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HOUSE LAWMAKERS REVIVE BROAD SET OF RETIREMENT PLAN CHANGES

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A wide-ranging package of retirement reforms that drew strong bipartisan support in the previous Congress has been revived in the House by Reps. Ron Kind, D-WI, and Mike Kelly, R-PA. The Retirement Enhancement and Savings Act of 2019 (RESA) ([HR 1007](#)) would, like prior versions of the bill, offer nondiscrimination testing relief (but not a free pass) to closed pension plans, promote defined contribution (DC) multiple employer plans (MEPs), seek to spur 401(k) savings, and encourage lifetime income options in DC plans, among other proposals.

PROPOSED REFORMS

Key provisions would:

- Ease nondiscrimination testing for closed defined benefit (DB) pension plans and make-whole contributions to DC plans if certain requirements are met, providing much broader relief than previously proposed IRS regulations would allow
- Permit "open" MEPs under certain conditions, allowing employers to adopt a DC MEP even if they share no common interest with the MEP sponsor or other participating employers, eliminating a current Department of Labor (DOL) requirement
- Remove the 10% cap on default contributions to automatic enrollment and escalation safe harbor 401(k) plans
- Eliminate the nonelective 401(k) safe harbor notice and ease the timing restrictions on amending plans to make them nonelective safe harbor plans — for example, allowing adoption after the start of a plan year if the employer makes a 4%, rather than 3%, nonelective contribution
- Facilitate portability of lifetime-income products by treating their discontinuance in a plan as a distributable event
- Encourage lifetime-income products by requiring DC plans to annually provide individual benefit statements showing the annuity value of a participant's account using DOL-prescribed assumptions
- Reduce risks related to the selection of annuity providers by allowing DC plan fiduciaries to rely on representations from insurers regarding their ability to satisfy contract obligations and their status under state insurance laws

- Direct DOL and Treasury to permit filing of a single Form 5500 for DC plans that have the same plan administrator, trustee, named fiduciary(s), administrator, investment menu and plan year
- Reduce PBGC premiums for cooperative and small employer charity (CSEC) plans to \$19 per participant for flat-rate premiums and \$9 per \$1,000 of unfunded vested benefits for variable-rate premiums
- Significantly curtail "stretch" IRAs, barring most nonspouse beneficiaries in DC plans and IRAs — but not DB plans — from stretching payouts beyond five years for amounts exceeding \$450,000 (indexed for inflation)
- Reduce "leakage" of retirement savings by prohibiting plan loans through credit cards, unless provided through certain electronic card systems in place as of Sept. 21, 2016
- Increase penalties for failure to file certain retirement plan returns and notices, including 5500s, registration statements regarding deferred vested benefits (and any required changes to those benefits) and required withholding notices to participants
- Allow retroactive adoption of new qualified retirement plans by the extended due date of a plan sponsor's tax return, subject to existing rules that allow only prospective adoption of certain provisions (e.g., adding a 401(k) feature, adopting certain safe harbor provisions)
- Clarify which individuals may be covered under a 403(b) plan that consists of a retirement income account maintained by a church-controlled organization
- Deem custodial accounts under terminated 403(b) plans to be IRAs if the custodian is an IRS-approved nonbank trustee, eliminating the need to distribute those funds to complete the termination
- Increase startup tax credits for small business retirement plans, including a new credit for small employers that add an automatic enrollment feature to a new or existing plan
- Repeal the prohibition on traditional IRA contributions after age 70-1/2
- Expand the ability of regular and Roth IRAs to own S corporation banks
- Treat certain fellowship and stipend payments (other than tuition) as compensation for IRA purposes

OUTLOOK FOR RESA, OTHER REFORMS

A number of similar provisions passed the House late last year as part of broad Republican tax legislation but never made it to the Senate floor. Reps. Kind and Kelly — both members of the Ways and Means Committee — introduced the bill to coincide with the panel's Feb. 6 [hearing](#) titled "Improving Retirement Security for America's Workers." The committee chairman, Rep. Richard Neal, D-MA, who has made retirement security a top priority, called the bill a "solid starting point." Next steps for the measure are

unclear, but a Senate version is expected and many if not all RESA reforms could advance as part of legislation expected from Neal and other House and Senate members in the coming weeks.

RELATED RESOURCES

- [The Retirement Enhancement and Savings Act of 2019](#) (Congress, Feb. 6, 2019)
- [Press Release](#) (Rep. Ron Kind, Feb. 6, 2019)

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