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H. R. 1865

One Hundred Sixteenth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Thursday, the third day of January, two thousand and nineteen

An Act

Making further consolidated appropriations for the fiscal year ending September 30, 2020, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Further Consolidated Appropriations Act, 2020".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.
Sec. 4. Explanatory statement.
Sec. 5. Statement of appropriations.
Sec. 6. Availability of funds.
Sec. 7. Adjustments to compensation.
Sec. 8 Office of Management and Budget Reporting Requirements.

DIVISION A—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2020

Title I—Department of Labor
Title II—Department of Health and Human Services
Title III—Department of Education
Title IV—Related Agencies
Title V—General Provisions

DIVISION B—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2020

Title I—Agricultural Programs
Title II—Farm Production and Conservation Programs
Title III—Rural Development Programs
Title IV—Domestic Food Programs
Title V—Foreign Assistance and Related Programs
Title VI—Related Agencies and Food and Drug Administration
Title VII—General Provisions

DIVISION C—ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2020

Title I—Corps of Engineers—Civil
Title II—Department of the Interior
Title III—Department of Energy
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Title V—General Provisions

DIVISION D—DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2020

Title I—Department of the Interior

is the subject of an application under section 505(j) that uses different methods or operational means than the strategy required under subsection (a) for the applicable listed drug, or other application under section 505(j) with the same such listed drug, but achieves the same level of safety as such strategy.".

(g) RULE OF CONSTRUCTION.—Nothing in this section, the amendments made by this section, or in section 505–1 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1), shall be construed as—

(1) prohibiting a license holder from providing an eligible product developer access to a covered product in the absence of an authorization under this section; or

(2) in any way negating the applicability of a REMS with ETASU, as otherwise required under such section 505–1, with respect to such covered product.

DIVISION O—SETTING EVERY COMMUNITY UP FOR RETIREMENT ENHANCEMENT

SEC. 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Setting Every Community Up for Retirement Enhancement Act of 2019".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—EXPANDING AND PRESERVING RETIREMENT SAVINGS

Sec. 101. Multiple employer plans; pooled employer plans.
Sec. 102. Increase in 10 percent cap for automatic enrollment safe harbor after 1st plan year.
Sec. 103. Rules relating to election of safe harbor 401(k) status.
Sec. 104. Increase in credit limitation for small employer pension plan startup costs.
Sec. 105. Small employer automatic enrollment credit.
Sec. 106. Certain taxable non-tuition fellowship and stipend payments treated as compensation for IRA purposes.
Sec. 107. Repeal of maximum age for traditional IRA contributions.
Sec. 108. Qualified employer plans prohibited from making loans through credit cards and other similar arrangements.
Sec. 109. Portability of lifetime income options.
Sec. 110. Treatment of custodial accounts on termination of section 403(b) plans.
Sec. 111. Clarification of retirement income account rules relating to church-controlled organizations.
Sec. 112. Qualified cash or deferred arrangements must allow long-term employees working more than 500 but less than 1,000 hours per year to participate.
Sec. 113. Penalty-free withdrawals from retirement plans for individuals in case of birth of child or adoption.
Sec. 114. Increase in age for required beginning date for mandatory distributions.
Sec. 115. Special rules for minimum funding standards for community newspaper plans.
Sec. 116. Treating excluded difficulty of care payments as compensation for determining retirement contribution limitations.

TITLE II—ADMINISTRATIVE IMPROVEMENTS

Sec. 201. Plan adopted by filing due date for year may be treated as in effect as of close of year.
Sec. 202. Combined annual report for group of plans.
Sec. 203. Disclosure regarding lifetime income.

Sec. 204. Fiduciary safe harbor for selection of lifetime income provider.
Sec. 205. Modification of nondiscrimination rules to protect older, longer service participants.
Sec. 206. Modification of PBGC premiums for CSEC plans.

TITLE III—OTHER BENEFITS

Sec. 301. Benefits provided to volunteer firefighters and emergency medical responders.
Sec. 302. Expansion of section 529 plans.

TITLE IV—REVENUE PROVISIONS

Sec. 401. Modification of required distribution rules for designated beneficiaries.
Sec. 402. Increase in penalty for failure to file.
Sec. 403. Increased penalties for failure to file retirement plan returns.
Sec. 404. Increase information sharing to administer excise taxes.

TITLE V—TAX RELIEF FOR CERTAIN CHILDREN

Sec. 501. Modification of rules relating to the taxation of unearned income of certain children.

TITLE VI—ADMINISTRATIVE PROVISIONS

Sec. 601. Provisions relating to plan amendments.

TITLE I—EXPANDING AND PRESERVING RETIREMENT SAVINGS

SEC. 101. MULTIPLE EMPLOYER PLANS; POOLED EMPLOYER PLANS.

(a) QUALIFICATION REQUIREMENTS.—

(1) IN GENERAL.—Section 413 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(e) APPLICATION OF QUALIFICATION REQUIREMENTS FOR CERTAIN MULTIPLE EMPLOYER PLANS WITH POOLED PLAN PROVIDERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if a defined contribution plan to which subsection (c) applies—

"(A) is maintained by employers which have a common interest other than having adopted the plan, or

"(B) in the case of a plan not described in subparagraph (A), has a pooled plan provider,

then the plan shall not be treated as failing to meet the requirements under this title applicable to a plan described in section 401(a) or to a plan that consists of individual retirement accounts described in section 408 (including by reason of subsection (c) thereof), whichever is applicable, merely because one or more employers of employees covered by the plan fail to take such actions as are required of such employers for the plan to meet such requirements.

"(2) LIMITATIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any plan unless the terms of the plan provide that in the case of any employer in the plan failing to take the actions described in paragraph (1)—

"(i) the assets of the plan attributable to employees of such employer (or beneficiaries of such employees) will be transferred to a plan maintained only by such employer (or its successor), to an eligible retirement plan as defined in section 402(c)(8)(B) for each individual whose account is transferred, or to any other arrangement that the Secretary determines is appropriate, unless the Secretary determines it is in the

best interests of the employees of such employer (and the beneficiaries of such employees) to retain the assets in the plan, and

"(ii) such employer (and not the plan with respect to which the failure occurred or any other employer in such plan) shall, except to the extent provided by the Secretary, be liable for any liabilities with respect to such plan attributable to employees of such employer (or beneficiaries of such employees).

"(B) FAILURES BY POOLED PLAN PROVIDERS.—If the pooled plan provider of a plan described in paragraph (1)(B) does not perform substantially all of the administrative duties which are required of the provider under paragraph (3)(A)(i) for any plan year, the Secretary may provide that the determination as to whether the plan meets the requirements under this title applicable to a plan described in section 401(a) or to a plan that consists of individual retirement accounts described in section 408 (including by reason of subsection (c) thereof), whichever is applicable, shall be made in the same manner as would be made without regard to paragraph (1).

"(3) POOLED PLAN PROVIDER.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'pooled plan provider' means, with respect to any plan, a person who—

"(i) is designated by the terms of the plan as a named fiduciary (within the meaning of section 402(a)(2) of the Employee Retirement Income Security Act of 1974), as the plan administrator, and as the person responsible to perform all administrative duties (including conducting proper testing with respect to the plan and the employees of each employer in the plan) which are reasonably necessary to ensure that—

"(I) the plan meets any requirement applicable under the Employee Retirement Income Security Act of 1974 or this title to a plan described in section 401(a) or to a plan that consists of individual retirement accounts described in section 408 (including by reason of subsection (c) thereof), whichever is applicable, and

"(II) each employer in the plan takes such actions as the Secretary or such person determines are necessary for the plan to meet the requirements described in subclause (I), including providing to such person any disclosures or other information which the Secretary may require or which such person otherwise determines are necessary to administer the plan or to allow the plan to meet such requirements,

"(ii) registers as a pooled plan provider with the Secretary, and provides such other information to the Secretary as the Secretary may require, before beginning operations as a pooled plan provider,

"(iii) acknowledges in writing that such person is a named fiduciary (within the meaning of section 402(a)(2) of the Employee Retirement Income Security

Act of 1974), and the plan administrator, with respect to the plan, and

"(iv) is responsible for ensuring that all persons who handle assets of, or who are fiduciaries of, the plan are bonded in accordance with section 412 of the Employee Retirement Income Security Act of 1974.

"(B) AUDITS, EXAMINATIONS AND INVESTIGATIONS.—The Secretary may perform audits, examinations, and investigations of pooled plan providers as may be necessary to enforce and carry out the purposes of this subsection.

"(C) AGGREGATION RULES.—For purposes of this paragraph, in determining whether a person meets the requirements of this paragraph to be a pooled plan provider with respect to any plan, all persons who perform services for the plan and who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as one person.

"(D) TREATMENT OF EMPLOYERS AS PLAN SPONSORS.—Except with respect to the administrative duties of the pooled plan provider described in subparagraph (A)(i), each employer in a plan which has a pooled plan provider shall be treated as the plan sponsor with respect to the portion of the plan attributable to employees of such employer (or beneficiaries of such employees).

"(4) GUIDANCE.—

"(A) IN GENERAL.—The Secretary shall issue such guidance as the Secretary determines appropriate to carry out this subsection, including guidance—

"(i) to identify the administrative duties and other actions required to be performed by a pooled plan provider under this subsection,

"(ii) which describes the procedures to be taken to terminate a plan which fails to meet the requirements to be a plan described in paragraph (1), including the proper treatment of, and actions needed to be taken by, any employer in the plan and the assets and liabilities of the plan attributable to employees of such employer (or beneficiaries of such employees), and

"(iii) identifying appropriate cases to which the rules of paragraph (2)(A) will apply to employers in the plan failing to take the actions described in paragraph (1).

The Secretary shall take into account under clause (iii) whether the failure of an employer or pooled plan provider to provide any disclosures or other information, or to take any other action, necessary to administer a plan or to allow a plan to meet requirements applicable to the plan under section 401(a) or 408, whichever is applicable, has continued over a period of time that demonstrates a lack of commitment to compliance.

"(B) GOOD FAITH COMPLIANCE WITH LAW BEFORE GUIDANCE.—An employer or pooled plan provider shall not be treated as failing to meet a requirement of guidance issued by the Secretary under this paragraph if, before the issuance of such guidance, the employer or pooled plan provider complies in good faith with a reasonable

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