRECTOR.—

1 (A) IN GENERAL.—In addition to admin-
2 istering the Retirement Savings Lost and
3 Found under section 2, the Director of the Re-
4 tirement Savings Lost and Found established
5 under this subsection shall—

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

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

16 (I) in a single sum (plus inter-
17 est); or

18 (II) in such other form as is
19 specified in regulations; and

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

24 (B) OPTION TO CONTRACT.—The Director
25 of the Retirement Savings Lost and Found may

1 contract with a third party to carry out the re-
2 sponsibilities under subparagraph (A).

3 (d) EFFECTIVE DATES.—

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

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

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