

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Ryan M. Hamilton***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to amend the insurance law, in relation to providing protection to certain retirees from pension de-risking transactions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Ryan M. Hamilton</i>	<i>15th Essex</i>	<i>1/14/2025</i>

**HOUSE . . . . . No.**

[Pin Slip]

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Fourth General Court  
(2025-2026)**

An Act to amend the insurance law, in relation to providing protection to certain retirees from pension de-risking transactions.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Section 1. Short Title

2 This act shall be known and may be cited as the Pension De-Risking Act.

3 Section 2. Statement of Purpose

4 To provide protections to retirees whose pension benefits are transferred from a pension  
5 plan protected under the Employee Retirement Income Security Act (“ERISA”) to a substitute  
6 pension benefit provider such as an insurance company licensed and regulated under state law.

7 Section 3. Declaration of Legislative Findings and Intent

8 Retiree benefits under pension plans that were previously protected under ERISA are  
9 increasingly being transferred to insurance companies in pension de-risking or “pension  
10 stripping” transactions involving the purchase of group annuity contracts governed under state

11 law. State laws should be enacted or amended to provide reasonably equivalent protection to  
12 retirees in de-risking transactions who lose benefits Congress intended under ERISA.

#### 13 Section 4. Applicability

14 This Act shall apply to any insurance company or other benefit provider that issues a  
15 group annuity contract or other retirement funding vehicle governed by state law to replace  
16 pension plan benefits under a retirement plan previously governed by ERISA.

#### 17 Section 5. Regulatory Approval

18 All pension de-risking or pension stripping transactions that divest retirees of ERISA  
19 protections shall be approved by the Commissioner prior to implementation.

#### 20 Section 6. Third-Party Guaranty or Reinsurance

21 All de-risking transactions shall include supplemental protections in the form of a third  
22 party guaranty or reinsurance contract designed to equal the scope and breadth of the coverage  
23 provided by the Pension Benefit Guaranty Corporation (“PBGC”) under ERISA. Such third party  
24 guaranty or reinsurance arrangement shall cover disruptions or shortfalls in payments due to  
25 retirees in the event of an annuity provider insolvency up to limits that mirror PBGC coverage or  
26 as otherwise established by the Commissioner. Third party guaranty or reinsurance coverage  
27 amounts shall only payable when there is an actual reduction or delay in scheduled benefit  
28 payments to retirees. Third party guaranty arrangements and reinsurance contracts shall be  
29 designed to supplement and/or enhance state guaranty association contributions so as to avoid  
30 disruption and/or reduction of benefit payments to retirees whenever possible. Third party  
31 guaranty providers and reinsurers may assert statutory subrogation rights against insolvent

32 insurers and guaranty associations only after payment in full is made to retirees protected  
33 hereunder.

34 Section 7. Mandatory Disclosures

35 That the insurance laws of Massachusetts under Chapter 175 be amended to:

36 A. Require mandatory disclosures by the benefit provider to all retirees whose benefits  
37 are transferred in a pension de-risking or annuitization transaction to an insurance company or  
38 other benefit provider regulated under state law with the following information prior to the  
39 effective date of the transfer:

40 1. A detailed disclosure statement that contains information regarding the loss of federal  
41 ERISA protections, including PBGC protection and the applicable state laws that will govern  
42 their future annuity payments;

43 2. The amount, scope and conditions precedent for state guaranty association coverage or  
44 any supplemental coverage provided under state law in the event of an insurance company  
45 insolvency;

46 3. The extent to which annuity payments may become subject to creditor claims or  
47 avoidance actions by bankruptcy trustees;

48 4. Disclosure of any change in the tax treatment of retiree benefits under an annuity  
49 contract or other funding vehicle that replaces pension benefits under an ERISA protected plan;

50 5. Detailed information on the group annuity contract structure, including a schedule of  
51 all costs and expenses paid in connection with the transaction; and

52           6. A copy of any fairness opinions or solvency analysis done in connection with the  
53 choice of annuity or other benefit provider.

54           B. Require mandatory annual disclosures by the benefit provider to all retirees whose  
55 benefits are transferred to an insurance company or alternative benefit provider in a de-risking  
56 transaction of at least the following:

57           1. Funding levels of all assets relative to expected liabilities under the assumed pension  
58 benefit schedules;

59           2. Investment performance summary by asset class;

60           3. Investment performance detail by asset class;

61           4. Expenses associated with any group annuity contract which shall include payments  
62 made to retirees and administrative expenses;

63           5. Changes in actuarial assumptions, if any; and

64           6. A list of all disclosure materials filed with the state Insurance Department and  
65 procedures for obtaining copies of any such materials at a reasonable cost to retirees.

66           Section 8. Opt Out Option

67           Retirees subject to pension de-risking transactions shall receive at least 90 days' prior  
68 written notice and an opportunity to opt out from any pension de-risking transaction that attempts  
69 to transfer retiree benefits from an ERISA protected plan to a substitute pension benefit provider  
70 governed under state law. Retirees choosing to opt out of any de-risking transaction shall be  
71 given other options by the annuity provider at least one of which shall include an upfront lump

72 sum payout of the net present value of the individual retiree's future benefits discounted at a rate  
73 no greater than 200 basis points over the average for the 10 year United States Treasury Note  
74 over the preceding 90 day period.

75 Section 9. Assets for Benefit of Retirees

76 Insurance companies, annuity providers, and other benefit providers that replace pension  
77 plans in de-risking transactions shall hold retiree assets in trust for the benefit of the retirees.

78 Section 10. Creditor protections for annuity payments

79 Annuity payments under group annuity contracts that replace pension benefits under  
80 ERISA protected defined benefit plans shall be exempt from the claims of creditors and  
81 bankruptcy trustees other than claims arising under a qualified domestic relations order.

82 Section 11. Lump sum options for retirees

83 Retirees subject to pension de-risking transactions shall have the right to request a lump  
84 sum cash out option at transfer and at regular intervals thereafter provided the retiree can certify  
85 that they received independent legal or financial advice regarding the tax consequences and  
86 dissipation risks associated with lump sum distributions.

87 Section 12. Subsequent transfers

88 No group annuity contract issued in connection with a de-risking transaction can be  
89 subsequently transferred by the owner or annuity provider without prior written approval by the  
90 Commissioner which approval shall be conditioned upon a favorable solvency analysis obtained  
91 from an independent entity approved by the Commissioner.

92           Section 13. Retiree Disclosure Notice

93           Every insurer or other benefit provider to which this Act applies shall mail or cause to be  
94 mailed to every annuitant, retiree, policyholder or subscriber, within 90 days of the effective date  
95 of this Act, a notice regarding the Act's provisions. The form of such notice shall be prescribed  
96 by the Commissioner.

97           Section 14. Regulations

98           The Commissioner is empowered to promulgate regulations necessary for the  
99 implementation of this Act, including fines, assessments or penalties for failure to comply with  
100 this Act.

101          Section 15. Effective Date

102          This Act shall take effect 90 days subsequent to its enactment and shall apply to any  
103 pension de-risking or annuitization transaction that has the effect of divesting retirees of ERISA  
104 protections.