

1 ENGROSSED SENATE
2 BILL NO. 462

By: Brinkley of the Senate

and

3 McDaniel (Randy) of the
4 House

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7 An Act relating to retirement; amending Section 11,
8 Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2014, Section
9 935.11), which relates to qualified domestic orders;
10 modifying certain payment requirements; and providing
11 an effective date.

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY Section 11, Chapter 375, O.S.L.
14 2014 (74 O.S. Supp. 2014, Section 935.11), is amended to read as
15 follows:

16 Section 935.11. A. Except as otherwise provided by this
17 section or in subsection D of Section ~~5~~ 935.5 of this ~~act~~ title, no
18 alteration, amendment, or repeal of this act shall affect the then-
19 existing rights of participating employees and beneficiaries, but
20 shall be effective only as to rights which would otherwise accrue
21 hereunder as a result of services rendered by an employee after such
22 alteration, amendment, or repeal. Any benefits, fund, property, or
23 rights created by or accruing to any person under the provisions of
24 this act shall not be subject to execution, garnishment or

1 attachment, or any other process or claim whatsoever, and shall be
2 unassignable, except as specifically provided by this section.

3 Notwithstanding the foregoing, the Board may offset any amounts held
4 by a participant in the plan or beneficiary to pay a judgment or
5 settlement against a participating employee or beneficiary for a
6 crime involving the System, for a fraud or breach of the
7 participating employee's fiduciary duty to the System, or for funds
8 or monies incorrectly paid to a participating employee or a
9 beneficiary, provided such offset is in accordance with the
10 requirements of Section 401(a)(13) or similar provisions of the
11 Internal Revenue Code. The offset applies to any assets held in the
12 plan which may otherwise be payable to a participating employee or
13 beneficiary from the plan administered by the Board.

14 B. 1. The provisions of subsection A of this section shall not
15 apply to a qualified domestic order as provided pursuant to this
16 subsection.

17 2. The term "qualified domestic order" means an order issued by
18 a district court of this state pursuant to the domestic relation
19 laws of the State of Oklahoma which relates to the provision of
20 marital property rights to a spouse or former spouse of a
21 participating employee or provision of support for a minor child or
22 children and which creates or recognizes the existence of the right
23 of an alternate payee, or assigns to an alternate payee the right,
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1 to receive a portion of the funds payable with respect to a
2 participant in the plan.

3 3. For purposes of the payment of marital property, to qualify
4 as an alternate payee a spouse or former spouse must have been
5 married to the related participating employee for a period of not
6 less than thirty (30) continuous months immediately preceding the
7 commencement of the proceedings from which the qualified domestic
8 order issues.

9 4. A qualified domestic order is valid and binding on the Board
10 and the related participating employee only if it meets the
11 requirements of this subsection.

12 5. A qualified domestic order shall clearly specify:

- 13 a. the name and last-known mailing address (if any) of
14 the participating employee and the name and mailing
15 address of the alternate payee covered by the order,
 - 16 b. the amount or percentage of the participating
17 employee's funds or assets to be paid by the System to
18 the alternate payee,
 - 19 c. the number of payments or period to which such order
20 applies,
 - 21 d. the characterization of the benefit as to marital
22 property rights or child support, and
 - 23 e. each plan to which such order applies.
- 24

1 6. A qualified domestic order meets the requirements of this
2 subsection only if such order:

3 a. does not require the System to provide any type or
4 form of benefit, or any option not otherwise provided
5 under state law as relates to the System,

6 b. does not require the System to provide increased
7 benefits, and

8 c. does not require the payment of funds or assets to an
9 alternate payee which are required to be paid to
10 another alternate payee pursuant to another order
11 previously determined to be a qualified domestic order
12 or an order recognized by the System as a valid order
13 prior to ~~the effective date of this act~~ November 1,
14 2014.

15 ~~7. A qualified domestic order shall not require payment of~~
16 ~~funds or assets to an alternate payee prior to the actual permitted~~
17 ~~distribution date or withdrawal of the related participating~~
18 ~~employee.~~

19 ~~8. The obligation of the System to pay an alternate payee~~
20 ~~pursuant to a qualified domestic order shall cease upon the death of~~
21 ~~the related participating employee.~~

22 9. This subsection shall not be subject to the provisions of
23 the Employee Retirement Income Security Act of 1974 (ERISA), 29
24 U.S.C.A., Section 1001 et seq., as amended from time to time, or

1 rules and regulations promulgated thereunder, and court cases
2 interpreting ~~said~~ the act.

3 ~~10.~~ 8. The Board shall promulgate such rules as are necessary
4 to implement the provisions of this subsection.

5 ~~11.~~ 9. An alternate payee who has acquired beneficiary rights
6 pursuant to a valid qualified domestic order must fully comply with
7 all provisions of the rules promulgated by the Board pursuant to
8 this subsection in order to continue receiving his or her benefit.

9 SECTION 2. This act shall become effective November 1, 2015.

10 Passed the Senate the 24th day of February, 2015.

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12 _____
13 Presiding Officer of the Senate

14 Passed the House of Representatives the ____ day of _____,
15 2015.

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18 Presiding Officer of the House
19 of Representatives
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