



Urge House Leadership to Put the Retire Through Ownership Act on the Floor for a Vote

LEGISLATION OVERVIEW

- The Retire Through Ownership Act is a bipartisan bill that allows ESOP fiduciaries to rely on independent valuation experts using longstanding IRS guidelines to value ESOP stock.
- This simple clarification would be a major catalyst for new ESOP formation and provide essential clarity for existing ESOPs after decades of uncertainty and litigation.
- **It passed the Senate and House Education and Workforce Committee unanimously.**
- ***It just needs a vote on the House Floor before being signed into law.***

BACKGROUND

- The Employee Retirement Income Security Act of 1974 (ERISA) created ESOPs and designated the Department of Labor (DOL) to oversee them as qualified retirement plans.
- A key decision for ESOP fiduciaries is the “good faith” determination of “fair market value” for company stock.
- ESOP appraisers generally follow longstanding, commonly accepted standards developed in the business valuation profession. Yet the DOL has never – in 50 years – clarified what a “good faith effort” looks like for ESOP fiduciaries, causing regulatory uncertainty on a key matter.
- Instead, the DOL pursued “regulation by litigation” through a vague, informal, sub-regulatory regime of investigations, lawsuits, and settlements – confusing and intimidating ESOP companies, employee owners, and ESOP professionals.
- The ESOP community must rely on a patchwork of documents and legal cases, including an unfinished regulation from 1988, numerous conflicting process agreements negotiated between DOL attorneys and individual companies, inconsistent court decisions, internal DOL guidance that the agency has never released to the public, and even media interviews where regulators suggest rules as if they were law.
- The SECURE 2.0 Act included a bipartisan mandate that the DOL finally end this regulatory vacuum with a notice and comment rulemaking – this mandate from Congress remains today.

RECENT REGULATORY AND LEGISLATIVE ACTIONS

- On September 4, 2025, the Office of Information and Regulatory Affairs (OIRA) included the rulemaking on this issue mandated by SECURE 2.0 in its official regulatory agenda.
- On September 17, 2025, the House companion bill (H.R. 5169) unanimously passed the Education and Workforce Committee.
- On October 9, 2025, the Senate unanimously passed the Retire Through Ownership Act (S. 2403) which would allow ESOP fiduciaries to make a good faith reliance on a business valuation provided by an independent valuation expert or business appraiser that has relied upon IRS Revenue Ruling 59–60.
- IRS Revenue Ruling 59-60 is a longstanding, established valuation methodology appraisers know and use.

SUMMARY

- The DOL's prior focus on enforcement without regulatory certainty has profoundly negative impacts:
 - It causes excessive and unnecessary costs, decreasing employee owners' retirement holdings.
 - It discourages business owners from forming new ESOPs, through fear of lawsuit or investigation.
- The Retire Through Ownership Act (S 2403/HR 5169) is a necessary first step, but ESOPs still require a specific rulemaking from the DOL to ensure regulatory clarity.

REQUEST

- **Urge House Leadership to put the Retire Through Ownership Act on the floor for a vote.**