

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2433

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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 of
12 ~~its~~ THE BOARD'S acceptance of the domestic relations order, and ASRS shall
13 pay benefits in accordance with the applicable requirements of the order.

14 B. An acceptable domestic relations order shall:

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

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

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

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

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

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

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

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

10 1. Disposition or appointment of benefits made by a divorced member
11 to that member's former spouse or to a relative of the divorced member's
12 former spouse in an instrument executed by the member before the divorce or
13 annulment of the member's marriage to the former spouse.

14 2. Provision in an instrument executed by the member before the
15 divorce or annulment of the member's marriage to the former spouse
16 conferring any power or right on the divorced member's former spouse or on
17 a relative of the divorced member's former spouse.

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

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

24 2. In the case of a revoked power or right, as if the former spouse
25 and relatives of the former spouse died immediately before the divorce or
26 annulment.

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

30 G. If an alternate payee predeceases the member, amounts payable to
31 the alternate payee cease on the death of the alternate payee. ASRS shall

1 cause the amount formerly payable to the alternate payee to revert to the
2 member.

3 H. For the purposes of this section:

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

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

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

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

14 2. "Relative of the divorced member's former spouse" means a person
15 who is related to the divorced member's former spouse by blood, adoption or
16 affinity and who, after the divorce or annulment, is not related to the
17 divorced member by blood, adoption or affinity.

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

20 38-822. Domestic relations orders; procedures; payments

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

1 B. A domestic relations order is not effective against the plan
2 unless the domestic relations order is approved by the plan and qualifies
3 as a plan approved domestic relations order. To qualify as a plan approved
4 domestic relations order, a domestic relations order shall comply with any
5 policies or procedures adopted pursuant to subsection K **OF THIS SECTION** and
6 shall also meet all of the following requirements:

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

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

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

17 4. The domestic relations order shall state that the domestic
18 relations order applies to the plan.

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

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

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

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

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

7 D. The plan 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 plan can determine
11 the amount of the benefits that currently would be payable to the alternate
12 payee if the domestic relations order were a plan approved domestic
13 relations order, the plan shall hold the segregated funds and shall pay the
14 remaining portion of the benefits to the participant. If the plan
15 determines the domestic relations order is a plan approved domestic
16 relations order, the plan shall pay the participant and alternate payee
17 pursuant to the plan approved domestic relations order in the month
18 following the month in which the determination was issued,~~—~~ or in the month
19 following the month in which a benefit is payable under the plan approved
20 domestic relations order, whichever is later. If the plan determines the
21 domestic relations order fails to qualify as a plan approved domestic
22 relations order, the plan shall specify in its determination how the
23 domestic relations order is deficient and how it may be amended to qualify
24 as a plan approved domestic relations order. If the participant is
25 currently receiving benefits, and if the plan can determine the amount of
26 segregated funds that would be payable to the alternate payee if the
27 domestic relations order were a plan approved domestic relations order, the
28 plan shall hold the segregated funds during the cure period to allow the
29 parties to submit a certified copy of an amended domestic relations order
30 and a written request for a determination that the amended domestic
31 relations order is a plan approved domestic relations order. During the

1 cure period, the plan shall pay the participant's portion to the
2 participant. At the end of the cure period, if the issue of whether an
3 amended domestic relations order qualifies as a plan approved domestic
4 relations order remains undetermined or if an amended domestic relations
5 order is determined not to be a plan approved domestic relations order, the
6 plan shall pay the segregated funds and the participant's portion to the
7 participant. The participant shall hold the segregated funds in trust for
8 the alternate payee as provided in subsection J **OF THIS SECTION**. If an
9 amended domestic relations order that is submitted after the expiration of
10 the cure period is determined to be a plan approved domestic relations
11 order, the plan shall make payments to an alternate payee under the plan
12 approved domestic relations order only prospectively. A determination by
13 the plan that a domestic relations order is not a plan approved domestic
14 relations order does not prohibit a participant or alternate payee from
15 submitting an amended domestic relations order to the plan.

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

25 1. Hold the alternate payee's portion until ~~such a time as~~ the
26 alternate payee provides the plan with a current address. Once the plan is
27 notified of the alternate payee's current address, the plan shall
28 prospectively pay the alternate payee's portion to the alternate payee.

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

1 time, the participant shall pay the alternate payee's portion directly to
2 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 authorized
18 to receive payments designated for the deceased alternate payee.

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

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

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

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

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

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

5 J. The plan is not liable to the participant, the alternate payee,
6 any personal representative of the estate of an alternate payee or any
7 other person for any amount paid, withheld or disbursed by the plan
8 pursuant to this section. If one or more payments are made by the plan to
9 a person not otherwise entitled to receive the payments, the recipient of
10 the payment is designated a constructive trustee for the payment received
11 and, together with the marital community, if any, is the sole party against
12 whom an action may be brought to recover the payment.

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

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

17 38-860. Domestic relations orders; procedures; payments

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

28 B. A domestic relations order is not effective against the system
29 unless the domestic relations order is approved by the system and qualifies
30 as a plan approved domestic relations order. To qualify as a plan approved
31 domestic relations order, a domestic relations order shall comply with any

1 policies or procedures adopted pursuant to subsection K **OF THIS SECTION** and
2 shall also meet all of the following requirements:

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

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

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

13 4. The domestic relations order shall state that the domestic
14 relations order applies to the system.

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

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

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

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

27 C. On receipt by the system of a certified copy of a domestic
28 relations order and a written request for a determination that the domestic
29 relations order is a plan approved domestic relations order, the system
30 shall promptly issue a written notice of receipt stating that the domestic

1 relations order and request were received to the participant and alternate
2 payee at the addresses on file, if any.

3 D. The system has a determination period to issue a written
4 determination indicating whether a domestic relations order qualifies as a
5 plan approved domestic relations order. If the participant is receiving
6 benefits during the determination period, and if the system can determine
7 the amount of the benefits that currently would be payable to the alternate
8 payee if the domestic relations order were a plan approved domestic
9 relations order, the system shall hold the segregated funds and shall pay
10 the remaining portion of the benefits to the participant. If the system
11 determines the domestic relations order is a plan approved domestic
12 relations order, the system shall pay the participant and alternate payee
13 pursuant to the plan approved domestic relations order in the month
14 following the month in which the determination was issued, or in the month
15 following the month in which a benefit is payable under the plan approved
16 domestic relations order, whichever is later. If the system determines the
17 domestic relations order fails to qualify as a plan approved domestic
18 relations order, the system shall specify in its determination how the
19 domestic relations order is deficient and how it may be amended to qualify
20 as a plan approved domestic relations order. If the participant is
21 currently receiving benefits, and if the system can determine the amount
22 of segregated funds that would be payable to the alternate payee if the
23 domestic relations order were a plan approved domestic relations order, the
24 system shall hold the segregated funds during the cure period to allow the
25 parties to submit a certified copy of an amended domestic relations order
26 and a written request for a determination that the amended domestic
27 relations order is a plan approved domestic relations order. During the
28 cure period, the system shall pay the participant's portion to the
29 participant. At the end of the cure period, if the issue of whether an
30 amended domestic relations order qualifies as a plan approved domestic
31 relations order remains undetermined or if an amended domestic relations

1 order is determined not to be a plan approved domestic relations order, the
2 system shall pay the segregated funds and the participant's portion to the
3 participant. The participant shall hold the segregated funds in trust for
4 the alternate payee as provided in subsection J **OF THIS SECTION**. If an
5 amended domestic relations order that is submitted after the expiration of
6 the cure period is determined to be a plan approved domestic relations
7 order, the system shall make payments to an alternate payee under the plan
8 approved domestic relations order only prospectively. A determination by
9 the system that a domestic relations order is not a plan approved domestic
10 relations order does not prohibit a participant or alternate payee from
11 submitting an amended domestic relations order to the system.

12 E. Each participant and alternate payee is responsible for
13 maintaining a current mailing address on file with the system. The system
14 has no duty to attempt to locate any participant or alternate payee. The
15 system has no duty to provide a notice of receipt or determination or pay
16 benefits by means other than mailing the notice or payments to the
17 participant or alternate payee at the last known address that is on file
18 with the system. If the address of an alternate payee is unknown to the
19 system, but benefits are payable to the alternate payee pursuant to a plan
20 approved domestic relations order, the system shall either:

21 1. Hold the alternate payee's portion until ~~such a time as~~ the
22 alternate payee provides the system with a current address. Once the
23 system is notified of the alternate payee's current address, the system
24 shall prospectively pay the alternate payee's portion to the alternate
25 payee.

26 2. Pay the alternate payee's portion to the participant, who shall
27 hold the alternate payee's portion in trust as provided in subsection J **OF**
28 **THIS SECTION**, until ~~such a time as~~ the alternate payee is located. At that
29 time, the participant shall pay the alternate payee's portion directly to
30 the alternate payee.

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

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

15 1. Persuaded the system that the personal representative is
16 authorized to receive payments designated for the deceased alternate payee.

17 2. Provided the system with an address to which the payments should
18 be sent.

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

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

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

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

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

3 J. The system is not liable to the participant, the alternate payee,
4 any personal representative of the estate of an alternate payee or any
5 other person for any amount paid, withheld or disbursed by the system
6 pursuant to this section. If one or more payments are made by the system
7 to a person not otherwise entitled to receive the payments, the recipient
8 of the payment is designated a constructive trustee for the payment
9 received and, together with the marital community, if any, is the sole
10 party against whom an action may be brought to recover the payment.

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

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

15 38-910. Domestic relations orders; procedures; payments

16 A. Notwithstanding any other law, in a judicial proceeding for
17 annulment, dissolution of marriage or legal separation that provides for
18 the distribution of community property, or in any judicial proceeding to
19 amend or enforce such a property distribution, a court in this state may
20 issue a domestic relations order that provides that all or any part of a
21 participant's benefit or refund in the plan that would otherwise be payable
22 to that participant shall instead be paid by the plan to an alternate
23 payee. **THE VALUE OF A PARTICIPANT'S BENEFIT SHALL BE THE VALUE ON THE DATE
24 OF SERVICE OF THE PETITION FOR ANNULMENT, DISSOLUTION OF MARRIAGE OR LEGAL
25 SEPARATION.**

26 B. A domestic relations order is not effective against the plan
27 unless the domestic relations order is approved by the plan and qualifies
28 as a plan approved domestic relations order. To qualify as a plan approved
29 domestic relations order, a domestic relations order shall comply with any
30 policies or procedures adopted pursuant to subsection K **OF THIS SECTION** and
31 shall also meet all of the following requirements:

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

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

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

11 4. The domestic relations order shall state that the domestic
12 relations order applies to the plan.

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

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

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

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

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

1 D. The plan has a determination period to issue a written
2 determination indicating whether a domestic relations order qualifies as a
3 plan approved domestic relations order. If the participant is receiving
4 benefits during the determination period, and if the plan can determine the
5 amount of the benefits that currently would be payable to the alternate
6 payee if the domestic relations order were a plan approved domestic
7 relations order, the plan shall hold the segregated funds and shall pay the
8 remaining portion of the benefits to the participant. If the plan
9 determines the domestic relations order is a plan approved domestic
10 relations order, the plan shall pay the participant and alternate payee
11 pursuant to the plan approved domestic relations order in the month
12 following the month in which the determination was issued, ~~or~~ or in the month
13 following the month in which a benefit is payable under the plan approved
14 domestic relations order, whichever is later. If the plan determines the
15 domestic relations order fails to qualify as a plan approved domestic
16 relations order, the plan shall specify in its determination how the
17 domestic relations order is deficient and how it may be amended to qualify
18 as a plan approved domestic relations order. If the participant is
19 currently receiving benefits, ~~and~~ and if the plan can determine the amount of
20 segregated funds that would be payable to the alternate payee if the
21 domestic relations order were a plan approved domestic relations order, the
22 plan shall hold the segregated funds during the cure period to allow the
23 parties to submit a certified copy of an amended domestic relations order
24 and a written request for a determination that the amended domestic
25 relations order is a plan approved domestic relations order. During the
26 cure period, the plan shall pay the participant's portion to the
27 participant. At the end of the cure period, if the issue of whether an
28 amended domestic relations order qualifies as a plan approved domestic
29 relations order remains undetermined or if an amended domestic relations
30 order is determined not to be a plan approved domestic relations order, the
31 plan shall pay the segregated funds and the participant's portion to the

1 participant. The participant shall hold the segregated funds in trust for
2 the alternate payee as provided in subsection J OF THIS SECTION. If an
3 amended domestic relations order that is submitted after the expiration of
4 the cure period is determined to be a plan approved domestic relations
5 order, the plan shall make payments to an alternate payee under the plan
6 approved domestic relations order only prospectively. A determination by
7 the plan that a domestic relations order is not a plan approved domestic
8 relations order does not prohibit a participant or alternate payee from
9 submitting an amended domestic relations order to the plan.

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

19 1. Hold the alternate payee's portion until ~~such a time as~~ the
20 alternate payee provides the plan with a current address. Once the plan is
21 notified of the alternate payee's current address, the plan shall
22 prospectively pay the alternate payee's portion to the alternate payee.

23 2. Pay the alternate payee's portion to the participant, who shall
24 hold the alternate payee's portion in trust as provided in subsection J OF
25 THIS SECTION, until ~~such a time as~~ the alternate payee is located. At that
26 time, the participant shall pay the alternate payee's portion directly to
27 the alternate payee.

28 F. If the address of a participant is unknown to the plan, but
29 benefits are payable to the participant pursuant to a plan approved
30 domestic relations order, the plan shall hold the participant's portion
31 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 authorized
12 to receive payments designated for the deceased alternate payee.

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

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

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

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

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

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

30 J. The plan is not liable to the participant, the alternate payee,
31 any personal representative of the estate of an alternate payee or any

1 other person for any amount paid, withheld or disbursed by the plan
2 pursuant to this section. If one or more payments are made by the plan to
3 a person not otherwise entitled to receive the payments, the recipient of
4 the payment is designated a constructive trustee for the payment received
5 and, together with the marital community, if any, is the sole party against
6 whom an action may be brought to recover the payment.

7 K. The plan may adopt policies and procedures that govern the
8 implementation of this section."

9 Amend title to conform

DAVID LIVINGSTON

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