

Section 127.

(last updated 1/10/2024)

Title: Emergency savings accounts linked to individual account plans

Effective Date: Effective for plan years beginning after December 31, 2023.

Mandatory or Optional: Optional

Plans Affected: All

Previous Law: Some employers have begun offering emergency savings accounts (“ESAs”) both inside and outside qualified plans. The “in plan” approach is complicated by a lack of clarity with respect to certain ERISA and Code issues.

SECURE 2.0 Law: Permits a plan sponsor to amend its plan to offer short-term emergency savings accounts (“ESAs”) as part of a defined contribution plan. ESAs must be funded post-tax with Roth contributions, and participants may be automatically enrolled at a rate of up to 3% of compensation. Contributions are capped at \$2500 (indexed for inflation) or a lower amount determined by the sponsor, and there cannot be minimum contribution or balance requirements. Participants must be allowed to take at least one withdrawal per month, and the first four withdrawals per year cannot be subject to fees. ESAs may be invested in cash, interest bearing deposit accounts, and principal preservation accounts, and there is a fiduciary safe harbor for automatic enrollment.

Guidance and/or Correction Bills:

- None

NAGDCA Action:

- [1/10/24 Technical Corrections Letter](#)
- [10/24/23 NAGDCA Comment Letter](#)
- [3/23/23 Letter to IRS and Treasury](#)

Question & Answer (last updated 4/4/2023)

All answers marked with an asterisk () are pending verification from the IRS.*

Does this section override state anti-garnishment laws to allow plans to automatically enroll participants into a pension-linked savings account (PLESA)?

- *No. While this section of the law does preempt state anti-garnishment laws, it does not apply to government plans because of the way it was drafted. Only plans that can currently auto enroll participants into their DC retirement plan can auto enroll participants into PLESAs.*

This section of SECURE 2.0 was written as an amendment to ERISA. Does that mean government plans cannot use PLESAs?

- *No. We believe government plans can still offer PLESAs consistent with the terms of Section 801 of ERISA, while not being subject to ERISA. We are asked for clarification on this issue in our 3/27 letter to the IRS.**

Additional Resources:

- [NAGDCA Emergency Savings Provision Webinar \(03/15/23\)](#)