

House Engrossed

~~technical correction; occupational safety; exemption~~
(now: pensions; domestic relations orders)

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2433

AN ACT

AMENDING SECTIONS 38-773, 38-822, 38-860 AND 38-910, ARIZONA REVISED
STATUTES; RELATING TO STATE RETIREMENT PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-773, Arizona Revised Statutes, is amended to
3 read:

4 38-773. Benefit payments to alternate payee under acceptable
5 domestic relations order; termination of marriage;
6 revocation of beneficiary designation; definitions

7 A. The board shall review any domestic relations order to which a
8 member is a party and that is submitted to the board to determine if the
9 domestic relations order is acceptable under this section. After a
10 determination that a domestic relations order is acceptable under this
11 section, the board shall notify the member and the named alternate payee
12 of ~~its~~ THE BOARD'S acceptance of the domestic relations order, and ASRS
13 shall pay benefits in accordance with the applicable requirements of the
14 order.

15 B. An acceptable domestic relations order shall:

16 1. Not require the board to provide any type, form or time of
17 payment of severance, survivor or retirement benefits or any severance,
18 survivor or retirement benefit option that is not provided under this
19 article.

20 2. VALUE THE MEMBER'S BENEFIT ON THE EARLIEST DATE OF SERVICE OF
21 THE PETITION FOR ANNULMENT, DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION.

22 C. An acceptable domestic relations order shall specify all of the
23 following:

24 1. The name and last known mailing address of the member.

25 2. The name and last known mailing address of each alternate payee
26 WHO IS covered by the order.

27 3. The method of determining the amount of the member's severance,
28 survivor or retirement benefits to be paid by ASRS to each alternate payee
29 covered by the order.

30 4. The number of payments or period to which the order applies.

31 D. Except as provided by the express terms of a domestic relations
32 order, the divorce or annulment of a member's marriage revokes any
33 revocable:

34 1. Disposition or appointment of benefits made by a divorced member
35 to that member's former spouse or to a relative of the divorced member's
36 former spouse in an instrument executed by the member before the divorce
37 or annulment of the member's marriage to the former spouse.

38 2. Provision in an instrument executed by the member before the
39 divorce or annulment of the member's marriage to the former spouse
40 conferring any power or right on the divorced member's former spouse or on
41 a relative of the divorced member's former spouse.

42 E. ASRS shall give effect to provisions of an instrument executed
43 by a member before the divorce or annulment of the member's marriage to a
44 former spouse as follows:

1 1. In the case of disposition or appointment of benefits, as if the
2 former spouse and relatives of the former spouse disclaimed all provisions
3 revoked by this section.

4 2. In the case of a revoked power or right, as if the former spouse
5 and relatives of the former spouse died immediately before the divorce or
6 annulment.

7 F. Provisions of an instrument revoked solely as provided by this
8 section are revived by the divorced member's remarriage to the former
9 spouse or by a nullification of the member's divorce or annulment.

10 G. If an alternate payee predeceases the member, amounts payable to
11 the alternate payee cease on the death of the alternate payee. ASRS shall
12 cause the amount formerly payable to the alternate payee to revert to the
13 member.

14 H. For the purposes of this section:

15 1. "Domestic relations order" means any judgment, decree, order or
16 approval of a property settlement agreement entered in a court of
17 competent jurisdiction that:

18 (a) Relates to marital property rights of a spouse or former
19 spouse.

20 (b) Creates or recognizes in the spouse or former spouse the
21 existence of an alternate payee's right to severance, survivor or
22 retirement benefits.

23 (c) Assigns the spouse or former spouse as alternate payee the
24 right to receive all or part of the severance, survivor or retirement
25 benefits payable to the member.

26 2. "Relative of the divorced member's former spouse" means a person
27 who is related to the divorced member's former spouse by blood, adoption
28 or affinity and who, after the divorce or annulment, is not related to the
29 divorced member by blood, adoption or affinity.

30 Sec. 2. Section 38-822, Arizona Revised Statutes, is amended to
31 read:

32 38-822. Domestic relations orders; procedures; payments

33 A. Notwithstanding any other law, in a judicial proceeding for
34 annulment, dissolution of marriage or legal separation that provides for
35 the distribution of community property, or in any judicial proceeding to
36 amend or enforce such a property distribution, a court in this state may
37 issue a domestic relations order that provides that all or any part of a
38 participant's benefit or refund in the plan that would otherwise be
39 payable to that participant shall instead be paid by the plan to an
40 alternate payee. **THE VALUE OF A PARTICIPANT'S BENEFIT SHALL BE THE VALUE
41 ON THE EARLIEST DATE OF SERVICE OF THE PETITION FOR ANNULMENT, DISSOLUTION
42 OF MARRIAGE OR LEGAL SEPARATION.**

43 B. A domestic relations order is not effective against the plan
44 unless the domestic relations order is approved by the plan and qualifies
45 as a plan approved domestic relations order. To qualify as a plan

1 approved domestic relations order, a domestic relations order shall comply
2 with any policies or procedures adopted pursuant to subsection K OF THIS
3 SECTION and shall also meet all of the following requirements:

4 1. The domestic relations order shall state the name and the last
5 known mailing address of the participant and the name and last known
6 mailing address of the alternate payee that is covered by the domestic
7 relations order.

8 2. The domestic relations order shall clearly state the amount or
9 percentage of the participant's benefits that is payable by the plan to
10 the alternate payee or the precise manner in which the amount or
11 percentage is to be determined.

12 3. The domestic relations order shall state the number of payments
13 or periods to which the domestic relations order applies, if applicable.

14 4. The domestic relations order shall state that the domestic
15 relations order applies to the plan.

16 5. The domestic relations order shall not require the plan to
17 provide any type or form of benefit or any option not otherwise provided
18 by this article.

19 6. The domestic relations order shall not require the plan to
20 provide increased benefits determined on the basis of actuarial value.

21 7. The domestic relations order shall not require the payment of
22 benefits to an alternate payee if the benefits are required to be paid to
23 another alternate payee under a separate plan approved domestic relations
24 order.

25 8. The domestic relations order shall have been issued by a court
26 of competent jurisdiction of a state, territory or possession of the
27 United States.

28 C. On receipt by the plan of a certified copy of a domestic
29 relations order and a written request for a determination that the
30 domestic relations order is a plan approved domestic relations order, the
31 plan shall promptly issue a written notice of receipt stating that the
32 domestic relations order and request were received to the participant and
33 alternate payee at the addresses on file, if any.

34 D. The plan has a determination period to issue a written
35 determination indicating whether a domestic relations order qualifies as a
36 plan approved domestic relations order. If the participant is receiving
37 benefits during the determination period, and if the plan can determine
38 the amount of the benefits that currently would be payable to the
39 alternate payee if the domestic relations order were a plan approved
40 domestic relations order, the plan shall hold the segregated funds and
41 shall pay the remaining portion of the benefits to the participant. If
42 the plan determines the domestic relations order is a plan approved
43 domestic relations order, the plan shall pay the participant and alternate
44 payee pursuant to the plan approved domestic relations order in the month
45 following the month in which the determination was issued, or in the

1 month following the month in which a benefit is payable under the plan
2 approved domestic relations order, whichever is later. If the plan
3 determines the domestic relations order fails to qualify as a plan
4 approved domestic relations order, the plan shall specify in its
5 determination how the domestic relations order is deficient and how it may
6 be amended to qualify as a plan approved domestic relations order. If the
7 participant is currently receiving benefits, and if the plan can determine
8 the amount of segregated funds that would be payable to the alternate
9 payee if the domestic relations order were a plan approved domestic
10 relations order, the plan shall hold the segregated funds during the cure
11 period to allow the parties to submit a certified copy of an amended
12 domestic relations order and a written request for a determination that
13 the amended domestic relations order is a plan approved domestic relations
14 order. During the cure period, the plan shall pay the participant's
15 portion to the participant. At the end of the cure period, if the issue
16 of whether an amended domestic relations order qualifies as a plan
17 approved domestic relations order remains undetermined or if an amended
18 domestic relations order is determined not to be a plan approved domestic
19 relations order, the plan shall pay the segregated funds and the
20 participant's portion to the participant. The participant shall hold the
21 segregated funds in trust for the alternate payee as provided in
22 subsection J OF THIS SECTION. If an amended domestic relations order that
23 is submitted after the expiration of the cure period is determined to be a
24 plan approved domestic relations order, the plan shall make payments to an
25 alternate payee under the plan approved domestic relations order only
26 prospectively. A determination by the plan that a domestic relations
27 order is not a plan approved domestic relations order does not prohibit a
28 participant or alternate payee from submitting an amended domestic
29 relations order to the plan.

30 E. Each participant and alternate payee is responsible for
31 maintaining a current mailing address on file with the plan. The plan has
32 no duty to attempt to locate any participant or alternate payee. The plan
33 has no duty to provide a notice of receipt or determination or pay
34 benefits by means other than mailing the notice or payments to the
35 participant or alternate payee at the last known address that is on file
36 with the plan. If the address of an alternate payee is unknown to the
37 plan, but benefits are payable to the alternate payee pursuant to a plan
38 approved domestic relations order, the plan shall either:

39 1. Hold the alternate payee's portion until ~~such a time as~~ the
40 alternate payee provides the plan with a current address. Once the plan
41 is notified of the alternate payee's current address, the plan shall
42 prospectively pay the alternate payee's portion to the alternate payee.

43 2. Pay the alternate payee's portion to the participant, who shall
44 hold the alternate payee's portion in trust as provided in subsection J OF
45 THIS SECTION, until ~~such a time as~~ the alternate payee is located. At

1 that time, the participant shall pay the alternate payee's portion
2 directly to the alternate payee.

3 F. If the address of a participant is unknown to the plan, but
4 benefits are payable to the participant pursuant to a plan approved
5 domestic relations order, the plan shall hold the participant's portion
6 until the participant provides the plan with a current address.

7 G. If the alternate payee identified in a plan approved domestic
8 relations order predeceases the participant and the plan approved domestic
9 relations order does not otherwise provide for the disposition of the
10 alternate payee's interest, the plan shall pay the alternate payee's
11 portion to the personal representative of the deceased alternate payee
12 pursuant to this subsection. The personal representative is responsible
13 for maintaining a current mailing address on file with the plan. The plan
14 has no duty to attempt to locate any personal representative. The plan is
15 not responsible for making benefit payments to a personal representative
16 until the personal representative has both:

17 1. Persuaded the plan that the personal representative is
18 authorized to receive payments designated for the deceased alternate
19 payee.

20 2. Provided the plan with an address to which the payments should
21 be sent.

22 H. If, within thirty days after the date the plan verifies an
23 alternate payee's death, a personal representative does not make demand on
24 the plan for the alternate payee's portion, the plan shall either:

25 1. Hold the alternate payee's portion until the time a personal
26 representative makes a proper demand for payment of the alternate payee's
27 portion.

28 2. Remit the alternate payee's portion to the participant, who
29 shall hold the amounts in trust for the estate of the alternate payee
30 until the personal representative is identified. At that time, the
31 participant shall pay the alternate payee's portion paid by the plan to
32 the participant to the personal representative.

33 Thereafter, the plan shall prospectively pay the alternate payee's portion
34 to the personal representative.

35 I. Amounts held or paid pursuant to this section shall not accrue
36 interest unless otherwise prescribed by this article.

37 J. The plan is not liable to the participant, the alternate payee,
38 any personal representative of the estate of an alternate payee or any
39 other person for any amount paid, withheld or disbursed by the plan
40 pursuant to this section. If one or more payments are made by the plan to
41 a person not otherwise entitled to receive the payments, the recipient of
42 the payment is designated a constructive trustee for the payment received
43 and, together with the marital community, if any, is the sole party
44 against whom an action may be brought to recover the payment.

1 K. The plan may adopt policies and procedures that govern the
2 implementation of this section.

3 Sec. 3. Section 38-860, Arizona Revised Statutes, is amended to
4 read:

5 38-860. Domestic relations orders; procedures; payments

6 A. Notwithstanding any other law, in a judicial proceeding for
7 annulment, dissolution of marriage or legal separation that provides for
8 the distribution of community property, or in any judicial proceeding to
9 amend or enforce such a property distribution, a court in this state may
10 issue a domestic relations order that provides that all or any part of a
11 participant's benefit or refund in the system that would otherwise be
12 payable to that participant shall instead be paid by the system to an
13 alternate payee. **THE VALUE OF A PARTICIPANT'S BENEFIT SHALL BE THE VALUE
14 ON THE EARLIEST DATE OF SERVICE OF THE PETITION FOR ANNULMENT, DISSOLUTION
15 OF MARRIAGE OR LEGAL SEPARATION.**

16 B. A domestic relations order is not effective against the system
17 unless the domestic relations order is approved by the system and
18 qualifies as a plan approved domestic relations order. To qualify as a
19 plan approved domestic relations order, a domestic relations order shall
20 comply with any policies or procedures adopted pursuant to subsection K OF
21 **THIS SECTION** and shall also meet all of the following requirements:

22 1. The domestic relations order shall state the name and the last
23 known mailing address of the participant and the name and last known
24 mailing address of the alternate payee that is covered by the domestic
25 relations order.

26 2. The domestic relations order shall clearly state the amount or
27 percentage of the participant's benefits that is payable by the system to
28 the alternate payee or the precise manner in which the amount or
29 percentage is to be determined.

30 3. The domestic relations order shall state the number of payments
31 or periods to which the domestic relations order applies, if applicable.

32 4. The domestic relations order shall state that the domestic
33 relations order applies to the system.

34 5. The domestic relations order shall not require the system to
35 provide any type or form of benefit or any option not otherwise provided
36 by this article.

37 6. The domestic relations order shall not require the system to
38 provide increased benefits determined on the basis of actuarial value.

39 7. The domestic relations order shall not require the payment of
40 benefits to an alternate payee if the benefits are required to be paid to
41 another alternate payee under a separate plan approved domestic relations
42 order.

43 8. The domestic relations order shall have been issued by a court
44 of competent jurisdiction of a state, territory or possession of the
45 United States.

1 C. On receipt by the system of a certified copy of a domestic
2 relations order and a written request for a determination that the
3 domestic relations order is a plan approved domestic relations order, the
4 system shall promptly issue a written notice of receipt stating that the
5 domestic relations order and request were received to the participant and
6 alternate payee at the addresses on file, if any.

7 D. The system has a determination period to issue a written
8 determination indicating whether a domestic relations order qualifies as a
9 plan approved domestic relations order. If the participant is receiving
10 benefits during the determination period, and if the system can determine
11 the amount of the benefits that currently would be payable to the
12 alternate payee if the domestic relations order were a plan approved
13 domestic relations order, the system shall hold the segregated funds and
14 shall pay the remaining portion of the benefits to the participant. If
15 the system determines the domestic relations order is a plan approved
16 domestic relations order, the system shall pay the participant and
17 alternate payee pursuant to the plan approved domestic relations order in
18 the month following the month in which the determination was issued, or
19 in the month following the month in which a benefit is payable under the
20 plan approved domestic relations order, whichever is later. If the system
21 determines the domestic relations order fails to qualify as a plan
22 approved domestic relations order, the system shall specify in its
23 determination how the domestic relations order is deficient and how it may
24 be amended to qualify as a plan approved domestic relations order. If the
25 participant is currently receiving benefits, and if the system can
26 determine the amount of segregated funds that would be payable to the
27 alternate payee if the domestic relations order were a plan approved
28 domestic relations order, the system shall hold the segregated funds
29 during the cure period to allow the parties to submit a certified copy of
30 an amended domestic relations order and a written request for a
31 determination that the amended domestic relations order is a plan approved
32 domestic relations order. During the cure period, the system shall pay the
33 participant's portion to the participant. At the end of the cure period,
34 if the issue of whether an amended domestic relations order qualifies as a
35 plan approved domestic relations order remains undetermined or if an
36 amended domestic relations order is determined not to be a plan approved
37 domestic relations order, the system shall pay the segregated funds and
38 the participant's portion to the participant. The participant shall hold
39 the segregated funds in trust for the alternate payee as provided in
40 subsection J OF THIS SECTION. If an amended domestic relations order that
41 is submitted after the expiration of the cure period is determined to be a
42 plan approved domestic relations order, the system shall make payments to
43 an alternate payee under the plan approved domestic relations order only
44 prospectively. A determination by the system that a domestic relations
45 order is not a plan approved domestic relations order does not prohibit a

1 participant or alternate payee from submitting an amended domestic
2 relations order to the system.

3 E. Each participant and alternate payee is responsible for
4 maintaining a current mailing address on file with the system. The system
5 has no duty to attempt to locate any participant or alternate payee. The
6 system has no duty to provide a notice of receipt or determination or pay
7 benefits by means other than mailing the notice or payments to the
8 participant or alternate payee at the last known address that is on file
9 with the system. If the address of an alternate payee is unknown to the
10 system, but benefits are payable to the alternate payee pursuant to a plan
11 approved domestic relations order, the system shall either:

12 1. Hold the alternate payee's portion until ~~such a time as~~ the
13 alternate payee provides the system with a current address. Once the
14 system is notified of the alternate payee's current address, the system
15 shall prospectively pay the alternate payee's portion to the alternate
16 payee.

17 2. Pay the alternate payee's portion to the participant, who shall
18 hold the alternate payee's portion in trust as provided in subsection J OF
19 THIS SECTION, until ~~such a time as~~ the alternate payee is located. At
20 that time, the participant shall pay the alternate payee's portion
21 directly to the alternate payee.

22 F. If the address of a participant is unknown to the system, but
23 benefits are payable to the participant pursuant to a plan approved
24 domestic relations order, the system shall hold the participant's portion
25 until the participant provides the system with a current address.

26 G. If the alternate payee identified in a plan approved domestic
27 relations order predeceases the participant and the plan approved domestic
28 relations order does not otherwise provide for the disposition of the
29 alternate payee's interest, the system shall pay the alternate payee's
30 portion to the personal representative of the deceased alternate payee
31 pursuant to this subsection. The personal representative is responsible
32 for maintaining a current mailing address on file with the system. The
33 system has no duty to attempt to locate any personal representative. The
34 system is not responsible for making benefit payments to a personal
35 representative until the personal representative has both:

36 1. Persuaded the system that the personal representative is
37 authorized to receive payments designated for the deceased alternate
38 payee.

39 2. Provided the system with an address to which the payments should
40 be sent.

41 H. If, within thirty days after the date the system verifies an
42 alternate payee's death, a personal representative does not make demand on
43 the system for the alternate payee's portion, the system shall either:

1 1. Hold the alternate payee's portion until the time a personal
2 representative makes a proper demand for payment of the alternate payee's
3 portion.

4 2. Remit the alternate payee's portion to the participant, who
5 shall hold the amounts in trust for the estate of the alternate payee
6 until the personal representative is identified. At that time, the
7 participant shall pay the alternate payee's portion paid by the system to
8 the participant to the personal representative.

9 Thereafter, the plan shall prospectively pay the alternate payee's portion
10 to the personal representative.

11 I. Amounts held or paid pursuant to this section shall not accrue
12 interest unless otherwise prescribed by this article.

13 J. The system is not liable to the participant, the alternate
14 payee, any personal representative of the estate of an alternate payee or
15 any other person for any amount paid, withheld or disbursed by the system
16 pursuant to this section. If one or more payments are made by the system
17 to a person not otherwise entitled to receive the payments, the recipient
18 of the payment is designated a constructive trustee for the payment
19 received and, together with the marital community, if any, is the sole
20 party against whom an action may be brought to recover the payment.

21 K. The system may adopt policies and procedures that govern the
22 implementation of this section.

23 Sec. 4. Section 38-910, Arizona Revised Statutes, is amended to
24 read:

25 38-910. Domestic relations orders; procedures; payments

26 A. Notwithstanding any other law, in a judicial proceeding for
27 annulment, dissolution of marriage or legal separation that provides for
28 the distribution of community property, or in any judicial proceeding to
29 amend or enforce such a property distribution, a court in this state may
30 issue a domestic relations order that provides that all or any part of a
31 participant's benefit or refund in the plan that would otherwise be
32 payable to that participant shall instead be paid by the plan to an
33 alternate payee. **THE VALUE OF A PARTICIPANT'S BENEFIT SHALL BE THE VALUE
34 ON THE EARLIEST DATE OF SERVICE OF THE PETITION FOR ANNULMENT, DISSOLUTION
35 OF MARRIAGE OR LEGAL SEPARATION.**

36 B. A domestic relations order is not effective against the plan
37 unless the domestic relations order is approved by the plan and qualifies
38 as a plan approved domestic relations order. To qualify as a plan
39 approved domestic relations order, a domestic relations order shall comply
40 with any policies or procedures adopted pursuant to subsection K **OF THIS
41 SECTION** and shall also meet all of the following requirements:

42 1. The domestic relations order shall state the name and the last
43 known mailing address of the participant and the name and last known
44 mailing address of the alternate payee that is covered by the domestic
45 relations order.

1 2. The domestic relations order shall clearly state the amount or
2 percentage of the participant's benefits that is payable by the plan to
3 the alternate payee or the precise manner in which the amount or
4 percentage is to be determined.

5 3. The domestic relations order shall state the number of payments
6 or periods to which the domestic relations order applies, if applicable.

7 4. The domestic relations order shall state that the domestic
8 relations order applies to the plan.

9 5. The domestic relations order shall not require the plan to
10 provide any type or form of benefit or any option not otherwise provided
11 by this article.

12 6. The domestic relations order shall not require the plan to
13 provide increased benefits determined on the basis of actuarial value.

14 7. The domestic relations order shall not require the payment of
15 benefits to an alternate payee if the benefits are required to be paid to
16 another alternate payee under a separate plan approved domestic relations
17 order.

18 8. The domestic relations order shall have been issued by a court
19 of competent jurisdiction of a state, territory or possession of the
20 United States.

21 C. On receipt by the plan of a certified copy of a domestic
22 relations order and a written request for a determination that the
23 domestic relations order is a plan approved domestic relations order, the
24 plan shall promptly issue a written notice of receipt stating that the
25 domestic relations order and request were received to the participant and
26 alternate payee at the addresses on file, if any.

27 D. The plan has a determination period to issue a written
28 determination indicating whether a domestic relations order qualifies as a
29 plan approved domestic relations order. If the participant is receiving
30 benefits during the determination period, and if the plan can determine
31 the amount of the benefits that currently would be payable to the
32 alternate payee if the domestic relations order were a plan approved
33 domestic relations order, the plan shall hold the segregated funds and
34 shall pay the remaining portion of the benefits to the participant. If
35 the plan determines the domestic relations order is a plan approved
36 domestic relations order, the plan shall pay the participant and alternate
37 payee pursuant to the plan approved domestic relations order in the month
38 following the month in which the determination was issued, or in the
39 month following the month in which a benefit is payable under the plan
40 approved domestic relations order, whichever is later. If the plan
41 determines the domestic relations order fails to qualify as a plan
42 approved domestic relations order, the plan shall specify in its
43 determination how the domestic relations order is deficient and how it may
44 be amended to qualify as a plan approved domestic relations order. If the
45 participant is currently receiving benefits, and if the plan can

1 determine the amount of segregated funds that would be payable to the
2 alternate payee if the domestic relations order were a plan approved
3 domestic relations order, the plan shall hold the segregated funds during
4 the cure period to allow the parties to submit a certified copy of an
5 amended domestic relations order and a written request for a determination
6 that the amended domestic relations order is a plan approved domestic
7 relations order. During the cure period, the plan shall pay the
8 participant's portion to the participant. At the end of the cure period,
9 if the issue of whether an amended domestic relations order qualifies as a
10 plan approved domestic relations order remains undetermined or if an
11 amended domestic relations order is determined not to be a plan approved
12 domestic relations order, the plan shall pay the segregated funds and the
13 participant's portion to the participant. The participant shall hold the
14 segregated funds in trust for the alternate payee as provided in
15 subsection J OF THIS SECTION. If an amended domestic relations order that
16 is submitted after the expiration of the cure period is determined to be a
17 plan approved domestic relations order, the plan shall make payments to an
18 alternate payee under the plan approved domestic relations order only
19 prospectively. A determination by the plan that a domestic relations
20 order is not a plan approved domestic relations order does not prohibit a
21 participant or alternate payee from submitting an amended domestic
22 relations order to the plan.

23 E. Each participant and alternate payee is responsible for
24 maintaining a current mailing address on file with the plan. The plan has
25 no duty to attempt to locate any participant or alternate payee. The plan
26 has no duty to provide a notice of receipt or determination or pay
27 benefits by means other than mailing the notice or payments to the
28 participant or alternate payee at the last known address that is on file
29 with the plan. If the address of an alternate payee is unknown to the
30 plan, but benefits are payable to the alternate payee pursuant to a plan
31 approved domestic relations order, the plan shall either:

32 1. Hold the alternate payee's portion until ~~such a time as~~ the
33 alternate payee provides the plan with a current address. Once the plan
34 is notified of the alternate payee's current address, the plan shall
35 prospectively pay the alternate payee's portion to the alternate payee.

36 2. Pay the alternate payee's portion to the participant, who shall
37 hold the alternate payee's portion in trust as provided in subsection J OF
38 THIS SECTION, until ~~such a time as~~ the alternate payee is located. At
39 that time, the participant shall pay the alternate payee's portion
40 directly to the alternate payee.

41 F. If the address of a participant is unknown to the plan, but
42 benefits are payable to the participant pursuant to a plan approved
43 domestic relations order, the plan shall hold the participant's portion
44 until the participant provides the plan with a current address.

1 G. If the alternate payee identified in a plan approved domestic
2 relations order predeceases the participant and the plan approved domestic
3 relations order does not otherwise provide for the disposition of the
4 alternate payee's interest, the plan shall pay the alternate payee's
5 portion to the personal representative of the deceased alternate payee
6 pursuant to this subsection. The personal representative is responsible
7 for maintaining a current mailing address on file with the plan. The plan
8 has no duty to attempt to locate any personal representative. The plan is
9 not responsible for making benefit payments to a personal representative
10 until the personal representative has both:

11 1. Persuaded the plan that the personal representative is
12 authorized to receive payments designated for the deceased alternate
13 payee.

14 2. Provided the plan with an address to which the payments should
15 be sent.

16 H. If, within thirty days after the date the plan verifies an
17 alternate payee's death, a personal representative does not make demand on
18 the plan for the alternate payee's portion, the plan shall either:

19 1. Hold the alternate payee's portion until the time a personal
20 representative makes a proper demand for payment of the alternate payee's
21 portion.

22 2. Remit the alternate payee's portion to the participant, who
23 shall hold the amounts in trust for the estate of the alternate payee
24 until the personal representative is identified. At that time, the
25 participant shall pay the alternate payee's portion paid by the plan to
26 the participant to the personal representative.
27 Thereafter, the plan shall prospectively pay the alternate payee's portion
28 to the personal representative.

29 I. Amounts held or paid pursuant to this section shall not accrue
30 interest unless otherwise prescribed by this article.

31 J. The plan is not liable to the participant, the alternate payee,
32 any personal representative of the estate of an alternate payee or any
33 other person for any amount paid, withheld or disbursed by the plan
34 pursuant to this section. If one or more payments are made by the plan to
35 a person not otherwise entitled to receive the payments, the recipient of
36 the payment is designated a constructive trustee for the payment received
37 and, together with the marital community, if any, is the sole party
38 against whom an action may be brought to recover the payment.

39 K. The plan may adopt policies and procedures that govern the
40 implementation of this section.