# COLONIAL SURETY COMPANY

## SECURE ACT SUMMARY

JANUARY 30, 2020

# KEY PROVISIONS OF THE 2019 SECURE ACT

*On December 20, 2019, the Setting Community Up for Retirement Enhancement Act of 2019 was signed into law. The Act will have dynamic impacts on retirement plans and their distribution. The following is a summary of the key provisions laid out in the Act.*

## PLAN COVERAGE FOR PART-TIME EMPLOYEES

Part-time workers who are 21 and older and worked a minimum of 500 hours in three consecutive 12-month periods must be included as participants of 401(k) plans. Part-time workers may be subject to other eligibility requirements.

## TRADITIONAL IRA CONTRIBUTION ALLOWABLE AT ANY AGE

At the start of the 2020 tax year, if employees have earned income, said employees are now able to add to their traditional IRA past the age of 70 ½. Furthermore, employees who do not require funds from either their employer sponsored retirement plans or their IRAs are given a period of tax-deferred growth. This change applies to workers who were not 70 ½ by December 31, 2019.

## NEW OPTIONS FOR "SAFE HARBOR" 401(K) PLANS

Participant notice qualifications for non-elective contribution is now eliminated for safe harbor 401(k) plans. The Act simplifies the safe harbor 401(k).

## OPEN MULTIPLE EMPLOYER PLANS

Unrelated companies are now safeguarded from the "one bad apple" rule and do not require "common interests" if the plan has a pooled plan provider. This applies to plan years commencing after December 31, 2019.

## TAX CREDITS FOR AUTO-ENROLLMENT

Employers are now entitled to a novel tax credit of up to $500 per year to cover startup expenses for new 401(k) plans and SIMPLE IRA plans, including automatic enrollment. The credit will be available to employers that transform an existing plan to  automatic enrollment.


## LIFETIME INCOME INVESTMENT AND DISCLOSURE

401(k) and other defined contribution plans are required to offer a disclosure to plan participants detailing how much lifetime income could be provided if the account balance is utilized to purchase a single lifetime annuity or a qualified joint and survivor annuity for the employee's surviving spouse.

## PENALTY INCREASES FOR NOTICES AND FORMS

Penalties have jumped for any notices or forms due subsequent to 2019. These include failing to file Form 8955-SSA which can be fined up to $250 per day but not to exceed $150,000, failing to file Form 5500 on time, fined up to $10 per day not to exceed $10,000, and failing to deliver income tax witholding notices, with a penalty of $100 per failure not to exceed $50,000.

## NEW EXCEPTION TO EARLY DISTRIBUTION PENALTY

Contribution plans such as 401(k) plans, 403(b) custodial account plans, and governmental 457(b) plans offer in-service distributions to plan participants who want to obtain a qualified adoption or birth distribution of up to $5,000 per child. This limit must be imposed across all plans sponsored by the same employer.

## PLAN LOANS CARD PAYMENT IS PROHIBITED

The new bill strictly bars payment of plan loans through the use of debit or credit cards. This provision is affective immediately.

## "STRETCH PAYMENTS" ARE NOW LIMITED

For defined contribution plan balances and IRAs, there is a new 10-year distribution maximum for death benefits to prevent account holders from stretching out payments over a period of time to non-spouse beneficiaries greater than 10 years younger than the participant. This does not apply to defined benefit plans. In cases where the non-spouse beneficiary is a minor, the period is extended to 10 years following the end of year in which the minor child becomes 18.

## NON-DISCRIMINATION TESTING RELIEF FOR BENEFIT PLANS

Availability has now been expanded for cross testing, including permitting cross-testing with specific matching contributions. The Act modifies the non-discrimination rule to protect longer-service participants.

## DELAY REQUIREMENT MINIMUM DISTRIBUTION

The Act raises the age when RMDs must start from age 70½ to 72. This provision applies to 401(k)s, 403(b), IRAs, and 457(b)plans. This modification only applies to people who turned 70½ in 2020 or later.



colonial
BONDS & INSURANCE