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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To direct the Secretary of Labor to promulgate a regulation allowing administrators of certain pension plans to voluntarily transfer unclaimed retirement distributions to State unclaimed property programs.

IN THE HOUSE OF REPRESENTATIVES

Mr. MAGAZINER introduced the following bill; which was referred to the
Committee on _____

A BILL

To direct the Secretary of Labor to promulgate a regulation allowing administrators of certain pension plans to voluntarily transfer unclaimed retirement distributions to State unclaimed property programs.

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 “Unclaimed Retirement
5 Rescue Plan”.

1 **SEC. 2. UNCLAIMED RETIREMENT DISTRIBUTIONS REGU-**
2 **LATION.**

3 (a) IN GENERAL.—Not later than 180 days after the
4 date of enactment of this Act, the Secretary of Labor shall
5 promulgate a regulation described in subsection (b).

6 (b) REGULATION DESCRIBED.—The regulation de-
7 scribed in this subsection shall—

8 (1) comply with the requirements of this sec-
9 tion; and

10 (2) allow administrators of pension plans and
11 other responsible fiduciaries to transfer unclaimed
12 retirement distributions to State unclaimed property
13 programs through the States' Unclaimed Retirement
14 Clearing House that manages the voluntary transfer
15 of funds nationally across State unclaimed property
16 programs.

17 (c) PREREQUISITES FOR PLAN AND OTHER RESPON-
18 SIBLE FIDUCIARY TRANSFERS TO STATES.—

19 (1) IN GENERAL.—Prior to transferring un-
20 claimed retirement distributions to State unclaimed
21 property programs, a plan or other responsible fidu-
22 ciary shall, with respect to unclaimed retirement dis-
23 tributions that are \$50 or more—

24 (A) to the extent that it has not already
25 done so, attempt to identify, through an infor-
26 mational database search and through a search

1 of a commercially reasonable outside source, the
2 current address and other contact information,
3 such as a phone number or email address of a
4 participant or other beneficiary owed such a
5 distribution if the plan or other responsible fi-
6 duciary has reason to believe that contact infor-
7 mation of such participant or beneficiary avail-
8 able to the plan or the fiduciary is inaccurate;
9 and

10 (B) send a notice to the participant or ben-
11 eficiary entitled to such a distribution that—

12 (i) explains that the plan or other re-
13 sponsible fiduciary is in possession of the
14 distribution and that absent a timely re-
15 sponse from the participant or beneficiary,
16 the distribution will be transferred to the
17 State unclaimed property program of the
18 State where the participant or other party
19 last resided; and

20 (ii) provides instructions to the partic-
21 ipant or beneficiary to prevent the transfer
22 of the distribution to a State unclaimed
23 property program.

24 (2) FORM OF NOTICE.—For the purposes of
25 sending a notice described in paragraph (1)(B), the

1 plan administrator or other responsible fiduciary
2 may determine the form of sending such notice, so
3 long as such notice—

4 (A) is reasonably expected to reach the
5 participant or beneficiary; and

6 (B) is sent in a secure means, such as
7 through email, an online portal, or the mail,
8 and protects the personal information of par-
9 ticipants and beneficiaries.

10 (3) MAILING NOT REQUIRED.—The sending of
11 a notice described in paragraph (1) shall not be re-
12 quired if, following completion of the search required
13 by paragraph (1)(A), the search does not provide
14 updated contact information for a participant or
15 beneficiary.

16 (d) PLAN OR FIDUCIARY RELIEF.—Notwithstanding
17 any other provision of law, the administrator of a pension
18 plan or other fiduciary that satisfies the requirements of
19 this section and any applicable regulations when making
20 a transfer to a State unclaimed property program shall,
21 with respect to such transfer, be deemed to have satisfied
22 the requirements of sections 404(a) and 406 of the Em-
23 ployee Retirement Income Security Act of 1974 (29
24 U.S.C. 1104(a); 1106).

1 (e) INFORMATION SHARING MECHANISM.—For the
2 purposes of updating plan records and ensuring compli-
3 ance with section 404 of the Employee Retirement Income
4 Security Act of 1974 (29 U.S.C. 1104), the Secretary
5 shall make available to plan administrators a means of
6 verifying whether a distribution transferred under this sec-
7 tion to a State unclaimed property program has been
8 claimed by a participant or beneficiary.

9 (f) REPORT REQUIRED.—

10 (1) IN GENERAL.—Not later than 90 days after
11 the date of enactment of this Act, and every 90 days
12 thereafter, a plan fiduciary shall submit to the Sec-
13 retary of Labor a report that includes—

14 (A) with respect to each transfer of an un-
15 claimed retirement distribution to a State un-
16 claimed property program that has not been re-
17 ported to the Secretary—

18 (i) the name, social security number,
19 date of birth, and last known address of
20 the participant or beneficiary entitled to
21 the unclaimed retirement distribution, in-
22 cluding any applicable qualified domestic
23 relations order (as defined in section 206
24 (d)(3)(B)(i) of the Employee Retirement

1 Income Security Act of 1974 (29 U.S.C.
2 1056(d)(3)(B)(i));

3 (ii) the amount of the distribution
4 transferred;

5 (iii) the State to which the transfer
6 was made; and

7 (iv) the name of the plan or respon-
8 sible fiduciary who transferred the dis-
9 tribution; and

10 (B) with respect to any transfer of an un-
11 claimed retirement distribution to a State un-
12 claimed property program that has been
13 claimed by a participant or beneficiary, an iden-
14 tification of such transfer.

15 (2) REPORT NOT SUBJECT TO PUBLIC DISCLO-
16 SURE.—A report required under this subsection shall
17 not be subject to public disclosure under section 552
18 of title 5, United States Code.

19 (3) RETIREMENT SAVINGS LOST AND FOUND.—

20 (A) IN GENERAL.—The Secretary of Labor
21 shall include all information submitted under
22 paragraph (1) and any information received
23 pursuant to the mechanism established under
24 subsection (d) in the Retirement Savings Lost
25 and Found Database, established pursuant to

1 section 523 of the Employee Retirement Income
2 Security Act of 1974 (29 U.S.C. 1153).

3 (B) COLLECTED DISTRIBUTIONS.—From
4 the information received under this subsection,
5 indicate in such database the distributions that
6 were claimed by a participant or beneficiary.

7 (g) PARTICIPANT DATA.—A pension plan or fiduciary
8 will not violate section 404(a) of the Employee Retirement
9 Income Security Act and shall not be subject to liability
10 for transmitting participant data to a State unclaimed
11 property program through a national clearinghouse, pro-
12 vided that the pension plan or fiduciary exercises reason-
13 able care in making the transmittal.

14 (h) TREATMENT OF TRANSFER FOR PURPOSES OF
15 QUALIFIED TRUST RULES.—A trust forming part of a
16 pension plan shall not be treated as failing to constitute
17 a qualified trust under section 401 of the Internal Rev-
18 enue Code of 1986 merely because the pension plan of
19 which such trust is a part makes a transfer that meets
20 the requirements of this section and the regulations pro-
21 mulgated thereunder.

22 (i) CONGRESSIONAL REPORT.—Not later than 24
23 months after the promulgation of the regulation described
24 in subsection (a), the Secretary of Labor shall submit to
25 Congress a report—

1 (1) on the progress and effectiveness of the reg-
2 ulation; and

3 (2) any recommendations on how to improve
4 the regulation.

5 (j) DEFINITIONS.—In this Act:

6 (1) CONTACT INFORMATION.—The term “con-
7 tact information”, with respect to a participant or
8 beneficiary, means identifying information, including
9 a mailing address, phone number, or email address.

10 (2) ERISA TERMS.—In this Act, the terms
11 “administrator”, “fiduciary”, and “pension plan”
12 have the meanings given the terms in section 3 of
13 the Employee Retirement Income Security Act of
14 1974 (29 U.S.C. 1003).

15 (3) INFORMATIONAL DATABASE.—The term
16 “informational database” means a commercially
17 available database or a government-provided data-
18 base.

19 (4) OUTSIDE SOURCE.—The term “outside
20 source” means a commercial locator database, ad-
21 dress verification service, or a publicly or commer-
22 cially accessible database.

23 (5) STATE UNCLAIMED PROPERTY PROGRAM.—
24 As used in this Act, the term “State unclaimed
25 property program” means the statutory-based initia-

1 tive undertaken by the 50 State, the District of Co-
2 lumbia, Puerto Rico, and the United States Virgin
3 Islands to safeguard and return financial assets that
4 have become unclaimed or forgotten by their owners.

5 (6) UNCLAIMED RETIREMENT DISTRIBUTION.—

6 (A) IN GENERAL.—The term “unclaimed
7 retirement distribution” means—

8 (i) with respect to a pension plan that
9 has undergone or is in the process of ter-
10 mination, any distribution that has not
11 been cashed or otherwise claimed within
12 the 90-day period beginning on the date
13 that the distribution became payable; or

14 (ii) with respect to any other pension
15 plan, any single unpaid obligation owed to
16 a participant or beneficiary by such a pen-
17 sion plan that has not been cashed or oth-
18 erwise claimed for a 12-month period be-
19 ginning on the date that the such obliga-
20 tion became payable, and does not exceed
21 \$5,000, regardless of—

22 (I) the basis for the obligation;

23 (II) whether an attempt to dis-
24 tribute the obligation was returned as
25 undeliverable; or

1 (III) whether it has been pre-
2 viously reduced to a check or other
3 form of payment.

4 (B) MAXIMUM AMOUNT.—The Secretary of
5 Labor may, in their discretion, increase the
6 \$5,000 limit in clause (ii) of subparagraph (A).