

## S 1979

### USA Retirement Funds Act

**Congress:** 113 (2013–2015, Ended)

**Chamber:** Senate

**Policy Area:** Labor and Employment

**Introduced:** Jan 30, 2014

**Current Status:** Read twice and referred to the Committee on Health, Education, Labor, and Pensions.

**Latest Action:** Read twice and referred to the Committee on Health, Education, Labor, and Pensions. (Jan 30, 2014)

**Official Text:** <https://www.congress.gov/bill/113th-congress/senate-bill/1979>

### Sponsor

**Name:** Sen. Harkin, Tom [D-IA]

**Party:** Democratic • **State:** IA • **Chamber:** Senate

### Cosponsors (3 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Brown, Sherrod [D-OH]	D · OH		Jan 30, 2014
Sen. Johnson, Tim [D-SD]	D · SD		Feb 6, 2014
Sen. Schatz, Brian [D-HI]	D · HI		Jun 3, 2014

### Committee Activity

Committee	Chamber	Activity	Date
Health, Education, Labor, and Pensions Committee	Senate	Referred To	Jan 30, 2014

### Subjects & Policy Tags

#### Policy Area:

Labor and Employment

### Related Bills

Bill	Relationship	Last Action
113 HR 5828	Related bill	<b>Dec 10, 2014:</b> Referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, 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.
113 HR 5792	Related bill	<b>Dec 4, 2014:</b> Referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, 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.

USA Retirement Funds Act - Requires each employer (except certain small employers, governments, and churches) that does not maintain a qualifying plan or arrangement meeting specified criteria for any part of a calendar year to make available to each qualifying employee for the calendar year an automatic USA Retirement Fund arrangement.

Defines an "automatic USA Retirement Fund arrangement" as one that covers each qualifying employee of the covered employer for the calendar year and under which a qualifying employee: (1) may elect to contribute to an automatic USA Retirement Fund through payroll deductions or other periodic direct deposits (including electronic payments), or to have such payments made to the employee directly in cash; (2) is treated as having made such an election in a certain amount unless the individual specifically elects not to have such contributions made or to have them made at a different percentage or in a different amount; and (3) may elect annually to modify the selection of the USA Retirement Fund to which contributions are made for such year.

Requires an employer to make all contributions on behalf of employees to the USA Retirement Fund the employee has specified, or to the one designated by the employer if the employee has not selected one.

Specifies requirements for the establishment of each USA Retirement Fund and its board of trustees.

Limits an employer's contribution to a Fund on behalf of each employee to \$5,000.

Requires a Fund to pay benefits in the form of an annuity meeting certain criteria.

Directs the Secretary of Labor (Secretary, unless otherwise provided) to recognize an independent, private Commission for USA Retirement Funds Funding to make recommendations on the funding of Funds.

Amends the Employee Retirement Income Security Act of 1974 (ERISA) to declare that an employer shall not be a fiduciary with respect to the selection, management, or administration of a USA Retirement Fund solely because it makes the Fund available through an automatic USA Retirement Fund arrangement. Affirms a participating employer's responsibility, however, for meeting enrollment requirements and transmitting contributions.

Prescribes civil monetary penalties and enforcement measures for employer failure to remit timely contributions to Automatic USA Retirement Fund arrangements, and criminal penalties for false statements.

Amends ERISA to treat a pooled employer plan, under which a single individual account plan provides benefits to the employees of two or more employers, as a single employee pension benefit plan or single pension plan without regard to whether the participating employers share a common interest other than participation in the plan.

Declares that a small employer that is a plan sponsor of an employee pension benefit plan shall not be liable for a breach of fiduciary responsibility of a small employer plan service provider with respect to the same plan if the small employer prudently selects and monitors the small employer plan named fiduciary.

Declares the sense of Congress that a person may be providing investment advice meeting specified requirements when advising a plan participant to take a permissible plan distribution, and such advice is combined with a recommendation as to how the distribution should be invested.

Directs the Comptroller General (GAO) to study the extent to which advisors, broker-dealers, and other financial professionals dealing with individual and employer-provided retirement plans are aware of, and receive ongoing training

regarding, specified fiduciary requirements.

Amends ERISA to require statements reporting a participant's benefit rights to illustrate the participant's benefit as an estimated lifetime income stream beginning at retirement.

Prescribes safe harbor criteria for a fiduciary to satisfy requirements for the selection of an insurer and lifetime retirement income contract.

Declares that the availability of annuity purchase rights, death benefit guarantees, investment guarantees, or other features in insurance contracts will not, in and of themselves, affect the status of a fund, product, or portfolio as a default investment.

Limits the liability of a named fiduciary or any appointing fiduciary for any act or omission of the annuity administrator of an individual account plan.

Amends ERISA and the Internal Revenue Code to prescribe requirements for treatment of a fixed annual crediting rate of 3% (or lower but not zero) for an applicable defined benefit plan (hybrid plan) as a reasonable minimum guaranteed rate of return.

Authorizes the Secretary of the Treasury to prescribe by regulation that a rate of return available in the market, and based exclusively or primarily on the returns on employer securities, on alternative investments generally not appropriate as an exclusive or primary investment for retirement, or on other similar investments, is not permitted if it: (1) is designed to evade the requirement that any interest credit (or an equivalent amount) for any plan year under the terms of an applicable defined benefit plan be at a rate not greater than a market rate of return, and (2) is not consistent with the purposes of a defined benefit plan.

Prescribes requirements to protect plan participants from retroactive benefit decreases and plan freezes.

Formulates a special rule for determining normal retirement age for certain existing defined benefit plans.

Prohibits the Pension Benefit Guaranty Corporation (PBGC) from bringing any new action against a plan sponsor to enforce before January 30, 2016, the (shutdown) liability of an employer that ceases operations at a facility and as a result more than 20% of the total number of its employees participating under a plan established and maintained by the employer are separated from employment. Directs GAO to study the effectiveness, fairness, and utility of such shutdown liability requirements.

Revises requirements for determination of the alternative funding target attainment percentage with respect to the prohibition against a single-employer plan's providing an unpredictable contingent event benefit if the adjusted funding target attainment percentage for a plan year is less than 60%, or would be less than 60% taking into account that specified occurrence. Requires the alternative funding target attainment percentage to be determined without regard to reductions by the amount of the prefunding balance and the funding standard carryover balance otherwise deemed for the value of plan assets in certain circumstances.

Revises or prescribes requirements for: (1) the method for determining changes for quarterly contributions, (2) a plan sponsor election to discount contributions from a final due date, (3) the timeliness of plan sponsor elections and notices, (4) multiemployer plan disclosures and reporting, (5) the payment of lump sum distributions in bankruptcy, (6) PBGC authority to institute proceedings to terminate a plan, and (7) appointment of the PBGC to administer a plan.

Directs the Secretary of Labor, the Secretary of the Treasury, and the PBGC jointly to establish an electronic database containing each: (1) defined benefit plan funding notice submitted to the PBGC by a multiemployer plan, (2) report submitted by a multiemployer plan with respect to whether it is in endangered and critical status or making scheduled progress in meeting the requirements of a funding improvement or rehabilitation plan, and (3) notice submitted to the Secretary of Labor and the PBGC by a multiemployer plan on whether it is or will be in endangered or critical status for a plan year.

Makes technical modifications to the formula for determining the liability of any person who is, on the date a single-employer plan is terminated in a distress termination or one otherwise instituted by the PBGC, a contributing sponsor of the plan, or a member of such a contributing sponsor's controlled group.

Authorizes the PBGC to apply to the appropriate U.S. district court for a decree enforcing a determination that a plan be terminated.

Authorizes the PBGC to issue regulations to require plan sponsors or plan administrators to maintain records necessary to enable them to determine benefits as of a plan termination date.

Repeals the requirement that the terminating date of a pension plan for PBGC purposes be the date the plan sponsor files for bankruptcy.

Authorizes the Secretary, if an accountant or accounting firm has engaged in any act or practice, or failed to act, in violation of requirements for the preparation and issuance of audit reports, or of professional standards, to issue an order to bar an accountant or accounting firm (or one of its divisions or components), on a temporary or permanent basis, from directly or indirectly engaging in specified activities relating to performing or supervising plan audits.

Requires a plan administrator to account separately for 50% of a participant's benefits during a specified segregation period if an action concerning such benefits is pending pursuant to a state domestic relations law.

Makes it unlawful for any person to discharge, fine, suspend, expel, or discriminate against any person because he has filed or made any oral or written complaint (including to a fiduciary, an employer, or the Secretary) in any inquiry or proceeding relating to ERISA or the Welfare and Pension Plans Disclosure Act.

## **Actions Timeline**

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- **Jan 30, 2014:** Introduced in Senate
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