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**RETIREMENT DEATH BENEFITS AND
DIVORCE REVISIONS**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Lorie D. Fowlke

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act by allowing certain life insurance benefits to be split in the case of a court order due to a divorce.

Highlighted Provisions:

This bill:

- ▶ defines benefits that are subject to a domestic relations order to include a death benefit provided under a group insurance policy in order to allow the group insurance policy to be split along with other retirement benefits as part of a domestic relations order issued by a court for the division of assets; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-11-612, as last amended by Laws of Utah 2007, Chapter 130

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **49-11-612** is amended to read:

49-11-612. Domestic relations order benefits -- Nonassignability of benefits or

30 payments -- Exemption from legal process.

31 (1) As used in this section, "domestic relations order benefits" means:

32 (a) an allowance;

33 (b) a defined contribution account established under Title 49, Chapter 11, Part 8,

34 Defined Contribution Plans;

35 (c) a continuing monthly death benefit established under:

36 (i) Title 49, Chapter 14, Part 5, Death Benefit;

37 (ii) Title 49, Chapter 15, Part 5, Death Benefit;

38 (iii) Title 49, Chapter 16, Part 5, Death Benefit;

39 (iv) Title 49, Chapter 17, Part 5, Death Benefit;

40 (v) Title 49, Chapter 18, Part 5, Death Benefit; or

41 (vi) Title 49, Chapter 19, Part 5, Death Benefit;

42 (d) a death benefit provided under a group insurance policy under;

43 (i) Title 49, Chapter 12, Part 5, Death Benefit; or

44 (ii) Title 49, Chapter 13, Part 5, Death Benefit; or

45 (e) a refund of member contributions upon termination.

46 ~~[(1)]~~ (2) Except as provided in Subsections ~~[(2), (3), and (4)]~~ (3), (4), and (5), the right
47 of any member, retiree, participant, covered individual, or beneficiary to any retirement benefit,
48 retirement payment, or any other retirement right accrued or accruing under this title and the
49 assets of the funds created by this title are not subject to alienation or assignment by the
50 member, retiree, participant, or their beneficiaries and are not subject to attachment, execution,
51 garnishment, or any other legal or equitable process.

52 ~~[(2)]~~ (3) The office may, upon the request of the retiree, deduct from the retiree's
53 allowance insurance premiums or other dues payable on behalf of the retiree, but only to those
54 entities that have received the deductions prior to February 1, 2002.

55 ~~[(3)]~~ (4) (a) The office shall provide for the division of ~~[an allowance, defined~~
56 ~~contribution account, continuing monthly death benefit, or refund of member contributions upon~~
57 ~~termination to former spouses and family members under an order of a court of competent~~

58 ~~jurisdiction with respect to domestic relations matters on file with the office]~~ domestic relations
59 order benefits with former spouses and family members under an order of a court of competent
60 jurisdiction with respect to domestic relations matters on file with the office.

61 (b) The court order shall specify the manner in which the [~~allowance, defined~~
62 ~~contribution account, continuing monthly death benefit, or refund of member contributions]~~
63 domestic relations order benefits shall be partitioned, whether as a fixed amount or as a
64 percentage of the benefit.

65 (c) [~~Allowances, continuing monthly death benefits, and refunds of member~~
66 ~~contributions]~~ Domestic relations order benefits split under a domestic relations order are
67 subject to the following:

68 (i) the amount to be paid or the period for which payments shall be made under the
69 original domestic relations order may not be altered if the alteration affects the actuarial
70 calculation of the allowance;

71 (ii) payments to an alternate payee shall begin at the time the member or beneficiary
72 begins receiving payments; and

73 (iii) the alternate payee shall receive payments in the same form as allowances received
74 by the member or beneficiary.

75 (d) A court order under this section may not be issued more than 12 months after the
76 death of the member.

77 [~~(4)~~] (5) In accordance with federal law, the board may deduct the required amount
78 from any benefit, payment, or other right accrued or accruing to any member of a system, plan,
79 or program under this title to offset any amount that member owes to a system, plan, or
80 program administered by the board.

81 [~~(5)~~] (6) The board shall make rules to implement this section.