

## CHAPTER 329

(Senate Bill 412)

AN ACT concerning

### **State Retirement and Pension System – Compliance with the Federal Pension Protection Act of 2006**

FOR the purpose of altering the criteria certain employers must meet to participate in the State Retirement and Pension System's employer pickup program; permitting certain surviving spouses and designated beneficiaries of the State Retirement and Pension System to rollover certain distributions; ~~permitting certain participants of the State Retirement and Pension System to make direct rollovers of certain distributions from the State Retirement and Pension System to a Roth Individual Retirement Account;~~ providing for the application of this Act; ~~providing for a delayed effective date of certain provisions of this Act;~~ and generally relating to conforming the State Retirement and Pension System to federal tax legislation.

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions  
Section 21–313, 21–601(b), ~~(c)~~, and (d), and 21–602  
Annotated Code of Maryland  
(2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Personnel and Pensions  
Section 21–601(a)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### **Article – State Personnel and Pensions**

21–313.

(a) In this section, “approved employer” means a participating employer who [has received a favorable ruling from the Internal Revenue Service] **ADOPTS A**

**RESOLUTION AND FOLLOWS PROCEDURES AS PRESCRIBED BY THE BOARD OF TRUSTEES** for an employer pickup program in accordance with § 414(h)(2) of the Internal Revenue Code.

(b) The State or other approved employer of a member shall pick up, within the meaning of § 414(h)(2) of the Internal Revenue Code, the member contributions required by this Division II.

(c) The member contributions under subsection (b) of this section:

(1) are designated as employee contributions to be picked up by the employing unit within the meaning of § 414(h)(2) of the Internal Revenue Code and shall be treated as employer contributions in determining tax treatment under that section;

(2) shall reduce the compensation of the member in an amount that equals the member contribution picked up by the employer;

(3) may not be included as gross income of the member until the pickup amounts are distributed or made available to the member;

(4) shall be paid by the State or other approved employer from the same source of funds that is used to pay compensation to the member; and

(5) for purposes of this Division II, shall be treated in the same manner and to the same extent as member contributions made before establishment of the employer pickup program.

21-601.

(a) In this subtitle the following words have the meanings indicated.

(b) “Direct rollover” means a payment by the State Retirement Agency directly to the eligible retirement plan specified by the participant **OR THE SURVIVING SPOUSE OF A PARTICIPANT**.

(d) (1) “Eligible rollover distribution” means a distribution:

(I) on or after January 1, 1993, to a participant of all or any part of the balance to the credit of the participant in any State system;

(II) ON OR AFTER JANUARY 1, 2002, TO THE SURVIVING SPOUSE OF A MEMBER, FORMER MEMBER, OR RETIREE OF ALL OR ANY PART OF THE BALANCE TO THE CREDIT OF THE MEMBER, FORMER MEMBER, RETIREE, OR SURVIVING SPOUSE IN ANY STATE SYSTEM; OR

(III) ON OR AFTER JANUARY 1, 2007, TO THE DESIGNATED BENEFICIARY OF A MEMBER, FORMER MEMBER, OR RETIREE OF ALL OR ANY PART OF THE BALANCE TO THE CREDIT OF THE MEMBER, FORMER MEMBER, RETIREE, OR DESIGNATED BENEFICIARY IN ANY STATE SYSTEM.

(2) "Eligible rollover distribution" does not include:

(i) any distribution that is one of a series of substantially equal periodic payments that are made at least annually for the life or life expectancy of the participant or the joint lives or joint life expectancies of the participant and the participant's beneficiary;

(ii) any distribution that is one of a series of substantially equal periodic payments made for a specified period of at least 10 years; or

(iii) any distribution that is required under § 401(a)(9) of the Internal Revenue Code.

21-602.

(a) Except as provided in subsections (b) and (c) of this section, a participant may elect on the form the Board of Trustees requires to have all or any part of an eligible rollover distribution paid to the eligible retirement plan in a direct rollover.

(b) If an eligible rollover distribution is payable to the [surviving spouse] **DESIGNATED BENEFICIARY** of a member, former member, or retiree, the [surviving spouse] **DESIGNATED BENEFICIARY** may only elect to have all or any part of the eligible rollover distribution paid in a direct rollover to an individual retirement account or individual retirement annuity.

(c) A member who is eligible to participate in the plan administered by the supplemental plan under Title 35, Subtitle 5 of this article may elect to have all or any part of the eligible rollover distribution paid in a direct rollover to the plan in accordance with the regulations adopted by the supplemental plan.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article — State Personnel and Pensions~~~~21-601.~~

~~(e) “Eligible retirement plan” means:~~

~~(1) an individual retirement account described in § 408(a) of the Internal Revenue Code;~~

~~(2) an individual retirement annuity, other than an endowment contract, described in § 408(b) of the Internal Revenue Code;~~

~~(3) a qualified trust described in § 401(a) of the Internal Revenue Code that is exempt from tax under § 501(a) of the Internal Revenue Code;~~

~~(4) an annuity plan described in § 403(a) of the Internal Revenue Code;~~

~~(5) an annuity plan described in § 403(b) of the Internal Revenue Code; [or]~~

~~(6) a deferred compensation plan that is maintained by an eligible employer described in § 457 of the Internal Revenue Code or any successor provisions; OR~~

~~(7) A ROTH INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN § 408A(E) OF THE INTERNAL REVENUE CODE.~~

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That:

(a) Section 21-601(d)(1)(ii) of the State Personnel and Pensions Article, as amended by this Act, shall be construed to apply retroactively and shall be applied to and interpreted to affect any surviving spouse who received an eligible rollover distribution on or after January 1, 2002; and

(b) Section 21-601(d)(1)(iii) of the State Personnel and Pensions Article, as amended by this Act, shall be construed to apply retroactively and shall be applied to and interpreted to affect any designated beneficiary who received an eligible rollover distribution on or after January 1, 2007.

~~SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2008.~~

SECTION ~~5.~~ 3. AND BE IT FURTHER ENACTED, That, ~~except as provided in Section 4 of this Act,~~ this Act shall take effect July 1, 2007.

**Approved by the Governor, May 8, 2007.**