

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 6084  
OFFERED BY MR. FINE OF FLORIDA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “ERISA Litigation Re-  
3 form Act of 2026”.

**4 SEC. 2. PLEADING STANDARD.**

5 Section 502 of the Employee Retirement Income Se-  
6 curity Act of 1974 (29 U.S.C. 1132) is amended by adding  
7 at the end the following:

8 “(n) For the purpose of any civil action under this  
9 section alleging that a fiduciary caused a plan to engage  
10 in a transaction that violates subparagraph (C) or (D) of  
11 section 406(a)(1), a plaintiff has the burden of plausibly  
12 alleging and proving that the transaction is not exempt  
13 under section 408(b)(2).

14 “(o) For the purpose of any civil action under this  
15 section alleging that a fiduciary caused a plan to engage  
16 in a transaction that violates section 406 with respect to  
17 the purchase or sale of qualified employer securities, a

1 plaintiff has the burden of plausibly alleging and proving  
2 that the transaction is not exempt under section 408(e).

3 “(p)(1) For the purpose of any civil action under this  
4 section against a plan or its fiduciaries, all discovery and  
5 other proceedings shall be stayed during the pendency of  
6 a motion brought under Rule 12 of the Federal Rules of  
7 Civil Procedure or pending any reply to an answer under  
8 Rule 7(a)(7) of the Federal Rules of Civil Procedure, un-  
9 less the court finds, upon the motion of any party, that  
10 particularized discovery is necessary to preserve evidence  
11 or to prevent undue prejudice to that party.

12 “(2) During the pendency of any stay of discovery  
13 pursuant to this subsection, unless otherwise ordered by  
14 the court or if doing so is contrary to the party’s document  
15 preservation obligations under the Federal Rules of Civil  
16 Procedure, any party to the action with actual knowledge  
17 of the allegations contained in the complaint shall treat  
18 all documents, data compilations (including electronically  
19 recorded or stored data), and tangible objects that are in  
20 the possession, custody, or control of such person and that  
21 the person would reasonably believe are relevant to the al-  
22 legations, as if they were the subject of a continuing re-  
23 quest for production of documents from an opposing party  
24 under the Federal Rules of Civil Procedure. A party’s doc-  
25 ument preservation obligations under this paragraph ex-

1 tend to all documents held by custodians (such as record-  
2 keepers) that are in the possession, custody, or control of  
3 the plan or the party.

4 “(3) A party aggrieved by the willful failure of an  
5 opposing party to comply with paragraph (2) may apply  
6 to the court for an order awarding appropriate sanctions.

7 “(4) Upon a proper showing, a court may stay dis-  
8 covery proceedings in any civil action in a State court as  
9 necessary in aid of its jurisdiction, or to protect or effec-  
10 tuate its judgments, in an action subject to a stay of dis-  
11 covery pursuant to this subsection.”.

