

May 17, 2022

The Honorable Bobby Scott
Chairman
Education & Labor Committee
United States House of Representatives
1176 Rayburn House Office Building
Washington, DC 20515

The Honorable Virginia Foxx
Ranking Member
Education & Labor Committee
United States House of Representatives
2101 Rayburn House Office Building
Washington, DC 20515

Re: Letter of Opposition to the *Employee and Retiree Access to Justice Act*

Dear Chairman Scott and Ranking Member Foxx:

On behalf of the over 30,000 members of the American Retirement Association (ARA), we hereby express our opposition to the *Employee and Retiree Access to Justice Act of 2022*. We understand that this bill language will be included into a larger piece of legislation that the House Education & Labor Committee will consider for markup this week. The ARA opposes this bill because the bill will increase costs for a small business to operate a retirement plan and will lead to more frivolous lawsuits against plan sponsors. With the recent passage of SECURE 2.0 from the House of Representatives, we support measures that will increase the number of retirement plans provided to employees and are concerned with this measure that is counter to that approach.

The ARA is the coordinating entity for its five underlying affiliate organizations representing the full spectrum of America's private retirement system – the American Society of Enrolled Actuaries (ASEA), the American Society of Pension Professionals and Actuaries (ASPPA), the National Association of Plan Advisors (NAPA), the National Tax-Deferred Savings Association (NTSA), and the Plan Sponsor Council of America (PSCA). The ARA's members and the organizations they are affiliated with support 95 percent of all the defined contribution plans - such as 401(k) plans - in the United States. The ARA and its underlying affiliate organizations are diverse in the roles they play, but united in their dedication to the success of America's private retirement system.

The ARA's mission is to help American workers bolster their retirement security by facilitating well-designed workplace retirement savings plans. We do that by both educating and informing retirement benefits professionals, and by advocating for policies that give every working American the opportunity to achieve a comfortable retirement. Workplace retirement savings plans are successful for those that have access to them. These plans provide long term economic growth and build financial security for the middle class.

The *Employee and Retiree Access to Justice Act of 2022* amends the *Employee Retirement Income Security Act (ERISA)* to prohibit arbitration of claims and would prohibit discretionary clauses in all ERISA covered retirement plans. Oddly, collectively bargained multiemployer plans maintained by labor unions and more than one contributing employer are exempted from this prohibition. This change will simply result in more retirement plan administrative costs and litigation that will benefit the plaintiffs' bar but not every day working Americans who are saving for a secure retirement. This legislation only offers more deterrents to maintaining retirement plans and should be opposed.

Sincerely,

A handwritten signature in black ink, appearing to read "B.H. Graff". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Brian H. Graff, Esq. APM
Executive Director/CEO
American Retirement Association