

## DETAILED OKLAHOMA BANKRUPTCY EXEMPTIONS

### 31 Okl. Stat. § 1. Property exempt from attachment, execution or other forced sale--Bankruptcy proceedings

A.

1. Except as otherwise provided in this title and notwithstanding subsection B of this section, the following property shall be reserved to every person residing in the state, exempt from attachment or execution and every other species of forced sale for the payment of debts, except as herein provided:
  1. The home of such person, provided that such home is the principal residence of such person;
  2. A manufactured home, provided that such manufactured home is the principal residence of such person;
  3. All household and kitchen furniture held primarily for the personal, family, educational or household use of such person or a dependent of such person, including a personal computer and related equipment;
  4. Any lot or lots in a cemetery held for the purpose of sepulcher;
  5. Implements of husbandry necessary to farm the homestead and tools, apparatus and books used in any trade or profession of such person or a dependent of such person not to exceed ten thousand dollars (\$ 10,000.00) in aggregate value;
  6. All books, portraits and pictures that are held primarily for the personal, family or household use of such person or a dependent of such person;
  7. The person's interest, not to exceed Four Thousand Dollars (\$ 4,000.00) in aggregate value, in wearing apparel that is held primarily for the personal, family or household use of such person or a dependent of such person;
  8. The person's interest, not to exceed three thousand dollars (\$ 3,000.00) in aggregate value, in wedding and anniversary rings;
  9. All professionally prescribed health aids for such person or a dependent of such person;
  10. Five milk cows and their calves under six (6) months old, that are held primarily for the personal, family or household use of such person or a dependent of such person;
  11. One hundred chickens, that are held primarily for the personal, family or household use of such person or a dependent of such person;
  12. Two horses and two bridles and two saddles, that are held primarily for the personal, family or household use of such person or a dependent of such person;
  13. Such person's interest, not to exceed seven thousand five hundred dollars (\$ 7,500.00) in value, in one motor vehicle;
  14. Guns, not to exceed two thousand dollars (\$ 2,000.00) in aggregate value, that are held primarily for the personal, family or household use of such person or a dependent of such person provided that nothing in this subsection shall be construed to allow a person to exempt guns which are used mainly as an investment or nonpersonal, family or household use;
  15. Ten hogs, that are held primarily for the personal, family or household use of such person or a dependent of such person;

16. Twenty head of sheep, that are held primarily for the personal, family or household use of such person or a dependent of such person;

17. All provisions and forage on hand, or growing for home consumption, and for the use of exempt stock for one (1) year;

18. Seventy-five percent (75%) of all current wages or earnings for personal or professional services earned during the last ninety (90) days, except as provided in Title 12 of the Oklahoma Statutes in garnishment proceedings for collection of child support;

19. Such person's right to receive alimony, support, separate maintenance or child support payments to the extent reasonably necessary for the support of such person and any dependent of such person;

20. Subject to the Uniform Fraudulent Transfer Act, Section 112 et seq. of Title 24 of the Oklahoma Statutes, any interest in a retirement plan or arrangement qualified for tax exemption or deferment purposes under present or future Acts of Congress; provided, any transfer or rollover contribution between retirement plans or arrangements which avoids current federal income taxation shall not be deemed a transfer which is fraudulent as to a creditor under the Uniform Fraudulent Transfer Act. "Retirement plan or arrangement qualified for tax exemption purposes" shall include without limitation, trusts, custodial accounts, insurance, annuity contracts and other properties and rights constituting a part thereof. By way of example and not by limitation, retirement plans or arrangements qualified for tax exemption or deferment purposes permitted under present Acts of Congress include defined contribution plans and defined benefit plans as defined under the Internal Revenue Code ("IRC"), individual retirement accounts, individual retirement annuities, simplified employee pension plans, Keogh plans, IRC Section 403(a) annuity plans, IRC Section 403(b) annuities, Roth Individual Retirement Accounts created pursuant to IRC section 408 a, Educational Individual Retirement Accounts created pursuant to IRC section 530 and eligible state deferred compensation plans governed under IRC Section 457. This provision shall be in addition to and not a limitation of any other provision of the Oklahoma Statutes which grants an exemption from attachment or execution and every other species of forced sale for the payment of debts. This provision shall be effective for retirement plans and arrangements in existence on, or created after April 16, 1987;

21. Such person's interest in a claim for personal bodily injury, death or workers' compensation claim, for a net amount not in excess of Fifty Thousand Dollars (\$ 50,000.00), but not including any claim for exemplary or punitive damages;

22. Funds in an individual development account established pursuant to the provisions of Section 251 et seq. of Title 56 of the Oklahoma Statutes;

23. Any amount received pursuant to the federal earned income tax credit; and

24. Any interest in an Oklahoma College Savings Plan account established pursuant to the provisions of Section 3970.1 et seq. of Title 70 of the Oklahoma Statutes.

B. No natural person residing in this state may exempt from the property of the estate in any bankruptcy proceeding the property specified in subsection (d) of Section 522 of the Bankruptcy Reform Act of 1978, Public Law 95-598, 11 U.S.C.A. 101 et seq., except as may otherwise be expressly permitted under this title or other statutes of this state.

### **31 Okl. Stat. § 1.1. Earnings from personal services--Exemption from process--Order**

A. Following the issuance of an execution, attachment, or garnishment, except process to collect a judgment or order for child support or maintenance of children or in cases in which the court has limited or reduced the application of this section pursuant to Section 142.18 of Title 21 of the Oklahoma Statutes, the debtor may file with the court an application requesting a hearing to exempt from such process by reason of undue hardship that portion of any earnings from personal services necessary for the maintenance of a family or other dependents supported wholly or partially by the labor of the debtor. A debtor with no family or other dependents may not claim an exemption under this section. A hearing on

the application shall be set and conducted in the manner provided by Section 1172.2 of Title 12 of the Oklahoma Statutes and subsection C of Section 1174 of Title 12 of the Oklahoma Statutes.

B. In determining the existence of an undue hardship, the court should consider the income and expenses of the family and other dependents, and the standard of living created by the income and expenses. The court should also consider the standard of living in relationship to the minimal subsistence needs of the debtor's family and other dependents, with comparison to the minimal subsistence standards in the community, in regard to basic shelter, food, clothing, personal necessities and transportation. The court should then determine if the lack of the funds sought to be exempt would be an undue hardship by creating less than a minimal level of subsistence. If deprivation of these earnings would create an undue hardship on the debtor and the family or other dependents the debtor supports, the court may:

1. Order all or a portion of the personal earnings exempt; or

2. In the case of a continuing earnings garnishment pursuant to Section 1173.4 of Title 12 of the Oklahoma Statutes, exempt all or a portion of the personal earnings withheld within the thirty (30) days preceding the filing of the claim for exemption or modify or stay the garnishment for a period of time not to exceed the remainder of the term of the garnishment.

### **31 Okl. Stat. § 7. Pension money exempt**

There shall also be exempt from levy and sale upon execution or attachment to every resident of this state who became disabled in the service of the United States as a soldier, sailor, or marine, all pension money hereafter received belonging to such soldier, sailor or marine.

### **36 Okl. Stat. § 3632. Exemption of proceeds, group life**

A. A policy of group life insurance or the proceeds thereof payable to the individual insured or to the beneficiary thereunder, shall not be liable, either before or after payment, to be applied by any legal or equitable process to pay any liability of any person having a right under the policy. The proceeds thereof, when not made payable to a named beneficiary or to a third person pursuant to a facility-of-payment clause, shall not constitute a part of the estate of the individual insured for the payment of his debts.

B. This section shall not apply to group life insurance issued pursuant to Article 41 (Group life insurance and group annuity contracts) to a creditor covering his debtors, to the extent that such proceeds are applied to payment of the obligation for the purpose of which the insurance was so issued.

### **36 Okl. Stat. § 3631.1. Certain money and benefits exempt from legal process or seizure--Exceptions**

A. All money or benefits of any kind, including policy proceeds and cash values, to be paid or rendered to the insured or any beneficiary under any policy of insurance issued by a life, health or accident insurance company, under any policy issued by a mutual benefit association, or under any plan or program of annuities and benefits, shall:

1. Inure exclusively to the benefit of the person for whose use and benefit the money or benefits are designated in the policy, plan or program;

2. Be fully exempt from execution, attachment, garnishment or other process;

3. Be fully exempt from being seized, taken or appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of the insured or of any beneficiary, either before or after said money or benefits is or are paid or rendered; and

4. Be fully exempt from all demands in any bankruptcy proceeding of the insured or beneficiary.

B. The exemptions provided by subsection A of this section shall apply without regard to whether:

1. The power to change the beneficiary is reserved to the insured; or

2. The insured or the insured's estate is a contingent beneficiary.

C. The exemptions provided by subsection A of this section do not apply to:

1. Premium payments made in fraud of creditors subject to the applicable statute of limitations for the recovery of the premium payments;
2. Fines imposed for violation of state or federal statutes; or
3. A debt of the insured or beneficiary secured by a pledge of the policy or its proceeds.

D. This section shall not prevent the proper assignment of any money or benefits to be paid or rendered under an insurance policy, or any rights under the policy, by the insured or owner in accordance with the terms of the policy. A policy shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or similar clause in the policy permits the insurer to discharge its obligation after the death of the individual insured by paying the death benefits to a person as permitted by such clause.

E. Wherever any policy of insurance or plan or program of annuities and benefits mentioned in subsection A of this section shall contain a provision against assignment or commutation by any beneficiary thereunder of the money or benefits to be paid or rendered thereunder, or any rights therein, any assignment or commutation or any attempted assignment or commutation by such beneficiary of such money or benefits or rights in violation of such provision shall be wholly void.

F. This section shall apply to money or benefits to be paid or rendered to an insured or a beneficiary under any policy, plan or program provided for in subsection A of this section without regard to whether the policy was issued or the plan or program was established before, on, or after September 1, 1992.

### **36 Okl. Stat. § 2718.1. Benefits not attachable**

No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

### **85 Okl. Stat. § 48. Claims nonassignable--Exempt from all processes--Death of claimant, to whom compensation paid**

Claims for compensation or benefits due under the Workers' Compensation Act shall not be assigned, released or commuted except as provided by the Workers' Compensation Act, and shall be exempt from all claims of creditors and from levy, execution or attachment or other remedy for recovery or collection of a debt, which exemption may not be waived. Compensation and benefits shall be paid only to employees; provided, that if an employee dies as a result of his accidental personal injury or occupational disease, any unaccrued portions of an award or order for compensation benefits shall abate. Nothing in this section shall be construed to prohibit any party from the enforcement of any valid lien for child support or valid income assignment for child support.

The term "dependent", as used in this section, means actually dependent in fact upon the deceased employee, and refers only to a person who received more than half of his support from the employee.

1. An award made to a claimant for permanent partial disability under the provisions of the Workers' Compensation Act shall, in case of the death of the claimant, due to causes other than his injury for which he has been awarded permanent partial compensation, be payable to and for the benefit of the following persons:

(a) If there is a surviving spouse and no child of the deceased under the age of eighteen (18) years, to the surviving spouse.

(b) If there is a surviving child or children of the deceased under the age of eighteen (18) years, or dependent blind or dependent crippled child or children of any age, but no surviving spouse then for the support of each such child, to share and share alike until the full payment of the award.

(c) If there is a surviving spouse, a surviving child or children of the deceased under the age of eighteen (18) years, or a dependent blind or dependent crippled child or children of any age, one-half ( 1/2 ) shall be payable to the surviving spouse and the other half to the surviving child or children.

(d) If there is no surviving spouse or child under the age of eighteen (18), or dependent blind or dependent crippled child of any age, then to the dependent parents to share and share alike, and if there are no dependent parents, then to the dependent brothers and sisters, to share and share alike.

(e) In the event the claimant is survived by none of the above named, then the award for compensation benefits shall abate.

2. If claimant has been adjudged a permanent totally disabled person prior to his death, and such death has resulted from causes other than his accidental personal injury or occupational disease causing such total permanent disability, the award may be revived and made payable to the following persons:

(a) If there is a surviving spouse, to such surviving spouse, fifty percent (50%) of the average weekly wages the deceased was earning, but in no event more than a maximum of Fifty Dollars (\$ 50.00) per week.

(b) If there is a surviving spouse and dependent children under the age of eighteen (18) years or dependent blind or dependent crippled child of any age, the surviving spouse shall receive the amount set forth in subparagraph (a) of this paragraph and in addition the following amounts shall be paid:

(1) To one dependent child, fifteen percent (15%) of the weekly benefits awarded employee, but in no event more than a maximum of Fifteen Dollars (\$ 15.00) per week.

(2) To two or more dependent children, twenty-five percent (25%) of the weekly benefits awarded employee, but in no event more than a maximum of Twenty-five Dollars (\$ 25.00) per week, which shall be divided among the children, to share and share alike.

(c) If there is no surviving spouse, but there is a surviving child under the age of eighteen (18) years, or a dependent blind or dependent crippled child of any age, the child shall receive twenty-five percent (25%) of the weekly benefits awarded the decedent, but in no event more than a maximum of Twenty-five Dollars (\$ 25.00) per week.

(d) If there is no surviving spouse, but there are two or more surviving children under the age of eighteen (18) years, or dependent blind or dependent crippled children of any age, the children shall receive fifty percent (50%) of the weekly benefits awarded the decedent, but in no event more than a maximum of Fifty Dollars (\$ 50.00) per week, which shall be divided among the children to share and share alike.

(e) The income benefits payable for the benefit of any child under this section shall cease when the child dies, marries or reaches the age of eighteen (18) years, or when a child over eighteen (18) years of age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of twenty-three (23) years. A child who originally qualified as a dependent by virtue of being less than eighteen (18) years of age may, upon reaching age eighteen (18) years, continue to qualify if the child satisfies the tests of being physically or mentally incapable of self-support, actually dependent or enrolled in an accredited educational institution.

(f) If there is no surviving spouse or children under the age of eighteen (18) years or dependent blind or dependent crippled children of any age, then to the surviving dependent parents of the decedent fifty percent (50%) of the weekly benefits awarded the employee, but in no event more than a maximum of Fifty Dollars (\$ 50.00) per week. If there is only one dependent surviving parent, then the surviving dependent parent shall receive twenty-five percent (25%) of the weekly benefits awarded employee, but in no event more than a maximum of Twenty-five Dollars (\$ 25.00) per week. Payments shall continue during the dependent parent's lifetime and shall abate upon the death of the dependent parent or when the dependent parent is no longer dependent.

(g) If there is no surviving dependent persons as set forth herein, the award for compensation benefits shall abate.

(h) The maximum weekly income benefits payable for all persons in case of the employee's death due to causes other than the accidental personal injury or occupational disease shall not exceed seventy-five percent (75%) of the average weekly wage of the employee, subject to the maximum limits of compensation set forth in Section 22 of this title.

#### **40 Okl. Stat. § 2-303. Assignments void, exemption from process**

ASSIGNMENTS VOID, EXEMPTION FROM PROCESS.

No assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under the Employment Security Act of 1980 shall be valid. All such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt. Benefits received by an individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts during the time the individual was unemployed, except those debts incurred for necessities furnished to the individual or his or her spouse, or dependents, including child support obligations pursuant to Section 2-801 of this title, and debts created due to food stamp overissuances for which the individual is liable pursuant to Section 2-803 of this title. Benefits shall be subject to tax levies issued by the Internal Revenue Service in accordance with 26 U.S.C., Section 6331(h) provided an agreement is entered into between the Internal Revenue Service and the Oklahoma Employment Security Commission, and approved by the United States Department of Labor, that provides for the payment of all administrative costs associated with processing the tax levies. No waiver of any exemption provided for in this section shall be valid.

#### **56 Okl. Stat. § 173. Assistance inalienable**

All rights to assistance under this act shall be inalienable by any assignment, sale or transfer; and said assistance shall not be subject to execution, attachment, garnishment or other process, and in the case of bankruptcy, the assistance shall not pass to or through any trustee or any other person acting on behalf of creditors. Any contract or transfer or assignment or sale made contrary to the provisions of this act shall be void.

#### **60 Okl. Stat. § 327. Provisions against alienation or encumbrance**

Any such plan, trust or contract may provide against the alienation or encumbrance of the interest of any person therein and further provide that no interest therein shall be subject to garnishment, attachment, execution or the claims of creditors of the persons having an interest therein.

#### **51 Okl. Stat. § 42. Voluntary pledge--Withholding from salary or wages--Purchase and delivery of bond and stamps**

When an officer or employee of the state, county, school district or municipal subdivision signs a voluntary pledge authorizing the disbursing agent, to wit: in the case of the state, the State Treasurer; in the case of the county, the county clerk; in the case of school districts, and cities and towns, the clerks and finance officers, to withhold a definite amount regularly from his or her salary or wages each pay period, such disbursing agent shall place the sum so withheld to his or her credit into a "War Bond Payroll Savings Account," which account shall be expressly exempt from garnishment and shall be a separate trust account. When a sufficient sum has accrued in said fund to the credit of such officer or employee, such disbursing agent is authorized and empowered to purchase a United States war savings bond or war savings stamps and deliver same to such officer or employee. It is provided that upon receipt by the disbursing agent of such signed voluntary pledge by an officer or employee, the state, county, school district, or municipal subdivision is thereby relieved of any further liability to such officer or employee on that portion of their wage or salary so pledged; save as to the delivery of the bonds or stamps so purchased to the proper officer or employee.

#### **11 Okl. Stat. § 49-126. Pensions and allowances exempt from forced sale--Assignments or transfers void--Exception of qualified domestic orders**

A. Except as otherwise provided by this section, no portion of said pension shall, either before or after its order of distribution by the State Board to such disabled members of said fire department, or the surviving spouse, alternate payee as defined in subsection B of this section, or guardian of such minor child or children, to the deceased or retired member of such department, be held, seized, taken, subjected to or detained or levied on by virtue of any attachment, execution, injunction, writ interlocutory or other order or decree, or any process or proceeding whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damages, claim, demand or judgment against

such member, or his or her surviving spouse, alternate payee, or the guardian of said minor child or children of any deceased member, nor shall said fund or any claim thereto be directly or indirectly assigned and any attempt to assign or transfer the same shall be void; but the funds shall be held, kept, secured and distributed for the purpose of pensioning the persons named in this article, and for no other purpose whatever. Notwithstanding the foregoing, effective August 5, 1997, the State Board may approve any offset of a member's benefit to pay a judgment or settlement against a member for a crime involving the System, for a breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or beneficiary by mistake, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986, as amended.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of this state which relates to the provision of marital property rights to an alternate payee and which creates or recognizes the existence of the right of an alternate payee and assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of the System.

3. The term "alternate payee" means any spouse, former spouse, minor or disabled child or children, or other dependent of the member who is recognized by a domestic relations order as having a right to receive benefits payable with respect to a member of the System.

4. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

5. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

6. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

7. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and

c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

8. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date of the related member.

9. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the earlier of the death of the related member or the death of the alternate payee. Upon the death of the alternate payee, the assignment to the alternate payee of the right to receive a portion of the benefits payable with respect to the member shall cease and the payments of benefits to the member shall be reinstated.

10. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

11. The Oklahoma Firefighters Pension and Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

12. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the State Board pursuant to this subsection in order to continue receiving his or her benefit.

C. The provisions of subsection A of this section shall not apply to a Child Support Enforcement Division order for a support arrearage pursuant to Section 240.23 of Title 56 of the Oklahoma Statutes and current child support payments made pursuant to a valid court order.

D. The provisions of subsection A of this section shall not apply to a federal tax levy made pursuant to Section 6331 of the Internal Revenue Code of 1986, as amended, and the collection by the United States on a judgment resulting from an unpaid tax assessment.

### **11 Okl. Stat. § 50-124. Exemption of System funds from legal process--Assignment or transfer void--Exception of qualified domestic orders--Offset for offenses involving the System**

A. Except as otherwise provided by this section, no portion of any of the funds of the System shall, either before or after any order made by the State Board for payment to any person entitled to a pension or allowance, be held, seized, taken, subjected to, or detained, or levied on by virtue of any garnishment, attachment, execution, injunction, or other order or decree or any process or proceeding whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against any such person entitled to payment, nor shall said payments or any claim thereto be directly or indirectly assigned, and any attempt to assign or transfer the same shall be void. The said funds shall be held, invested, secured and distributed for the purposes named in this article, and for no other purpose whatever.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the System.



3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,

b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,

c. the number of payments or period to which such order applies,

d. the characterization of the benefit as to marital property rights or child support, and

e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,

b. does not require the System to provide increased benefits, and

c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date of the related member.

8. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Oklahoma Police Pension and Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the State Board pursuant to this subsection in order to continue receiving his or her benefit.

C. Notwithstanding any other provision of law to the contrary, effective August 5, 1997, the State Board may approve any offset of a member's benefit to pay a judgment or settlement against the member for a crime involving the System or for a breach of the member's fiduciary duty to the System, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986, as amended.

## **70 Okl. Stat. § 17-109. Exemption from legal process**

A. Except as otherwise provided by this section, the right of a person to an annuity or a retirement allowance, to the return of contributions, annuity, or retirement allowance itself, any optional benefit, or any other right accrued or accruing to any person under the provisions of this act, and the monies in the various funds created by this act, are hereby exempt from levy and sale, garnishment, attachment or any other process whatsoever, and shall be unassignable except as in this act specifically provided. Notwithstanding the foregoing, the Board of Trustees may approve any offset of a member's benefit to pay a judgment or settlement against a member for a crime involving the System, for a breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or a beneficiary by mistake, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the Retirement System.

3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the Board of Trustees and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the Retirement System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

a. does not require the Retirement System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the Retirement System,

b. does not require the Retirement System to provide increased benefits, and

c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the Retirement System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

8. The obligation of the Retirement System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board of Trustees pursuant to this subsection in order to continue receiving his or her benefit.

#### **74 Okl. Stat. § 923. Protection of vested rights--Exemption of benefits from legal process--Offset**

A. Except as otherwise provided by this section, no alteration, amendment, or repeal of this act shall affect the then existing rights of members and beneficiaries, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by an employee after such alteration, amendment, or repeal. Any annuity, benefits, fund, property, or rights created by or accruing to any person under the provisions of this act shall not be subject to execution, garnishment or attachment, or any other process or claim whatsoever, and shall be unassignable, except as specifically provided by Section 901 et seq. of this title. Notwithstanding the foregoing, the Board of Trustees may offset any benefits of a member or beneficiary to pay a judgment or settlement against a member or beneficiary for a crime involving the System, for a fraud or breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or a beneficiary, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986. The offset applies to any benefits which may otherwise be payable to a member or beneficiary from any plan or fund which is administered by the Board of Trustees.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property

rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the System.

3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member and shall not attach to or require the payment of any amount of benefits related to a deferred compensation plan or program authorized by Section 1701 et seq. of this title.

8. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001 et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Oklahoma Public Employees Retirement System Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board pursuant to this subsection in order to continue receiving his or her benefit.

**20 Okl. Stat. § 1111. Certain benefits and rights of retired justices and judges exempt from process--Exception of qualified domestic orders**

A. Except as otherwise provided by this section, any annuity, benefit, fund, property or right created by or accruing to any person under any provision of The Uniform Retirement System for Justices and Judges is hereby made and declared exempt from and not subject to execution, garnishment, or attachment or any other process or claim whatsoever, and shall be unassignable except as specifically provided by said act. Notwithstanding the foregoing, the Board of Trustees may offset any benefits of a member or beneficiary to pay a judgment or settlement against a member or beneficiary for a crime involving the System, for a fraud or breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or a beneficiary, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986. The offset applies to any benefits which may otherwise be payable to a member or beneficiary from any plan or fund which is administered by the Board of Trustees of the Oklahoma Public Employees Retirement System.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the System.

3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on The Uniform Retirement System for Justices and Judges and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,

b. the amount or percentage of the member's benefits to be paid by The Uniform Retirement System for Justices and Judges to the alternate payee,

c. the number of payments or period to which such order applies,

d. the characterization of the benefit as to marital property

rights or child support, and

e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to The Uniform Retirement System for Justices and Judges,

b. does not require The Uniform Retirement System for Justices and Judges to provide increased benefits, and

c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by The Uniform Retirement System for Justices and Judges as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member and shall not attach to or require the payment of any amount of benefits related to a deferred compensation plan or program authorized by Section 1701 et seq. of Title 74 of the Oklahoma Statutes.

8. The obligation of The Uniform Retirement System for Justices and Judges to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Board of Trustees of the Oklahoma Public Employees Retirement System shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board of Trustees of the Oklahoma Public Employees Retirement System pursuant to this subsection in order to continue receiving his or her benefit.

**Note:** Laws may have changed since our last update. For the latest information on Oklahoma's bankruptcy laws, call our office.