

116TH CONGRESS
2D SESSION

H. R. 7439

To establish the Retirement Savings Lost and Found, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 2020

Ms. BONAMICI (for herself and Mr. BANKS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, 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 establish the Retirement Savings Lost and Found, 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”.

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

7 (a) RETIREMENT SAVINGS LOST AND FOUND.—

8 (1) ESTABLISHMENT.—

1 (A) IN GENERAL.—Not later than 2 years
2 after the date of the enactment of this Act, the
3 Commissioner of Social Security and the Sec-
4 retary of the Treasury in cooperation shall es-
5 tablish an online mechanism to be known as the
6 “Retirement Savings Lost and Found”, to be
7 managed by the Director of the Retirement
8 Savings Lost and Found established under sub-
9 section (c) of this section—

10 (i) to allow an individual to search for
11 information that enables the individual to
12 locate the plan administrator of any plans
13 with respect to which the individual is a
14 participant or beneficiary, and to provide
15 contact information for the plan adminis-
16 trator of any plan described in subpara-
17 graph (B) with respect to which the indi-
18 vidual may be entitled to a benefit;

19 (ii) to allow such Director to assist
20 such an individual in locating any plan of
21 the individual; and

22 (iii) to allow such Director to make
23 any necessary changes to contact informa-
24 tion on record for the plan administrator
25 based on any changes to the plan due to

1 merger or consolidation of the plan with
2 any other plan, division of the plan into
3 two or more plans, bankruptcy, termi-
4 nation, change in name of the plan, change
5 in name or address of the plan adminis-
6 trator, or other causes.

7 The Retirement Savings Lost and Found estab-
8 lished under this paragraph shall contain the
9 information obtained by the Commissioner of
10 Social Security regarding deferred vested bene-
11 fits under section 6057 of the Internal Revenue
12 Code of 1986 (including information so ob-
13 tained before the date of the enactment of this
14 Act). Such information shall be retained in the
15 Retirement Savings Lost and Found in per-
16 petuity.

17 (B) PLANS DESCRIBED.—A plan described
18 in this subparagraph is a plan to which the
19 vesting standards of section 203 of part 2 of
20 subtitle B of title I of the Employee Retirement
21 Income Security Act of 1974 apply.

22 (2) ADMINISTRATION.—The Retirement Sav-
23 ings Lost and Found established under paragraph
24 (1) shall provide individuals described in paragraph
25 (1)(A) only with the ability to view contact informa-

tion for the plan administrator of any plan with respect to which the individual is a participant or beneficiary, sufficient to allow the individual to locate the individual's plan.

(3) CURRENT INFORMATION.—

(A) IN GENERAL.—Paragraph (2) of section 6057(a) of the Internal Revenue Code of 1986 is amended—

(i) in subparagraph (C)—

(I) by striking “during such plan year” in clause (i) and inserting “during the plan year immediately preceding such plan year”;

(II) by adding “and” at the end of clause (i); and

(III) by striking clause (iii);

(ii) by redesignating subparagraph (E) as subparagraph (G);

(iii) by striking “and” at the end of subparagraph (D); and

(iv) by inserting after subparagraph (D) the following new subparagraphs:

“(E) the name and taxpayer identifying number of each participant or former participant in the plan—

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

6 “(ii) with respect to whom any
7 amount was distributed under section
8 401(a)(31)(B) during the plan year, or

9 “(iii) with respect to whom a deferred
10 annuity contract was distributed during
11 the plan year,

12 “(F) in the case of a participant or former
13 participant to whom subparagraph (E) ap-
14 plies—

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

22 “(ii) in the case of a participant de-
23 scribed in clause (iii) thereof, the name
24 and address of the issuer of such annuity

1 contract and the contract or certificate
2 number, and”.

3 (B) RULES RELATING TO DIRECT TRUST-
4 EE-TO-TRUSTEE TRANSFERS.—

5 (i) IN GENERAL.—Paragraph (6) of
6 section 402(e) of such Code is amended—

7 (I) by striking “TRANSFERS.—
8 Any” and inserting “TRANSFERS.—
9 “(A) IN GENERAL.—Any”; and

10 (II) by adding at the end the fol-
11 lowing new subparagraph:

12 “(B) NOTIFICATION OF TRUSTEE.—In the
13 case of a distribution under section
14 401(a)(31)(B), the plan administrator shall no-
15 tify the designated trustee or issuer described
16 in clause (i) thereof that the transfer is a man-
17 datory distribution required by such section.”.

18 (ii) PENALTY.—Subsection (i) of sec-
19 tion 6652 of such Code is amended—

20 (I) by striking “TO RECIPIENTS”
21 in the heading and inserting “OR NO-
22 TIFICATION”;

23 (II) by striking “402(f),” and in-
24 serting “402(f) or a notification as re-
25 quired by section 402(e)(6)(B),”; and

1 (III) by striking “such written
2 explanation” and inserting “such writ-
3 ten explanation or notification”.

4 (iii) REPORTS.—Subsection (i) of sec-
5 tion 408 of such Code is amended—

6 (I) by redesignating subpara-
7 graphs (A) and (B) of paragraph (2)
8 as clauses (i) and (ii), respectively,
9 and by moving such clauses 2 ems to
10 the right;

11 (II) by redesignating paragraphs
12 (1) and (2) as subparagraphs (A) and
13 (B), respectively, and by moving such
14 subparagraphs 2 ems to the right;

15 (III) by striking “as the Sec-
16 retary prescribes” in subparagraph
17 (B)(ii), as so redesignated, and all
18 that follows through “a simple retire-
19 ment account” and inserting “as the
20 Secretary prescribes.

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

23 (IV) by striking “REPORTS.—
24 The trustee of” and inserting “RE-
25 PORTS.—

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

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

18 “(A) identify such transfer as a mandatory
19 distribution required by such section,

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

24 “(C) be filed with the Director of the Re-
25 tirement Savings Lost and Found established

under section 2(a)(1) of the Retirement Savings Lost and Found Act as well as with the Secretary.”.

(C) NOTIFICATION OF PARTICIPANTS UPON SEPARATION.—Subsection (e) of section 6057 of such Code is amended by inserting “, and a notice of the availability of the Retirement Savings Lost and Found established under section 2(a)(1) of the Retirement Savings Lost and Found Act” before the period at the end of the second sentence.

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to distributions made in, and returns and reports relating to, years beginning after the second December 31 occurring after the date of the enactment of this Act.

(4) COORDINATION WITH DISTRIBUTION REQUIREMENTS, FIDUCIARY DUTIES, ETC.—

(A) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—Paragraph (9) of section 401(a) of the Internal Revenue Code of 1986, as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subparagraph:

1 “(K) COORDINATION WITH RETIREMENT
2 SAVINGS LOST AND FOUND.—

3 “(i) IN GENERAL.—With respect to
4 any lost or missing participant of a plan,
5 the plan shall not be treated as failing to
6 satisfy the requirements of this paragraph
7 or any other requirement of this title which
8 cannot be satisfied due to the plan’s inabil-
9 ity to locate the participant.

10 “(ii) LOST OR MISSING PARTICI-
11 PANT.—For purposes of subclause (i), the
12 term ‘lost or missing participant’ shall be
13 defined in guidance to be issued jointly by
14 the Internal Revenue Service, Department
15 of the Treasury, the Employee Benefits
16 Security Administration, Department of
17 Labor, and the Pension Benefit Guaranty
18 Corporation. Such guidance shall be so
19 issued not later than 1 year after the date
20 of the enactment of this subparagraph.”.

21 (B) AMENDMENT OF EMPLOYEE RETIRE-
22 MENT INCOME SECURITY ACT OF 1974.—

23 (i) IN GENERAL.—Section 404 of the
24 Employee Retirement Income Security Act
25 of 1974 (29 U.S.C. 1104) is amended by

1 adding at the end the following new sub-
2 section:

3 “(e) COORDINATION WITH RETIREMENT SAVINGS
4 LOST AND FOUND.—

5 “(1) IN GENERAL.—With respect to any lost or
6 missing participant of a plan, a fiduciary of the plan
7 shall not be treated as failing to satisfy any require-
8 ment to search for or attempt to locate, or to pro-
9 vide any document or information to, such indi-
10 vidual, or any other requirement of this title which
11 cannot be satisfied due to the plan’s inability to lo-
12 cate the participant.

13 “(2) LOST OR MISSING PARTICIPANT.—For
14 purposes of paragraph (1), the term ‘lost or missing
15 participant’ shall be defined in guidance to be issued
16 jointly by the Internal Revenue Service, Department
17 of the Treasury, the Employee Benefits Security Ad-
18 ministration, Department of Labor, and the Pension
19 Benefit Guaranty Corporation. Such guidance shall
20 be so issued not later than 1 year after the date of
21 the enactment of this subsection.”.

22 (ii) CONFORMING AMENDMENTS.—
23 Section 4050(a)(1) of the Employee Re-
24 tirement Income Security Act of 1974 (29

1 U.S.C. 1350(a)(1)) is amended in subpara-
2 graph (B)—

3 (I) by striking “provides” and in-
4 serting “either—
5 “(i) provides”;

6 (II) by striking the period at the
7 end and inserting “; or”; and

8 (III) by adding at the end the
9 following new clause:

10 “(ii) satisfies the requirements of sec-
11 tion 6057(a) of the Internal Revenue Code
12 of 1986.”.

13 (5) REQUIREMENT OF ELECTRONIC FILING.—

14 (A) IN GENERAL.—Paragraph (2) of sec-
15 tion 6011(e) of the Internal Revenue Code of
16 1986 is amended—

17 (i) by redesignating subparagraphs
18 (A) and (B) as clauses (i) and (ii), respec-
19 tively, and by moving such clauses 2 ems
20 to the right;

21 (ii) by striking “REGULATIONS.—In
22 prescribing” and inserting “REGULA-
23 TIONS.—

24 “(A) IN GENERAL.—In prescribing”; and

1 (iii) by adding at the end the fol-
2 lowing new subparagraph:

3 “(C) EXCEPTIONS.—Notwithstanding sub-
4 paragraph (A), the Secretary shall require re-
5 turns or reports required under—

6 “(i) sections 6057, 6058, and 6059,
7 and

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

17 (B) EFFECTIVE DATE.—The amendments
18 made by this paragraph shall apply to returns
19 and reports relating to years beginning after
20 the second December 31 occurring after the
21 date of the enactment of this Act.

22 (6) SAFEGUARDING PARTICIPANT PRIVACY AND
23 SECURITY.—In establishing the Retirement Savings
24 Lost and Found under paragraph (1), the Commis-
25 sioner of Social Security and the Secretary of the

1 Treasury shall take all necessary and proper pre-
2 cautions, including consulting with the Secretary of
3 Health and Human Services, to ensure that individ-
4 uals' plan information maintained by the Retirement
5 Savings Lost and Found is protected and that per-
6 sons other than the individual cannot fraudulently
7 claim the benefits to which any individual is entitled,
8 and to allow any individual to opt out of inclusion
9 in the Lost and Found at the election of the indi-
10 vidual.

11 (7) CONFORMING AMENDMENT.—Subparagraph
12 (B) of section 6103(l)(1) of the Internal Revenue
13 Code of 1986 is amended by striking “responsibility
14 under section 1131 of the Social Security Act” and
15 inserting “responsibilities under section 1131 of the
16 Social Security Act and section 2(a)(1)(A) of the
17 Retirement Savings Lost and Found Act”.

18 (8) AUTHORIZATION OF APPROPRIATIONS.—
19 There are authorized to be appropriated such sums
20 as may be necessary to carry out the purposes of
21 this subsection.

22 (b) MANDATORY TRANSFERS OF ROLLOVER DIS-
23 TRIBUTIONS.—

24 (1) INVESTMENT OPTIONS.—

1 (A) IN GENERAL.—Subparagraph (B) of
2 section 404(c)(3) of the Employee Retirement
3 Income Security Act of 1974 (29 U.S.C.
4 1104(c)(3)) is amended by striking the period
5 at the end and inserting “, and, to the extent
6 the Secretary provides in guidance or regula-
7 tions issued after the enactment of this Act, is
8 made to—

9 “(i) a target date or life cycle fund
10 held under such account;

11 “(ii) as described in section
12 2550.404a–2 of title 29, Code of Federal
13 Regulations, an investment product held
14 under such account designed to preserve
15 principal and provide a reasonable rate of
16 return;

17 “(iii) the Director of the Retirement
18 Savings Lost and Found in accordance
19 with section 2(c)(2)(A)(ii) of the Retire-
20 ment Savings Lost and Found Act or an
21 individual retirement account (as defined
22 in section 408(a) of the Internal Revenue
23 Code of 1986) established by the Secretary
24 of the Treasury on behalf of the partici-
25 pant or beneficiary, but only if all applica-

ble reporting requirements are met with respect to such transfer; or

“(iv) such other option as the Secretary may so provide.”.

(B) REGULATIONS.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Labor shall promulgate regulations identifying the target date or life cycle funds, or specifying the characteristics of such a fund, that will be deemed to meet the requirements of section 404(c)(3)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)(3)(B)), as amended by subparagraph (A).

(2) EXPANSION OF CAP; AUTHORITY TO TRANSFER LESSER AMOUNTS.—

(A) CAP.—Sections 401(a)(31)(B)(ii) and 411(a)(11)(A) of the Internal Revenue Code of 1986 and section 203(e)(1) of the Employee Retirement Income Security Act of 1974 are each amended by striking “\$5,000” and inserting “\$6,000”.

(B) LESSER AMOUNTS.—Subparagraph (B) of section 401(a)(31) of such Code is

1 amended by adding at the end the following
2 new clauses:

3 “(iii) TREATMENT OF LESSER
4 AMOUNTS.—In the case of a trust which is
5 part of an eligible plan, such trust shall
6 not be a qualified trust under this section
7 unless such plan provides that, if a partici-
8 pant in the plan separates from the service
9 covered by the plan and the nonforfeitable
10 accrued benefit described in clause (ii) is
11 not in excess of \$1,000, the plan adminis-
12 trator shall (either separately or as part of
13 the notice under section 402(f)) notify the
14 participant that the participant is entitled
15 to such benefit or attempt to pay the ben-
16 efit directly to the participant.

17 “(iv) TRANSFERS TO RETIREMENT
18 SAVINGS LOST AND FOUND OR TREAS-
19 URY.—If, after a plan administrator takes
20 the action required under clause (iii), the
21 participant does not—

22 “(I) within 6 months of the noti-
23 fication under such clause, make an
24 election under subparagraph (A) or

1 elect to receive a distribution of the
2 benefit directly, or

3 “(II) accept any direct payment
4 made under such clause within 6
5 months of the attempted payment,
6 the plan administrator shall transfer the
7 amount of such benefit to the Director of
8 the Retirement Savings Lost and Found in
9 accordance with section 2(c)(2)(a)(ii) of
10 the Retirement Savings Lost and Found
11 Act or to an individual retirement account
12 (as defined in section 408(a)) established
13 by the Secretary on behalf of the indi-
14 vidual.

15 “(v) INCOME TAX TREATMENT OF
16 TRANSFERS TO RETIREMENT SAVINGS
17 LOST AND FOUND.—For purposes of deter-
18 mining the income tax treatment of trans-
19 fers to the Director of the Retirement Sav-
20 ings Lost and Found under clause (iv)—

21 “(I) such a transfer shall be
22 treated as a transfer to an individual
23 retirement plan under clause (i), and

24 “(II) the distribution of such
25 amounts by the Director of the Re-

1 retirement Savings Lost and Found
2 shall be treated as a distribution from
3 an individual retirement plan.”.

4 (C) EFFECTIVE DATE.—The amendments
5 made by this paragraph shall apply to vested
6 benefits with respect to participants who sepa-
7 rate from service connected to the plan in plan
8 years beginning after the second December 31
9 occurring after the date of the enactment of
10 this Act.

11 (D) RULE OF CONSTRUCTION.—Nothing in
12 this section shall be interpreted to prohibit a
13 plan administrator from transferring the ac-
14 counts of missing participants to the Pension
15 Benefit Guaranty Corporation pursuant to sec-
16 tion 4050 of the Employee Retirement Income
17 Security Act of 1974.

18 (c) OFFICE OF THE RETIREMENT SAVINGS LOST
19 AND FOUND.—

20 (1) IN GENERAL.—Not later than one year
21 after the date of the enactment of this Act, the
22 Commissioner of Social Security and the Secretary
23 of the Treasury shall establish within the appro-
24 priate agency or subdivision thereof an Office of the
25 Retirement Savings Lost and Found, to be adminis-

1 tered by a Director of the Retirement Savings Lost
2 and Found who (without regard to the agency or
3 subdivision where such Office is established) shall
4 report to both such Commissioner and such Sec-
5 retary.

6 (2) RESPONSIBILITIES OF DIRECTOR.—

7 (A) IN GENERAL.—In addition to admin-
8 istering the Retirement Savings Lost and
9 Found under subsection (a) and carrying out
10 the duties described in clauses (ii) and (iii) of
11 subsection (a)(1)(A), the Director of the Retire-
12 ment Savings Lost and Found established
13 under this section shall—

14 (i) perform an annual audit of plan
15 information contained in the Retirement
16 Savings Lost and Found and ensure that
17 such information is current and accurate;

18 (ii) invest any amount transferred
19 under section 401(a)(31)(B)(iv) of the In-
20 ternal Revenue Code of 1986 in United
21 States Treasury securities; and

22 (iii) upon application filed by the par-
23 ticipant or beneficiary in such form and
24 manner as may be prescribed in regula-
25 tions, pay to the participant or beneficiary

1 the amount transferred (or the appropriate
2 survivor benefit) either—

3 (I) in a single sum (plus inter-
4 est); or

5 (II) in such other form as is
6 specified in regulations; and

7 (iv) identify such amount as eligible to
8 be paid into an eligible retirement plan de-
9 scribed in section 402(c)(8)(B) of the In-
10 ternal Revenue Code of 1986.

11 (B) OPTION TO CONTRACT.—The Director
12 of the Retirement Savings Lost and Found
13 shall conduct an analysis of the cost effective-
14 ness of contracting with a third party to carry
15 out the responsibilities under subparagraph (A)
16 and, if the Director determines that it would be
17 more cost effective to do so than to carry out
18 such responsibilities within the Office of the Re-
19 tirement Savings Lost and Found, the Director
20 shall report to the Committees on Finance and
21 Health, Education, Labor, and Pensions of the
22 Senate and the Committees on Ways and
23 Means and Education and Labor of the House
24 of Representatives the intention to so contract.

1 (C) OPTION TO PRESCRIBE PROTOCOLS.—

2 The Director of the Retirement Savings Lost
3 and Found may establish protocols to assist
4 participants originally treated as lost or missing
5 in claiming their benefits under a plan.

6 (D) COORDINATION.—The Director of the
7 Retirement Savings Lost and Found shall co-
8 ordinate with the Pension Benefit Guaranty
9 Corporation and other applicable agencies to in-
10 tegrate information and databases on lost,
11 missing, and inactive participants.

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