

MARYLAND REGISTER

## Proposed Action on Regulations

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	04/11/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 5/2/2014

2. COMAR Codification

**Title Subtitle Chapter Regulation**

22 01 03 02, .03, .04, .05, .06, .08, .09

3. Name of Promulgating Authority

State Retirement and Pension System

4. Name of Regulations Coordinator

Anne Gawthrop

Telephone Number

410-625-5602

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5. Name of Person to Call About this Document

Anne E. Gawthrop

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6. Check applicable items:

New Regulations

**X- Amendments to Existing Regulations**

Date when existing text was downloaded from COMAR online: 9/1/2013.

- Repeal of Existing Regulations
- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval
- Reproposal of Substantively Different Text:

: Md. R  
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

**7. Is there emergency text which is identical to this proposal:**

Yes **X-** No

**8. Incorporation by Reference**

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

**X-** OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

**X-** OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Rachel S. Cohen, Assistant Attorney General, (telephone #410-625-5684) on 12/17/13. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

R. Dean Kenderdine

**Title**

Executive Director

**Date**

01/13/14

**Telephone No.**

410-625-5601

# **STATE RETIREMENT AND PENSION SYSTEM**

## **Subtitle 01 GENERAL REGULATIONS**

### **22.01.03 Domestic Relations Orders**

Authority: State Personnel and Pensions Article, §§ 21-110 and 21-502, Annotated Code of Maryland

#### **Notice of Proposed Action**

□

The Board of Trustees for the Maryland State Retirement and Pension System proposes to amend Regulations .02, .03, .04, .05, .06, .08, and .09 under COMAR 22.01.03 Domestic Relations Orders.

This action was considered at the December 17, 2013 Board of Trustees meeting for the State Retirement and Pension System.

#### **Statement of Purpose**

The purpose of this action is to make minor updates to the regulations establishing procedures for the State Retirement Agency's review and administration of eligible domestic relations orders which assign all or a portion of a plan benefit to the former spouse of a participant in a divorce.

#### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

#### **Estimate of Economic Impact**

The proposed action has no economic impact.

#### **Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

#### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

#### **Opportunity for Public Comment**

Comments may be sent to Anne E. Gawthrop, Director of Legislative Affairs, State Retirement Agency, 120 E. Baltimore Street, or call 410-625-5602, or email to [agawthrop@sra.state.md.us](mailto:agawthrop@sra.state.md.us), or fax to 410-468-1710. Comments will be accepted through March 21, 2014. A public hearing has not been scheduled.

#### **Open Meeting**

Final action on the proposal will be considered by The Board of Trustees for the State

Retirement and Pension System during a public meeting to be held on June 17, 2014 @ 9:30 a.m., at 120 E. Baltimore Street, 16th Floor Board Room, Baltimore, Maryland 21202.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2014

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

No funds are necessary to implement these regulations. They are technical and clarifying changes to existing policy.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

Technical clarifying and changes to existing policy.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

Technical and clarifying changes to existing policy.

G. Small Business Worksheet:

Attached Document:

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**Title 22 STATE RETIREMENT AND PENSION SYSTEM**  
**Subtitle 01 GENERAL REGULATIONS**  
**Chapter 03 Domestic Relations Orders**  
**Authority: State Personnel and Pensions Article, §§21-110 and 21-502,**  
**Annotated Code of Maryland**

**.01 Scope.** (Text unchanged)

**.02 Definitions.**

A. (Text unchanged)

B. Terms Defined.

(1) "Agency" means the State Retirement Agency [of Maryland] *established under State Personnel and Pensions Article, § 21-117, Annotated Code of Maryland.*

(2) – (6) (Text unchanged)

(7) "Eligible domestic relations order" means a domestic relations order that conforms to the requirements of Regulation [.03B] .03 of this chapter.

(8) – (12) (Text unchanged)

### **.03 Eligible Domestic Relations Orders.**

A. Domestic relations orders shall be submitted to the [Director of the Benefits Processing Unit of the] Agency *and shall be directed to the attention of: Eligible Domestic Relations Orders.*

B. A domestic relations order shall constitute an eligible domestic relations order only if it satisfies all of the following requirements:

(1) Contains the:

(a) (Text unchanged)

(b) [Except as provided in §C of this regulation, the name, date of birth, Social Security number,] *Name* and last known mailing address of the participant,

(c) [Except as provided in §C of this regulation, the name, date of birth, Social Security number,] *Name* and last known mailing address of the alternate payee, and

(d) (Text unchanged)

(2) – (9) (Text unchanged)

(10) Subject to §D of this regulation, if a participant is eligible to elect an optional form of allowance that provides a postretirement survivor benefit:

(a) States whether the participant is permitted or required to elect *the basic allowance or an optional form of allowance,*

(b) – (d) (Text unchanged)

(11) – (12) (Text unchanged)

(13) States that it is the obligation of the alternate payee to promptly:

(a) Provide the Agency a *certified or true-test copy of the domestic relations order and any modifications or amendments to the order;*

(b) *Provide the following information to the Agency in writing contemporaneously with the submission of a domestic relations order:*

(i) *The Social Security numbers and dates of birth of the participant and alternate payee; and*

(ii) *The current address and current telephone number of the alternate payee;*

(c) *Submit documentation to verify the alternate payee's date of birth,*

(d) *When an alternate payee becomes eligible to receive a monthly allowance, submit the required forms to commence receipt of the allowance by electronic fund transfer;*

(e) Notify the Agency in writing [of] of:

(i) *The death of the participant; or*

(ii) *Any [any] change of the alternate payee's name, [or] address, or telephone number, and*

[(c)] (f) Comply with all reasonable requests from the Agency for information and documentation necessary for administering the domestic relations order;

(14) States that it is the obligation of the participant to *promptly:*

(a) [submit] *Submit* any applications or forms required by the Agency to effectuate any provision of the domestic relations order;

(b) *Notify the Agency in writing of:*

(i) *The death of the alternate payee; or*

(ii) *any change of the participant's name, address, or telephone number, and*

(c) *Comply with all reasonable requests from the Agency for information and documentation necessary for administering the domestic relations order;*

(15) (Text unchanged)

(16) States that the Agency is not liable to make further payments to the alternate payee if the participant transfers to another retirement or pension system that is not administered by the Agency; [and]

(17) *States that:*

(a) *All payments to the alternate payee shall be includable in the taxable income of and taxable to the alternate payee in the same proportion as payments to the participant are includable in the taxable income of and taxable to the participant, and*

(b) *After-tax contributions shall be allocated to the parties in the same proportion as the total amount of the alternate payee's share bears to the participant's total plan benefit; and*

(18) *Is:*

(a) *Signed and dated by a judge of a court [and] of competent jurisdiction;*

(b) *A certified or true-test copy by the clerk of the court[.]; and*

(c) *In the case of an out-of-state domestic relations order, has been filed in a Circuit Court in the State in accordance with the Uniform Enforcement of Foreign Judgments Act, Courts and Judicial Proceedings Article, Title 11, Subtitle 8, Annotated Code of Maryland.*

C. [A] *The Social Security [number required to be provided under §B(1) of this regulation may] numbers and dates of birth of the participant and alternate payee shall be provided to the Agency in written correspondence accompanying a domestic relations order.*

D. (Text unchanged)

E. If the Agency determines that the domestic relations order satisfies the requirements set forth in [§B] §§B through D of this regulation, the domestic order shall be administered as an eligible domestic relations order in accordance with Regulation .04 of this chapter.

F. If the Agency determines that the domestic relations order *or written correspondence accompanying the domestic relations order* does not satisfy the requirements set forth in [§B] §§B, C, or D of this regulation, the domestic relations order shall be rejected according to the procedure in Regulation .05 of this chapter.

#### **.04 Administration of an Eligible Domestic Relations Order.**

A. – B. (Text unchanged)

C. Notice of Disagreement.

(1) Within [60] 45 days of [receipt of a notice of administration, or 30 days before the payment of a plan benefit to an alternate payee under an eligible domestic

relations order, whichever is earlier] *the date that a notice of administration is sent to the parties*, a party shall advise the Agency and the other party to the order, in writing, if the party disagrees with the Agency's proposed method of distribution set forth in the notice of administration *and the basis for the party's disagreement*.

(2) On receipt of a notice of disagreement from a party, *if the Agency determines that a genuine dispute exists regarding the proper interpretation of the order*, the Agency shall:

(a) – (b) (Text unchanged)

(c) Notify the parties that payment of plan benefits shall begin not earlier than the last day of the month following the month of receipt of the *amended order or consent agreement*.

(3) The Agency shall begin making payments of plan benefits to the participant and the alternate payee as provided in the consent agreement [not later than the last day of the month following the month of receipt by the Agency of the consent agreement] *as soon as is practicable*. Unless otherwise provided in the consent agreement, the payments shall be retroactive to the date the Agency ceased making payments to the participant and the alternate payee. Interest is not payable by the Agency with respect to any plan benefits that were not paid when due.

(4) If the Agency does not receive a consent agreement or *an amended eligible domestic relations order* within [6] 3 months following receipt of a notice of disagreement from a party, the Agency shall administer the domestic relations order in accordance with the notice of administration.

D. (Text unchanged)

#### **.05 Rejection of Domestic Relations Order.**

A. – B. (Text unchanged)

*C. The System, the Agency and the Board of Trustees are not liable for payment of benefits to a person pursuant to a domestic relations order if the order is not an eligible domestic relations order.*

#### **.06 Amendment or Modification of Order.**

A. The Agency does not have an obligation to determine if a domestic relations order has been amended or modified. If a court amends a domestic relations order, the participant or alternate payee shall submit the amended or modified order to the [Director of the Benefits Processing Unit of the] Agency.

B. (Text unchanged)

#### **.08 Alternate Payee Responsibilities.**

An alternate payee shall promptly:

A. Submit a *certified or true-test copy* of a domestic relations order *and any modifications or amendments to the order* to the Agency;

B. *Provide the following information to the Agency in writing contemporaneously with the submission of a domestic relations order:*

- (1) *The social security numbers and dates of birth of the participant and the alternate payee; and*
- (2) *The current address and current telephone number of the alternate payee;*
- C. *Submit documentation to verify the alternate payee's date of birth in accordance with COMAR 22.01.05;*
- D. *When an alternate payee becomes eligible to receive a monthly allowance, properly complete an electronic fund transfer sign-up form and file it with the Agency in accordance with COMAR 22.01.06;*
- [C.] E. *Notify the Agency in writing [of] of:*
- (1) *any change of the alternate payee's name, [or] address, or telephone number; or*
- (2) *the death of the participant; and*
- F. *Comply with all reasonable requests from the Agency for information and documentation necessary for processing payment of all or any portion of a participant's plan benefit to the alternate payee.*

**.09 Participant Responsibilities.**

- A. *A participant shall promptly:*
- (1) *Notify the Agency in writing [of] of:*
- (a) *any change of the participant's name, [or] address, or telephone number; or*
- (b) *the death of the alternate payee;*
- (2) – (3) *(Text unchanged)*
- B. *(Text unchanged)*