

2024 -- H 7409

LC004625

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES -- RETIREMENT SYSTEM --
CONTRIBUTIONS AND BENEFITS

Introduced By: Representative Jacquelyn M. Baginski

Date Introduced: January 31, 2024

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 36-10 of the General Laws entitled "Retirement System —
2 Contributions and Benefits" is hereby amended by adding thereto the following section:

3 **36-10-41. Protection of benefits payable upon death or disability of a state or federal**
4 **employee.**

5 (a) For purposes of this section the following terms shall have the following meanings:

6 (1) "Benefit" means a payment whether a lump sum or a series of payments. A benefit may
7 be due as a death benefit, survivor pension, return of contributions, distribution of an account
8 balance, or any other payment due to the death or disability of a participant as defined herein.

9 (2) "Beneficiary" means a person, estate, trust, or other entity entitled to a benefit as the
10 result of the death or disability of a participant as that term is defined herein.

11 (3) "Participant" means a person who was or is a state or federal employee eligible to
12 participate in one of the following programs:

13 (i) The Federal Employees Retirement System (FERS);

14 (ii) The Civil Service Retirement System (CSRS);

15 (iii) The federal Thrift Savings Program (TSP);

16 (iv) Veterans pension;

17 (v) A retirement benefit pursuant to 28 U.S.C. § 371;

18 (vi) A defined benefit plan administered by the Rhode Island retirement board pursuant to

1 titles 16, 36 or 45;

2 (vii) A defined contribution plan established pursuant § 36-9-10.3; or

3 (viii) A defined benefit plan qualifying under 26 U.S.C. §§ 401(a), 414(d) and 414(k)

4 administered by a municipality pursuant to any act of the general assembly or pursuant to title 45.

5 (b) Any benefit due to any beneficiary shall be exempt from lien, attachment, or

6 garnishment and shall not be transferable or assignable; provided, however, that any governmental

7 agency which may have a claim on money due from one of its employees related to their

8 employment in the agency shall have the right to the payment at the time any refund of contributions

9 is made to the participant or beneficiary and the provisions of this section shall not act to defeat a

10 lien or order for spousal or child support.

11 (c) A beneficiary may disclaim any right to receive all or part of their benefits as follows:

12 (1) If the beneficiary disclaiming all or any part of the benefits is a minor, the parent or

13 guardian of the minor shall sign the disclaimer.

14 (2) Notwithstanding the provisions of chapter 3 of title 33, in the event of the death or

15 incapacity of a beneficiary, the guardian, executor, executrix, administrator, administratrix or

16 personal representative of the beneficiary shall be authorized to execute the disclaimer subject only

17 to the limitations in this section.

18 (3) The disclaimer shall expressly state that the beneficiary is disclaiming their right to

19 receive all or a specified percentage of the benefit payable from the account or plan of the named

20 participant and shall be:

21 (i) Submitted in writing;

22 (ii) Signed or acknowledged in the presence of a notary public, by the beneficiary or the

23 legal representative of the beneficiary disclaiming the benefit; and

24 (iii) Received by the plan administrator before payment of the benefit.

25 (4) A disclaimer is invalid if it:

26 (i) Is revocable;

27 (ii) Directs to whom the disclaimed benefit should be paid; or

28 (iii) Specifies which balance or fund, such as traditional, Roth or tax-exempt, is disclaimed.

29 (5) The disclaimed benefit or the disclaimed portion thereof will be paid as though the

30 beneficiary predeceased the participant. Any part of the benefit which is not disclaimed will be paid

31 to the beneficiary.

32 (6) Insofar as similar language is used, the provisions of subsection (d) of this section shall

33 be interpreted in a similar way as the provisions of 5 C.F.R. § 1651.17 to provide uniformity in

34 interpretation among the agencies and courts of the federal government and the several states.

1 (d) The provisions of subsections (b) and (c) of this section shall be applicable to prevent
2 any lien from arising or attaching under chapter 8 of title 40 and/or dissolve and prevent the
3 reattachment of any lien in the event a valid disclaimer is made.

4 (e) The provisions of this sections shall be read to provide additional powers to guardians
5 and shall not act to limit the provisions of § 33-15-37.1.

6 (f) Any guardianship or estate opened in any probate court to administer the property or
7 rights of a decedent that was pending at the time of the passage of this section or that is pending on
8 appeal to the superior court or supreme court and qualifies under this section shall be eligible to
9 take advantage of the provisions of this section.

10 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES -- RETIREMENT SYSTEM --
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1 This act would provide that any benefit that a beneficiary is entitled to shall be exempt
2 from lien, attachment or garnishment and would not be transferable or assignable and provides
3 provisions for disclaiming any such benefit with regard to benefits paid upon the death or disability
4 of a state or federal employee.

5 This act would take effect upon passage.

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