

Setting Every Community Up  
for Retirement (SECURE) Act

Toolkit



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# The SECURE Act

SETTING EVERY COMMUNITY UP FOR RETIREMENT (SECURE) ACT

**The SECURE Act was signed into law on December 20, 2019, by President Donald Trump. The law improves the current retirement system and encourages increased retirement savings and financial awareness.**

## **Encourages Small Businesses to Offer Retirement Plans in the Workplace:**

- Allows employers to join together to offer retirement plans to employees. An estimated 700,000 new savers will be created.
- Establishes a credit which encourages small employers to sponsor a plan by providing them with up to \$5,000 towards start-up costs.
- Provides a \$500 enrollment credit for small employers who automatically enroll their employee in their retirement plan.

## **Encourages Worker Participation and Education:**

- Increases the cap on certain automatic contribution rates from 10 percent to 15 percent so employees can save more for retirement every year.
- Allows employers to take up to a \$1,500 credit to add auto-enrollment to a new or existing plan.
- Provides a retirement statement illustration that shows how a retirement savings account balance translates into monthly lifetime income in retirement.
- Provides part-time employees (employees who work less than 1,000 hours per year) with access to their employer's retirement savings plan.

## **Gives Retirement Savers Increased Flexibility and Choice:**

- Employers can offer retirement savings options that can guarantee income for life.
- Allows new families to take a penalty-free withdrawal from a retirement account for the qualified birth or adoption of a child.
- Allows people approaching retirement can wait to age 72 ½ (versus 70 ½) to draw down on their retirement accounts.

## **Provide Critical Protections to Retirement Savers:**

- Ensures 4 million pension holders do not lose their benefits.
- Protects more than 1,400 religious organizations so that they may continue to offer their employees a retirement plan in the workplace.

## **Makes Critical Improvements to the Tax Cuts and Jobs Act of 2017:**

- Corrects the tax bills for more than 18,000 Gold Star families so families of the fallen do not have to pay unfair taxation on their survivor benefits.
- Exempts from taxation the benefits of more than 500,000 volunteer firefighters and emergency medical services (EMS) personnel receive from their communities.

# The SECURE Act

SETTING EVERY COMMUNITY UP FOR RETIREMENT (SECURE) ACT

## A Path Forward for Small Business Retirement Coverage

The groundbreaking SECURE Act signed into law in December 2019 is full of innovative approaches that change the landscape for small employer access to retirement plans.

**700,000** small business employees can save for retirement

Up to **\$5,000 credit** for small businesses towards retirement plan start-up costs

**\$500 enrollment credit** for small businesses that auto enroll employees

Up to **\$1,500 credit** to add auto-enrollment to a new or existing plan

**Part-time employees get access** to employer's retirement plans

Plus, retirement savers have increased flexibility and choice:



Employers can offer retirement **savings options** that can guarantee income for life.



New families can take a **penalty-free withdrawal** from a retirement account for the qualified birth or adoption of a child.



People can **wait to age 72 ½** (versus 70 ½) to draw down on their retirement accounts.

# SECURE Act Social Media Guide for Congressional Offices

## Serving Constituents with the SECURE Act: Telling the Story on Social Media

### Individual Savers

Last year we worked hard to pass the #SECUREAct—now millions of Americans can better prepare for their futures. #Retirement

### Small Businesses

Thanks to the #SECUREAct, #smallbusinesses will have access to provide #retirement plans for employees. Find out more (link).

Because we passed the #SECUREAct, #smallbusinesses can band together to provide #retirement plans for employees—leading to at least 700k new savers nationwide.

### Meetings 1

Today I met with \_\_\_\_\_ to discuss how they will be able to provide #retirement plans to their employees thanks to the #SECUREAct.

### Meetings 2

Today I met with \_\_\_\_\_, to discuss the impact of the #SECUREAct on older workers' #retirement options.

### New Parents

Thanks to the #SECUREAct, parents can now take out up to \$5k from an IRA for the birth or #adoption of their child.

Proud to have voted for the #SECUREAct. Now families can get financial help after the birth or #adoption of their child. Learn more (here).

### Gold Star Families

Last year, Congress passed the #SECUREAct and fixed the inadvertent and unfair tax increases that more than 18,000 children and spouses in #GoldStarfamilies were paying on their survivor benefits.

### Older Workers

Last year we passed the #SECUREAct. Now older workers can save in an IRA after age 70. To learn more about #retirement savings and SECURE (link).

### Volunteer Emergency Responders

Proud to have voted for the #SECUREAct. Among many other benefits, it eliminates a tax on certain incentives for our brave volunteer firefighters and EMTs.

Thanks to the #SECUREAct, 500,000 volunteer firefighters and emergency medical technicians are expected to benefit by eliminating a tax on certain incentives.

### Student Loan Relief

Thanks to the #SECUREAct, you can take up to \$10k from 529 Plans to help pay for college loan expenses.

# SECURE Act Section by Section

## Summary Of The Setting Every Community Up For Retirement Enhancement (SECURE) Act of 2019

### TITLE I: Expanding and Preserving Retirement Savings

#### **SECTIONS 101. Increase Access for Workers in Small Companies to Retirement Plans by Authorizing Multiple Employer Defined Contribution Plans**

Multiple employer plans (MEPs) provide an opportunity for small employers to band together to obtain more favorable pension investment results and more efficient and less expensive management services. The legislation makes MEPs more attractive by eliminating outdated barriers to the use of MEPs and improving the quality of MEP service providers.

#### **SECTION 102. Expand Retirement Savings by Increasing the Auto Enrollment Safe Harbor Cap**

The legislation increases the cap from 10 to 15 percent of employee pay that required automatic escalation of employee deferrals go no higher than under an automatic enrollment safe harbor plan.

#### **SECTION 103. Simplification of Safe Harbor 401(k) Rules**

The legislation changes the nonelective contribution 401(k) safe harbor to provide greater flexibility, improve employee protection and facilitate plan adoption. The legislation eliminates the safe harbor notice requirement but maintains the requirement to allow employees to make or change an election at least once per year. The bill also permits amendments to nonelective status at any time before the 30th day before the close of the plan year. Amendments after that time would be allowed if the amendment provides (1) a nonelective contribution of at least four percent of compensation (rather than at least three percent) for all eligible employees for that plan year, and (2) the plan is amended no later than the last day for distributing excess contributions for the plan year, that is, by the close of following plan year.

#### **SEC. 104. Increase Credit Limitation for Small Employer Pension Plan Start-Up Costs**

Increasing the credit for plan start-up costs will make it more affordable for small businesses to set up retirement

plans. The legislation increases the credit by changing the calculation of the flat dollar amount limit on the credit to the greater of (1) \$500 or (2) the lesser of (a) \$250 multiplied by the number of nonhighly compensated employees of the eligible employer who are eligible to participate in the plan or (b) \$5,000. The credit applies for up to three years.

#### **SECTION 105. Small Employer Automatic Enrollment Credit**

Automatic enrollment is shown to increase employee participation and higher retirement savings. The legislation creates a new tax credit of up to \$500 per year to employers to defray startup costs for new section 401(k) plans and SIMPLE IRA plans that include automatic enrollment. The credit is in addition to the plan start-up credit allowed under present law and would be available for three years. The credit would also be available to employers that convert an existing plan to an automatic enrollment design.

#### **SECTION 106. Treat Certain Taxable Non-Tuition Fellowship and Stipend Payments as Compensation for IRA Purposes**

Stipends and non-tuition fellowship payments received by graduate and postdoctoral students are not treated as compensation and cannot be used as the basis for IRA contributions. The legislation removes this obstacle to retirement savings by taking such amounts that are includible in income into account for IRA contribution purposes. The change will enable these students to begin saving for retirement and accumulate tax-favored retirement savings.

#### **SECTION 107. Repeal of Maximum Age for Traditional IRA Contributions**

The legislation repeals the prohibition on contributions to a traditional IRA by an individual who has attained age 70½. As Americans live longer, an increasing number continue employment beyond traditional retirement age.

#### **SECTION 108. Qualified Employer Plans Prohibited from Making Loans through Credit Cards and Other Similar Arrangements**

The legislation prohibits the distribution of plan loans through credit cards or similar arrangements. The change will ensure

that plan loans are not used for routine or small purchases, thereby preserving retirement savings.

**SECTION 109. Portability of Lifetime Income Options**

The legislation permits qualified defined contribution plans, section 403(b) plans, or governmental section 457(b) plans to make a direct trustee-to-trustee transfer to another employer-sponsored retirement plan or IRA of lifetime income investments or distributions of a lifetime income investment in the form of a qualified plan distribution annuity, if a lifetime income investment is no longer authorized to be held as an investment option under the plan. The change will permit participants to preserve their lifetime income investments and avoid surrender charges and fees.

**SECTION 110. Treatment of Custodial Accounts on Termination of Section 403(b) Plans**

Under the provision, not later than six months after the date of enactment, Treasury will issue guidance under which if an employer terminates a 403(b) custodial account, the distribution needed to effectuate the plan termination may be the distribution of an individual custodial account in kind to a participant or beneficiary. The individual custodial account will be maintained on a tax-deferred basis as a 403(b) custodial account until paid out, subject to the 403(b) rules in effect at the time that the individual custodial account is distributed. The Treasury guidance shall be retroactively effective for taxable years beginning after December 31, 2008.

**SECTION 111. Clarification of Retirement Income Account Rules Relating to Church-Controlled Organizations**

The legislation clarifies individuals that may be covered by plans maintained by church-controlled organizations. Covered individuals include duly ordained, commissioned, or licensed ministers, regardless of the source of compensation; employees of a tax-exempt organization, controlled by or associated with a church or a convention or association of churches; and certain employees after separation from service with a church, a convention or association of churches, or an organization described above.

**SECTION 112. Allowing Long-term Part-time Workers to Participate in 401(k) Plans**

Under current law, employers generally may exclude part-time employees (employees who work less than 1,000 hours

per year) when providing a defined contribution plan to their employees. As women are more likely than men to work part-time, these rules can be quite harmful for women in preparing for retirement. Except in the case of collectively bargained plans, the bill will require employers maintaining a 401(k) plan to have a dual eligibility requirement under which an employee must complete either a one year of service requirement (with the 1,000-hour rule) or three consecutive years of service where the employee completes at least 500 hours of service. In the case of employees who are eligible solely by reason of the latter new rule, the employer may elect to exclude such employees from testing under the nondiscrimination and coverage rules, and from the application of the top-heavy rules.

**SECTION 113. Penalty-free Withdrawals from Retirement Plans for Individuals in Case of Birth or Adoption**

The legislation provides for penalty-free withdrawals from retirement plans for any “qualified birth or adoption distributions.”

**SECTION 114. Increase in Age for Required Beginning Date for Mandatory Distributions**

Under current law, participants are generally required to begin taking distributions from their retirement plan at age 70 ½. The policy behind this rule is to ensure that individuals spend their retirement savings during their lifetime and not use their retirement plans for estate planning purposes to transfer wealth to beneficiaries. However, the age 70 ½ was first applied in the retirement plan context in the early 1960s and has never been adjusted to take into account increases in life expectancy. The bill increases the required minimum distribution age from 70 ½ to 72.

**SECTION 115. Community Newspapers Pension Funding Relief**

Community newspapers are generally family-owned, non-publicly traded, independent newspapers. This provision provides pension funding relief for community newspaper plan sponsors by increasing the interest rate to calculate those funding obligations to 8%. Additionally, this bill provides for a longer amortization period of 30 years from 7 years. These two changes would reduce the annual amount struggling community newspaper employers would be required to contribute to their pension plan.



### **SECTION 116. Treating Excluded Difficulty of Care Payments as Compensation for Determining Retirement Contribution Limitations**

Many home healthcare workers do not have a taxable income because their only compensation comes from “difficulty of care” payments exempt from taxation under Code section 131. Because such workers do not have taxable income, they cannot save for retirement in a defined contribution plan or IRA. This provision would allow home healthcare workers to contribute to a plan or IRA by amending Code sections 415(c) and 408(o) to provide that tax-exempt difficulty of care payments are treated as compensation for purposes of calculating the contribution limits to defined contribution plans and IRAs.

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## **TITLE II: Administrative Improvements**

### **SECTION 201. Plans Adopted by Filing Due Date for Year May Be Treated as in Effect as of Close of Year**

The legislation permits businesses to treat qualified retirement plans adopted before the due date (including extensions) of the tax return for the taxable year to treat the plan as having been adopted as of the last day of the taxable year. The additional time to establish a plan provides flexibility for employers that are considering adopting a plan and the opportunity for employees to receive contributions for that earlier year and begin to accumulate retirement savings.

### **SECTION 202. Combined Annual Reports for Group of Plans**

The legislation directs the IRS and DOL to effectuate the filing of a consolidated Form 5500 for similar plans. Plans eligible for consolidated filing must be defined contribution plans, with the same trustee, the same named fiduciary (or named fiduciaries) under ERISA, and the same administrator, using the same plan year, and providing the same investments or investment options to participants and beneficiaries. The change will reduce aggregate administrative costs, making it easier for small employers to sponsor a retirement plan and thus improving retirement savings.

### **SECTION 203. Disclosure Regarding Lifetime Income**

The legislation requires benefit statements provided to defined contribution plan participants to include a lifetime

income disclosure at least once during any 12-month period. The disclosure would illustrate the monthly payments the participant would receive if the total account balance were used to provide lifetime income streams, including a qualified joint and survivor annuity for the participant and the participant’s surviving spouse and a single life annuity. The Secretary of Labor is directed to develop a model disclosure. Disclosure in terms of monthly payments will provide useful information to plan participants in correlating the funds in their defined contribution plan to lifetime income. Plan fiduciaries, plan sponsors, or other persons will have no liability under ERISA solely by reason of the provision of lifetime income stream equivalents that are derived in accordance with the assumptions and guidance under the provision and that include the explanations contained in the model disclosure.

### **SECTION 204. Fiduciary Safe Harbor for Selection of Lifetime Income Provider**

The legislation provides certainty for plan sponsors in the selection of lifetime income providers, a fiduciary act under ERISA. Under the bill, fiduciaries are afforded an optional safe harbor to satisfy the prudence requirement with respect to the selection of insurers for a guaranteed retirement income contract and are protected from liability for any losses that may result to the participant or beneficiary due to an insurer’s inability in the future to satisfy its financial obligations under the terms of the contract. Removing ambiguity about the applicable fiduciary standard eliminates a roadblock to offering lifetime income benefit options under a defined contribution plan.

### **SECTION 205. Modification of Nondiscrimination Rules to Protect Older, Longer Service Participation**

The legislation modifies the nondiscrimination rules with respect to closed plans to permit existing participants to continue to accrue benefits. The modification will protect the benefits for older, longer-service employees as they near retirement.

### **SECTION 206. Modification of PBGC Premiums for CSEC Plans**

In 2014, different funding rules were adopted for three types of pension plans: single-employer, multiemployer and CSEC plans. The legislation establishes individualized rules for calculating PBGC premiums. For CSEC plans, the legislation specifies flat-rate premiums of \$19 per participant, and variable rate premiums of \$9 for each \$1,000 of unfunded vested benefits.

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## TITLE III: Other Benefits

### **SECTION 301. Benefits for Volunteer Firefighters and Emergency Medical Responders**

The legislation reinstates for one year the exclusions for qualified State or local tax benefits and qualified reimbursement payments provided to members of qualified volunteer emergency response organizations and increases the exclusion for qualified reimbursement payments to \$50 for each month during which a volunteer performs services.

### **SECTION 302. Expansion of Section 529 Plans**

The legislation expands 529 education savings accounts to cover costs associated with registered apprenticeships; homeschooling; up to \$10,000 of qualified student loan repayments (including those for siblings); and private elementary, secondary, or religious schools.

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## TITLE IV: Revenue Provisions

### **SECTION 401. Modifications to Required Minimum Distribution Rules**

The legislation modifies the required minimum distribution rules with respect to defined contribution plan and IRA balances upon the death of the account owner. Under the legislation, distributions to individuals other than the surviving spouse of the employee (or IRA owner), disabled or chronically ill individuals, individuals who are not more than 10 years younger than the employee (or IRA owner), or child of the employee (or IRA owner) who has not reached the age of majority are generally required to be distributed by the end of the tenth calendar year following the year of the employee or IRA owner's death.

### **SECTION 402. Increase in Penalty for Failure to File**

The legislation increases the failure to file penalty to the lesser of \$400 or 100 percent of the amount of the tax due. Increasing the penalties will encourage the filing of timely and accurate returns which, in turn, will improve overall tax administration.

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## TITLE V:

### **SECTION 501. Modification of the rules relating to the taxation of unearned income of certain children**

Reduces taxes levied on children's military survivor benefits and certain other nonearned income. (Text from NAPA)

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## TITLE VI:

### **SECTION 601. Provisions relating to plan amendments**

Provides for a remedial plan amendment period until the 2022 plan year (2024 plan year for Section 414(d) governmental plans) or a later date if Treasury provides for any plan amendment required under the SECURE Act. (Text from NAPA)

### **SECTION 403. Increased Penalties for Failure to File Retirement Plan Returns**

The legislation modifies the failure to file penalties for retirement plan returns. The Form 5500 penalty would be modified to \$105 per day, not to exceed \$50,000. Failure to file a registration statement would incur a penalty of \$2 per participant per day, not to exceed \$10,000. Failure to file a required notification of change would result in a penalty of \$2 per day, not to exceed \$5,000 for any failure. Failure to provide a required withholding notice results in a penalty of \$100 for each failure, not to exceed \$50,000 for all failures during any calendar year. Increasing the penalties will encourage the filing of timely and accurate information returns and statements and the provision of required notices, which, in turn, will improve overall tax administration.

### **SECTION 404. Increase Information Sharing to Administer Excise Taxes**

The legislation allows the IRS to share returns and return information with the U.S. Customs and Border Protection for purposes of administering and collecting the heavy vehicle use tax.



# SECURE Act Implementation Dates Side by Side

Provision	Section	Description	Effective Date
<b>Multiple Employer Plans/ Pooled Employer Plans</b>	101	Removes existing barriers (commonality requirement) for open MEPs, creates Pooled Employer Plans, Eliminates one bad apple rule.	Plan years beginning after December 31, 2020
<b>Increase in 10 percent Cap for Automatic Enrollment Safe Harbor</b>	102	Increases cap from 10 to 15 percent of employee pay.	Plan years beginning after December 31, 2019
<b>Revised Rules Relating to Election of Safe Harbor 401(k) Status</b>	103	(1) Eliminates the safe harbor notice requirement with respect to nonelective 401(k) safe harbor plans; (2) permits a plan to be amended to become a nonelective 401(k) safe harbor plan at any date before the 30th day before the close of the plan year; and (3) permits a plan to be amended to become a nonelective 401(k) safe harbor plan after the 30th day before the close of the plan year if the plan is amended to provide for a nonelective contribution of at least four percent of compensation for all eligible employees and the amendment is made by the last day for distributing excess contributions for the plan year.	Plan years beginning after December 31, 2019
<b>Increase in Credit Limitation for Small Employer Pension Plan Start-up Costs</b>	104	Increases the credit by changing the calculation of the flat dollar amount limit on the credit to the greater of (1) \$500 or (2) the lesser of (a) \$250 multiplied by the number of non-highly compensated employees of the eligible employer who are eligible to participate in the plan or (b) \$5,000.	Taxable years beginning after December 31, 2019
<b>Encouraging Small Employer Automatic Enrollment</b>	105	Non-refundable \$500 annual credit, for three years, to employer adding auto-enrollment feature to an existing plan.	Taxable years beginning after December 31, 2019
<b>Treat Certain Taxable Non-Tuition Fellowship and Stipend Payments as Compensation for IRAs</b>	106	Currently not included for comp. purposes.	Taxable years beginning after December 31, 2019
<b>Repeal of Maximum Age for Traditional IRA Contributions</b>	107	Permits contributions after 70½	Taxable years beginning after December 31, 2019
<b>Plan Credit Card Loan Prohibition</b>	108	Prohibits the distribution of plan loans through credit cards.	This change would apply to loans made after the date of enactment
<b>Lifetime Income Portability</b>	109	To continue lifetime income protections in the event of a sponsor-initiated change, permits participants to roll over lifetime income options to an IRA that provides the same or similar lifetime income protection.	Taxable years beginning after December 31, 2019
<b>Treatment of Custodial Accounts: 403(b) Plan Terminations</b>	110	Directs Treasury to issue guidance to provide that, if an employer terminates a 403(b) account, the account can be distributed in kind to a participant or beneficiary.	Taxable years beginning after December 31, 2008
<b>Retirement Income Account Rules— Church Controlled Organizations</b>	111	Clarifies individual that may be covered by plans maintained by church-controlled organizations.	This change would apply to years beginning before, on, or after the date of enactment
<b>Long-Term Part-Time Worker Participation</b>	112	Requires employers maintaining a 401(k) plan to have a dual eligibility requirement under which an employee must complete either a one year of service requirement (with the 1,000-hour rule) or three consecutive years of service where the employee completes at least 500 hours of service. In the case of employees who are eligible solely	These changes would apply to plan years beginning after December 31, 2020, except that, for purposes of the new eligibility criteria, 12-month periods beginning before January 1, 2021 shall not be taken into account

## SECURE Act Implementation Dates Side by Side (continued)

Provision	Section	Description	Effective Date
<b>Penalty Free Withdrawals for Birth of Child or Adoption</b>	113	Up to \$5000 penalty-free withdrawals from retirement plans for any qualified birth or adoption.	This change would apply to distributions made after December 31, 2019
<b>Increased RMD Age</b>	114	Increases age from 70½ to 72.	This change would apply to distributions required to be made after December 31, 2019, with respect to individuals who attain age 70½ after such date
<b>Treating Difficulty of Care Payments as Compensation</b>	116	Allows home healthcare workers to contribute to a plan or IRA by amending Code sections 415(c) and 408(o) to provide that tax-exempt difficulty of care payments are treated as compensation for purposes of calculating the contribution limits to defined contribution plans and IRAs.	These changes would apply to plan years beginning after December 31, 2015.
<b>Plan Adopted by Filing Due Date for Year May be Treated as In Effect as of Close of Year</b>	201	Permits businesses to treat qualified retirement plans adopted before the due date (including extensions) of the tax return for the taxable year as having been adopted as of the last day of the taxable year	This change would apply to plans adopted for taxable years beginning after December 31, 2019
<b>Combined Annual Report for Group of Plans</b>	202	Directs the IRS and DOL to effectuate the filing of a consolidated Form 5500 for similar plans. Plans eligible for consolidated filing must be defined contribution plans, with the same trustee, the same named fiduciary (or named fiduciaries) under ERISA, and the same administrator, using the same plan year, and providing the same investments or investment options to participants and beneficiaries	The ability to file consolidated Forms 5500 shall be implemented no later than January 1, 2022, and shall apply to returns for plan years beginning after December 31, 2021
<b>Lifetime Income Disclosure</b>	203	Requires benefit statements provided to defined contribution plan participants to include a lifetime income disclosure at least once during any 12-month period. The disclosure would illustrate the monthly payments the participant would receive if the total account balance were used to provide lifetime income streams, including a qualified joint and survivor annuity for the participant and the participant's surviving spouse and a single life annuity. Directs the Secretary of Labor to develop a model disclosure.	The requirement to provide lifetime income disclosures would apply to benefit statements furnished more than 12 months after the latest of DOL's issuance of (1) interim final rules, (2) a model disclosure, or (3) permissible assumptions.
<b>Annuity Provider Selection Safe Harbor</b>	204	Clarification of the current safe harbor provision. Currently, employers are required to make a determination as to whether "an annuity provider is financially able to make all future payments under an annuity contract." Permits employers to rely upon the work of state insurance commissioners and specific representations from the insurer regarding the plan's status in relation to state insurance regulation and enforcement.	This change would take effect on the date of enactment.
<b>Nondiscrimination Rule Amendments to Protect Older, Longer Serving Employees</b>	102, 103, 112?	Modifies the nondiscrimination rules with respect to closed plans to permit existing participants to continue to accrue benefits.	
<b>Expansion of 529 Plans</b>	302	Expands 529 education savings accounts to cover costs associated with registered apprenticeships and up to \$10,000 of qualified student loan repayments.	This change would apply to distributions made after December 31, 2018