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CS/HB 7079

2012 Legislature

1
2 An act relating to state retirement; creating s.
3 121.012, F.S.; providing applicability; amending s.
4 121.021, F.S.; clarifying the definitions of the terms
5 "normal retirement date" and "vesting"; amending s.
6 121.0515, F.S.; correcting a cross-reference; amending
7 s. 121.055, F.S.; authorizing distributions to a
8 member who is terminated from employment for 1
9 calendar month if the member has reached the normal
10 retirement date; providing rulemaking authority to the
11 Department of Management Services; clarifying
12 provisions related to the prohibition of hardship
13 loans or payments; clarifying that a retiree who is
14 reemployed in a regularly established position after a
15 certain date may not be enrolled as a renewed member;
16 amending s. 121.071, F.S.; clarifying provisions
17 related to the prohibition of hardship loans or
18 payments; amending s. 121.091, F.S.; making conforming
19 changes to the Deferred Retirement Option Program
20 regarding deferral age; amending s. 121.122, F.S.;
21 clarifying that a retiree who is reemployed in a
22 regularly established position after a certain date
23 may not be enrolled as a renewed member; amending s.
24 121.35, F.S.; providing that a benefit for the
25 purposes of the optional retirement program for the
26 State University System includes a certain
27 distribution; authorizing distributions to a member
28 who is terminated from employment for 1 calendar month

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29 | if the member has reached the normal retirement date;
30 | providing rulemaking authority to the Department of
31 | Management Services; clarifying provisions related to
32 | the prohibition of hardship loans or payments;
33 | clarifying when voluntary contributions may be paid
34 | out; amending s. 121.4501, F.S.; specifying that the
35 | definition of the term "eligible employee" does not
36 | include certain members reemployed in regularly
37 | established positions; clarifying that a retiree who
38 | is reemployed in a regularly established position
39 | after a certain date may not be enrolled as a renewed
40 | member; amending s. 121.591, F.S.; clarifying
41 | provisions related to the prohibition of hardship
42 | loans or payments; amending s. 1012.875, F.S.;
43 | authorizing distributions to a member who is
44 | terminated from employment for 1 calendar month if the
45 | member has reached the normal retirement date;
46 | providing rulemaking authority to the boards of
47 | trustees for colleges; clarifying provisions related
48 | to the prohibition of hardship loans or payments;
49 | providing an effective date.

50 |
51 | Be It Enacted by the Legislature of the State of Florida:

52 |
53 | Section 1. Section 121.012, Florida Statutes, is created
54 | to read:

55 | 121.012 Inclusive provisions.—The provisions of part I of
56 | this chapter shall be applicable to parts II and III to the

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57 extent such provisions are not inconsistent with, or duplicative
58 of, the provisions of parts II and III.

59 Section 2. Subsection (29) and paragraph (b) of subsection
60 (45) of section 121.021, Florida Statutes, are amended to read:

61 121.021 Definitions.—The following words and phrases as
62 used in this chapter have the respective meanings set forth
63 unless a different meaning is plainly required by the context:

64 (29) "Normal retirement date" means the date a member
65 attains normal retirement age and is vested, which is determined
66 as follows:

67 (a)~~1.~~ If a Regular Class member, a Senior Management
68 Service Class member, or an Elected Officers' Class member
69 initially enrolled:

70 1. Before July 1, 2011:

71 a. The first day of the month the member attains age 62;
72 or

73 b. The first day of the month following the date the
74 member completes 30 years of creditable service, regardless of
75 age.

76 ~~2. If a Regular Class member, a Senior Management Service~~
77 ~~Class member, or an Elected Officers' Class member initially~~
78 ~~enrolled~~ On or after July 1, 2011:

79 a. The first day of the month the member attains age 65;
80 or

81 b. The first day of the month following the date the
82 member completes 33 years of creditable service, regardless of
83 age.

84 (b)~~1.~~ If a Special Risk Class member initially enrolled:

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85 1. Before July 1, 2011:

86 a. The first day of the month the member attains age 55
87 and completes the years of creditable service in the Special
88 Risk Class equal to or greater than the years of service
89 required for vesting;

90 b. The first day of the month following the date the
91 member completes 25 years of creditable service in the Special
92 Risk Class, regardless of age; or

93 c. The first day of the month following the date the
94 member completes 25 years of creditable service and attains age
95 52, which service may include a maximum of 4 years of military
96 service credit if such credit is not claimed under any other
97 system and the remaining years are in the Special Risk Class.

98 2. ~~If a Special Risk Class member initially enrolled~~ On or
99 after July 1, 2011:

100 a. The first day of the month the member attains age 60
101 and completes the years of creditable service in the Special
102 Risk Class equal to or greater than the years of service
103 required for vesting;

104 b. The first day of the month following the date the
105 member completes 30 years of creditable service in the Special
106 Risk Class, regardless of age; or

107 c. The first day of the month following the date the
108 member completes 30 years of creditable service and attains age
109 57, which service may include a maximum of 4 years of military
110 service credit if such credit is not claimed under any other
111 system and the remaining years are in the Special Risk Class.

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113 For pension plan members, "normal retirement age" is attained on
114 the "normal retirement date." For investment plan members,
115 normal retirement age is the date a member attains his or her
116 normal retirement date as provided in this section, or the date
117 a member is vested under the investment plan as provided in s.
118 121.4501(6), whichever is later.

119 (45) "Vested" or "vesting" means the guarantee that a
120 member is eligible to receive a future retirement benefit upon
121 completion of the required years of creditable service for the
122 employee's class of membership, even though the member may have
123 terminated covered employment before reaching normal or early
124 retirement date. Being vested does not entitle a member to a
125 disability benefit. Provisions governing entitlement to
126 disability benefits are set forth under s. 121.091(4).

127 (b) Any member initially enrolled in the Florida
128 Retirement System on or after July 1, 2011, shall be vested in
129 the pension plan upon completion of 8 years of creditable
130 service.

131 Section 3. Paragraph (k) of subsection (3) of section
132 121.0515, Florida Statutes, is amended to read:

133 121.0515 Special Risk Class.—

134 (3) CRITERIA.—A member, to be designated as a special risk
135 member, must meet the following criteria:

136 (k) The member must have already qualified for and be
137 actively participating in special risk membership under
138 paragraph (a), paragraph (b), or paragraph (c), must have
139 suffered a qualifying injury as defined in this paragraph, must
140 not be receiving disability retirement benefits as provided in

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141 s. 121.091(4), and must satisfy the requirements of this
142 paragraph.

143 1. The ability to qualify for the class of membership
144 defined in paragraph (2) (i) ~~(2) (f)~~ occurs when two licensed
145 medical physicians, one of whom is a primary treating physician
146 of the member, certify the existence of the physical injury and
147 medical condition that constitute a qualifying injury as defined
148 in this paragraph and that the member has reached maximum
149 medical improvement after August 1, 2008. The certifications
150 from the licensed medical physicians must include, at a minimum,
151 that the injury to the special risk member has resulted in a
152 physical loss, or loss of use, of at least two of the following:
153 left arm, right arm, left leg, or right leg; and:

154 a. That this physical loss or loss of use is total and
155 permanent, except in the event that the loss of use is due to a
156 physical injury to the member's brain, in which event the loss
157 of use is permanent with at least 75 percent loss of motor
158 function with respect to each arm or leg affected.

159 b. That this physical loss or loss of use renders the
160 member physically unable to perform the essential job functions
161 of his or her special risk position.

162 c. That, notwithstanding this physical loss or loss of
163 use, the individual is able to perform the essential job
164 functions required by the member's new position, as provided in
165 subparagraph 3.

166 d. That use of artificial limbs is either not possible or
167 does not alter the member's ability to perform the essential job
168 functions of the member's position.

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169 e. That the physical loss or loss of use is a direct
170 result of a physical injury and not a result of any mental,
171 psychological, or emotional injury.

172 2. For the purposes of this paragraph, "qualifying injury"
173 means an injury sustained in the line of duty, as certified by
174 the member's employing agency, by a special risk member that
175 does not result in total and permanent disability as defined in
176 s. 121.091(4)(b). An injury is a qualifying injury if the injury
177 is a physical injury to the member's physical body resulting in
178 a physical loss, or loss of use, of at least two of the
179 following: left arm, right arm, left leg, or right leg.

180 Notwithstanding any other provision of this section, an injury
181 that would otherwise qualify as a qualifying injury is not
182 considered a qualifying injury if and when the member ceases
183 employment with the employer for whom he or she was providing
184 special risk services on the date the injury occurred.

185 3. The new position, as described in sub-subparagraph
186 1.c., that is required for qualification as a special risk
187 member under this paragraph is not required to be a position
188 with essential job functions that entitle an individual to
189 special risk membership. Whether a new position as described in
190 sub-subparagraph 1.c. exists and is available to the special
191 risk member is a decision to be made solely by the employer in
192 accordance with its hiring practices and applicable law.

193 4. This paragraph does not grant or create additional
194 rights for any individual to continued employment or to be hired
195 or rehired by his or her employer that are not already provided
196 within the Florida Statutes, the State Constitution, the

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197 Americans with Disabilities Act, if applicable, or any other
198 applicable state or federal law.

199 Section 4. Paragraph (f) of subsection (1) and paragraph
200 (e) of subsection (6) of section 121.055, Florida Statutes, are
201 amended to read:

202 121.055 Senior Management Service Class.—There is hereby
203 established a separate class of membership within the Florida
204 Retirement System to be known as the "Senior Management Service
205 Class," which shall become effective February 1, 1987.

206 (1)

207 (f) Effective July 1, 1997:

208 1. Except as provided in subparagraph 3., an elected state
209 officer eligible for membership in the Elected Officers' Class
210 under s. 121.052(2)(a), (b), or (c) who elects membership in the
211 Senior Management Service Class under s. 121.052(3)(c) may,
212 within 6 months after assuming office or within 6 months after
213 this act becomes a law for serving elected state officers, elect
214 to participate in the Senior Management Service Optional Annuity
215 Program, as provided in subsection (6), in lieu of membership in
216 the Senior Management Service Class.

217 2. Except as provided in subparagraph 3., an elected
218 officer of a local agency employer eligible for membership in
219 the Elected Officers' Class under s. 121.052(2)(d) who elects
220 membership in the Senior Management Service Class under s.
221 121.052(3)(c) may, within 6 months after assuming office, or
222 within 6 months after this act becomes a law for serving elected
223 officers of a local agency employer, elect to withdraw from the
224 Florida Retirement System, as provided in subparagraph (b)2., in

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225 lieu of membership in the Senior Management Service Class.
 226 3. A retiree of a state-administered retirement system who
 227 is initially reemployed in a regularly established position on
 228 or after July 1, 2010, as an elected official eligible for the
 229 Elected Officers' Class may not be enrolled in renewed ~~renew~~
 230 membership in the Senior Management Service Class or in the
 231 Senior Management Service Optional Annuity Program as provided
 232 in subsection (6), and may not withdraw from the Florida
 233 Retirement System as a renewed member as provided in
 234 subparagraph (b)2., as applicable, in lieu of membership in the
 235 Senior Management Service Class.

236 (6)

237 (e) Benefits.—

238 1. Benefits under the Senior Management Service Optional
 239 Annuity Program are payable only to members of the program, or
 240 their beneficiaries as designated by the member in the contract
 241 with the provider company, and must be paid by the designated
 242 company in accordance with the terms of the annuity contract
 243 applicable to the member. A member must be terminated from all
 244 employment relationships with Florida Retirement System
 245 employers for 3 calendar months to begin receiving the employer-
 246 funded and employee-funded benefit. The department may authorize
 247 a distribution of up to 10 percent of the member's account after
 248 being terminated from employment with all participating
 249 employers for 1 calendar month if the member has reached the
 250 normal retirement date as defined in s. 121.021. The department
 251 may adopt rules to implement this subparagraph. The member must
 252 meet the definition of termination in s. 121.021(39) beginning

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253 the month after receiving a benefit, including a distribution.
254 Benefits funded by employer and employee contributions are
255 payable under the terms of the contract to the member, his or
256 her beneficiary, or his or her estate, in addition to:

257 a. A lump-sum payment to the beneficiary upon the death of
258 the member;

259 b. A cash-out of a de minimis account upon the request of
260 a former member who has been terminated for a minimum of 6
261 calendar months from the employment that entitled him or her to
262 optional annuity program participation. Such cash-out must be a
263 complete liquidation of the account balance with that company
264 and is subject to the Internal Revenue Code;

265 c. A mandatory distribution of a de minimis account of a
266 former member who has been terminated for a minimum of 6
267 calendar months from the employment that entitled him or her to
268 optional annuity program participation as authorized by the
269 department; or

270 d. A lump-sum direct rollover distribution whereby all
271 accrued benefits, plus interest and investment earnings, are
272 paid from the member's account directly to the custodian of an
273 eligible retirement plan, as defined in s. 402(c)(8)(B) of the
274 Internal Revenue Code, on behalf of the member.

275 2. Under the Senior Management Service Optional Annuity
276 Program, benefits, including employee contributions, are not
277 payable for employee hardships, unforeseeable emergencies,
278 loans, medical expenses, educational expenses, purchase of a
279 principal residence, payments necessary to prevent eviction or
280 foreclosure on an employee's principal residence, or any other

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281 | reason except a requested distribution for retirement, a
 282 | mandatory de minimis distribution authorized by the
 283 | administrator, or a required minimum distribution provided
 284 | pursuant to the Internal Revenue Code ~~before termination from~~
 285 | ~~all employment relationships with participating employers for 3~~
 286 | ~~calendar months.~~

287 | 3. The benefits payable to any person under the Senior
 288 | Management Service Optional Annuity Program, and any
 289 | contribution accumulated under such program, are not subject to
 290 | assignment, execution, or attachment or to any legal process
 291 | whatsoever.

292 | 4. Except as provided in subparagraph 5., a member who
 293 | terminates employment and receives a distribution, including a
 294 | rollover or trustee-to-trustee transfer, funded by employer and
 295 | required employee contributions is a retiree of ~~deemed to be~~
 296 | ~~retired from~~ a state-administered retirement system. A retiree
 297 | of a state-administered retirement system who is initially
 298 | reemployed in a regularly established position on or after July
 299 | 1, 2010, is not eligible to be enrolled in renewed membership ~~if~~
 300 | ~~the member is subsequently employed with an employer that~~
 301 | ~~participates in the Florida Retirement System.~~

302 | 5. A member who receives optional annuity program benefits
 303 | funded by employer and employee contributions as a mandatory
 304 | distribution of a de minimis account authorized by the
 305 | department is not considered a retiree.

306 |
 307 | As used in this paragraph, a "de minimis account" means an
 308 | account with a provider company containing employer and employee

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309 contributions and accumulated earnings of not more than \$5,000
310 made under this chapter.

311 Section 5. Subsection (7) of section 121.071, Florida
312 Statutes, is amended to read:

313 121.071 Contributions.—Contributions to the system shall
314 be made as follows:

315 (7) ~~Before termination of employment,~~ Benefits, including
316 employee contributions, are not payable under the pension plan
317 for employee hardships, unforeseeable emergencies, loans,
318 medical expenses, educational expenses, purchase of a principal
319 residence, payments necessary to prevent eviction or foreclosure
320 on an employee's principal residence, or any other reason except
321 a requested distribution for retirement, a mandatory de minimis
322 distribution authorized by the administrator, or a required
323 minimum distribution provided pursuant to the Internal Revenue
324 Code before termination from all employment relationships with
325 participating employers.

326 Section 6. Paragraph (a) of subsection (13) of section
327 121.091, Florida Statutes, is amended to read:

328 121.091 Benefits payable under the system.—Benefits may
329 not be paid under this section unless the member has terminated
330 employment as provided in s. 121.021(39) (a) or begun
331 participation in the Deferred Retirement Option Program as
332 provided in subsection (13), and a proper application has been
333 filed in the manner prescribed by the department. The department
334 may cancel an application for retirement benefits when the
335 member or beneficiary fails to timely provide the information
336 and documents required by this chapter and the department's

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337 rules. The department shall adopt rules establishing procedures
338 for application for retirement benefits and for the cancellation
339 of such application when the required information or documents
340 are not received.

341 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
342 subject to this section, the Deferred Retirement Option Program,
343 hereinafter referred to as DROP, is a program under which an
344 eligible member of the Florida Retirement System may elect to
345 participate, deferring receipt of retirement benefits while
346 continuing employment with his or her Florida Retirement System
347 employer. The deferred monthly benefits shall accrue in the
348 Florida Retirement System on behalf of the member, plus interest
349 compounded monthly, for the specified period of the DROP
350 participation, as provided in paragraph (c). Upon termination of
351 employment, the member shall receive the total DROP benefits and
352 begin to receive the previously determined normal retirement
353 benefits. Participation in the DROP does not guarantee
354 employment for the specified period of DROP. Participation in
355 DROP by an eligible member beyond the initial 60-month period as
356 authorized in this subsection shall be on an annual contractual
357 basis for all participants.

358 (a) Eligibility of member to participate in DROP.—All
359 active Florida Retirement System members in a regularly
360 established position, and all active members of the Teachers'
361 Retirement System established in chapter 238 or the State and
362 County Officers' and Employees' Retirement System established in
363 chapter 122, which are consolidated within the Florida
364 Retirement System under s. 121.011, are eligible to elect

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365 participation in DROP if:

366 1. The member is not a renewed member under s. 121.122 or
367 a member of the State Community College System Optional
368 Retirement Program under s. 121.051, the Senior Management
369 Service Optional Annuity Program under s. 121.055, or the
370 optional retirement program for the State University System
371 under s. 121.35.

372 2. Except as provided in subparagraph 6., for members
373 initially enrolled before July 1, 2011, election to participate
374 is made within 12 months immediately following the date on which
375 the member first reaches normal retirement date, or, for a
376 member who reaches normal retirement date based on service
377 before he or she reaches age 62, or age 55 for Special Risk
378 Class members, election to participate may be deferred to the 12
379 months immediately following the date the member attains age 57,
380 or age 52 for Special Risk Class members. Except as provided in
381 subparagraph 6., for members initially enrolled on or after July
382 1, 2011, election to participate is made within 12 months
383 immediately following the date on which the member first reaches
384 normal retirement date, or, for a member who reaches normal
385 retirement date based on service before he or she reaches age
386 65, or age 60 for Special Risk Class members, election to
387 participate may be deferred to the 12 months immediately
388 following the date the member attains age 60, or age 55 for
389 Special Risk Class members. A member who delays DROP
390 participation during the 12-month period immediately following
391 his or her maximum DROP deferral date, except as provided in
392 subparagraph 6., loses a month of DROP participation for each

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393 month delayed. A member who fails to make an election within the
394 12-month limitation period forfeits all rights to participate in
395 DROP. The member shall advise his or her employer and the
396 division in writing of the date DROP begins. The beginning date
397 may be subsequent to the 12-month election period but must be
398 within the original 60-month participation period provided in
399 subparagraph (b)1. When establishing eligibility to participate
400 in DROP, the member may elect to include or exclude any optional
401 service credit purchased by the member from the total service
402 used to establish the normal retirement date. A member who has
403 dual normal retirement dates is eligible to elect to participate
404 in DROP after attaining normal retirement date in either class.

405 3. The employer of a member electing to participate in
406 DROP, or employers if dually employed, shall acknowledge in
407 writing to the division the date the member's participation in
408 DROP begins and the date the member's employment and DROP
409 participation terminates.

410 4. Simultaneous employment of a member by additional
411 Florida Retirement System employers subsequent to the
412 commencement of a member's participation in DROP is permissible
413 if such employers acknowledge in writing a DROP termination date
414 no later than the member's existing termination date or the
415 maximum participation period provided in subparagraph (b)1.

416 5. A member may change employers while participating in
417 DROP, subject to the following:

418 a. A change of employment takes place without a break in
419 service so that the member receives salary for each month of
420 continuous DROP participation. If a member receives no salary

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421 during a month, DROP participation ceases unless the employer
422 verifies a continuation of the employment relationship for such
423 member pursuant to s. 121.021(39)(b).

424 b. The member and new employer notify the division of the
425 identity of the new employer on forms required by the division.

426 c. The new employer acknowledges, in writing, the member's
427 DROP termination date, which may be extended but not beyond the
428 maximum participation period provided in subparagraph (b)1.,
429 acknowledges liability for any additional retirement
430 contributions and interest required if the member fails to
431 timely terminate employment, and is subject to the adjustment
432 required in sub-subparagraph (c)5.d.

433 6. Effective July 1, 2001, for instructional personnel as
434 defined in s. 1012.01(2), election to participate in DROP may be
435 made at any time following the date on which the member first
436 reaches normal retirement date. The member shall advise his or
437 her employer and the division in writing of the date on which
438 DROP begins. When establishing eligibility of the member to
439 participate in DROP for the 60-month participation period
440 provided in subparagraph (b)1., the member may elect to include
441 or exclude any optional service credit purchased by the member
442 from the total service used to establish the normal retirement
443 date. A member who has dual normal retirement dates is eligible
444 to elect to participate in either class.

445 Section 7. Subsection (2) of section 121.122, Florida
446 Statutes, is amended to read:

447 121.122 Renewed membership in system.—

448 (2) A retiree of a state-administered retirement system

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449 | who is initially reemployed in a regularly established position
 450 | on or after July 1, 2010, may not be enrolled as a renewed
 451 | member is not eligible for renewed membership.

452 | Section 8. Paragraphs (a), (b), and (g) of subsection (5)
 453 | of section 121.35, Florida Statutes, are amended to read:

454 | 121.35 Optional retirement program for the State
 455 | University System.—

456 | (5) BENEFITS.—

457 | (a) Benefits are payable under the optional retirement
 458 | program only to vested members participating in the program, or
 459 | their beneficiaries as designated by the member in the contract
 460 | with a provider company, and such benefits shall be paid only by
 461 | the designated company in accordance with s. 403(b) of the
 462 | Internal Revenue Code and the terms of the annuity contract or
 463 | investment contracts applicable to the member. A benefit under
 464 | the optional retirement program is a distribution requested by
 465 | the member or surviving beneficiary funded in part or in whole
 466 | by employer or required employee contributions, plus earnings,
 467 | and includes rolling a distribution over to another qualified
 468 | plan. Benefits accrue in individual accounts that are member-
 469 | directed, portable, and funded by employer and employee
 470 | contributions and the earnings thereon. The member must be
 471 | terminated for 3 calendar months from all employment
 472 | relationships with all Florida Retirement System employers to
 473 | begin receiving the benefit. The department may authorize a
 474 | distribution of up to 10 percent of the member's account after
 475 | being terminated from employment with all participating
 476 | employers for 1 calendar month if the member has reached the

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477 normal retirement date as defined in s. 121.021. The department
 478 may adopt rules to implement this paragraph. Benefits funded by
 479 employer and required employee contributions are payable in
 480 accordance with the following terms and conditions:

481 1. Benefits shall be paid only to a participating member,
 482 to his or her beneficiaries, or to his or her estate, as
 483 designated by the member.

484 2. Benefits shall be paid by the provider company or
 485 companies in accordance with the law, the provisions of the
 486 contract, and any applicable department rule or policy.

487 3. In the event of a member's death, moneys accumulated
 488 by, or on behalf of, the member, less withholding taxes remitted
 489 to the Internal Revenue Service, if any, shall be distributed to
 490 the member's designated beneficiary or beneficiaries, or to the
 491 member's estate, as if the member retired on the date of death,
 492 as provided in paragraph (d). No other death benefits are
 493 available to survivors of members under the optional retirement
 494 program except for such benefits, or coverage for such benefits,
 495 as are separately afforded by the employer, at the employer's
 496 discretion.

497 (b) Benefits, including employee contributions, are not
 498 payable for employee hardships, unforeseeable emergencies,
 499 loans, medical expenses, educational expenses, purchase of a
 500 principal residence, payments necessary to prevent eviction or
 501 foreclosure on an employee's principal residence, or any other
 502 reason except a requested distribution for retirement, a
 503 mandatory de minimis distribution authorized by the
 504 administrator, or a required minimum distribution provided

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505 pursuant to the Internal Revenue Code ~~before termination from~~
506 ~~all employment relationships with participating employers for 3~~
507 ~~calendar months.~~

508 (g) Benefits funded by the participating member's
509 voluntary personal contributions may be paid out after
510 termination from employment with all participating employers for
511 3 calendar months ~~at any time~~ and in any form within the limits
512 provided in the contract between the member and the provider
513 company. The member shall notify the provider company regarding
514 the date and provisions under which he or she wants to receive
515 the employee-funded portion of the plan.

516 Section 9. Paragraph (e) of subsection (2) and paragraph
517 (f) of subsection (4) of section 121.4501, Florida Statutes, are
518 amended to read:

519 121.4501 Florida Retirement System Investment Plan.—

520 (2) DEFINITIONS.—As used in this part, the term:

521 (e) "Eligible employee" means an officer or employee, as
522 defined in s. 121.021, who:

523 1. Is a member of, or is eligible for membership in, the
524 Florida Retirement System, including any renewed member of the
525 Florida Retirement System initially enrolled before July 1,
526 2010; or

527 2. Participates in, or is eligible to participate in, the
528 Senior Management Service Optional Annuity Program as
529 established under s. 121.055(6), the State Community College
530 System Optional Retirement Program as established under s.
531 121.051(2)(c), or the State University System Optional
532 Retirement Program established under s. 121.35.

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534 The term does not include any member participating in the
535 Deferred Retirement Option Program established under s.
536 121.091(13), a retiree of a state-administered retirement system
537 initially reemployed in a regularly established position on or
538 after July 1, 2010, or a mandatory participant of the State
539 University System Optional Retirement Program established under
540 s. 121.35.

541 (4) PARTICIPATION; ENROLLMENT.—

542 (f) A member of the investment plan who takes a
543 distribution of any contributions from his or her investment
544 plan account is considered a retiree. A retiree who is initially
545 reemployed in a regularly established position on or after July
546 1, 2010, is not eligible to be enrolled in ~~for~~ renewed
547 membership.

548 Section 10. Section 121.591, Florida Statutes, is amended
549 to read:

550 121.591 Payment of benefits.—Benefits may not be paid
551 under the Florida Retirement System Investment Plan unless the
552 member has terminated employment as provided in s.
553 121.021(39)(a) or is deceased and a proper application has been
554 filed as prescribed by the state board or the department. ~~Before~~
555 ~~termination of employment,~~ Benefits, including employee
556 contributions, are not payable under the investment plan for
557 employee hardships, unforeseeable emergencies, loans, medical
558 expenses, educational expenses, purchase of a principal
559 residence, payments necessary to prevent eviction or foreclosure
560 on an employee's principal residence, or any other reason except

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561 a requested distribution for retirement, a mandatory de minimis
 562 distribution authorized by the administrator, or a required
 563 minimum distribution provided pursuant to the Internal Revenue
 564 Code ~~prior to termination from all employment relationships with~~
 565 ~~participating employers.~~ The state board or department, as
 566 appropriate, may cancel an application for retirement benefits
 567 if the member or beneficiary fails to timely provide the
 568 information and documents required by this chapter and the rules
 569 of the state board and department. In accordance with their
 570 respective responsibilities, the state board and the department
 571 shall adopt rules establishing procedures for application for
 572 retirement benefits and for the cancellation of such application
 573 if the required information or documents are not received. The
 574 state board and the department, as appropriate, are authorized
 575 to cash out a de minimis account of a member who has been
 576 terminated from Florida Retirement System covered employment for
 577 a minimum of 6 calendar months. A de minimis account is an
 578 account containing employer and employee contributions and
 579 accumulated earnings of not more than \$5,000 made under the
 580 provisions of this chapter. Such cash-out must be a complete
 581 lump-sum liquidation of the account balance, subject to the
 582 provisions of the Internal Revenue Code, or a lump-sum direct
 583 rollover distribution paid directly to the custodian of an
 584 eligible retirement plan, as defined by the Internal Revenue
 585 Code, on behalf of the member. Any nonvested accumulations and
 586 associated service credit, including amounts transferred to the
 587 suspense account of the Florida Retirement System Investment
 588 Plan Trust Fund authorized under s. 121.4501(6), shall be

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589 forfeited upon payment of any vested benefit to a member or
 590 beneficiary, except for de minimis distributions or minimum
 591 required distributions as provided under this section. If any
 592 financial instrument issued for the payment of retirement
 593 benefits under this section is not presented for payment within
 594 180 days after the last day of the month in which it was
 595 originally issued, the third-party administrator or other duly
 596 authorized agent of the state board shall cancel the instrument
 597 and credit the amount of the instrument to the suspense account
 598 of the Florida Retirement System Investment Plan Trust Fund
 599 authorized under s. 121.4501(6). Any amounts transferred to the
 600 suspense account are payable upon a proper application, not to
 601 include earnings thereon, as provided in this section, within 10
 602 years after the last day of the month in which the instrument
 603 was originally issued, after which time such amounts and any
 604 earnings attributable to employer contributions shall be
 605 forfeited. Any forfeited amounts are assets of the trust fund
 606 and are not subject to chapter 717.

607 (1) NORMAL BENEFITS.—Under the investment plan:

608 (a) Benefits in the form of vested accumulations as
 609 described in s. 121.4501(6) are payable under this subsection in
 610 accordance with the following terms and conditions:

611 1. Benefits are payable only to a member, an alternate
 612 payee of a qualified domestic relations order, or a beneficiary.

613 2. Benefits shall be paid by the third-party administrator
 614 or designated approved providers in accordance with the law, the
 615 contracts, and any applicable board rule or policy.

616 3. The member must be terminated from all employment with

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617 all Florida Retirement System employers, as provided in s.
618 121.021(39).

619 4. Benefit payments may not be made until the member has
620 been terminated for 3 calendar months, except that the state
621 board may authorize by rule for the distribution of up to 10
622 percent of the member's account after being terminated for 1
623 calendar month if the member has reached the normal retirement
624 date as defined in s. 121.021.

625 5. If a member or former member of the Florida Retirement
626 System receives an invalid distribution, such person must either
627 repay the full amount within 90 days after receipt of final
628 notification by the state board or the third-party administrator
629 that the distribution was invalid, or, in lieu of repayment, the
630 member must terminate employment from all participating
631 employers. If such person fails to repay the full invalid
632 distribution within 90 days after receipt of final notification,
633 the person may be deemed retired from the investment plan by the
634 state board and is subject to s. 121.122. If such person is
635 deemed retired, any joint and several liability set out in s.
636 121.091(9)(d)2. is void, and the state board, the department, or
637 the employing agency is not liable for gains on payroll
638 contributions that have not been deposited to the person's
639 account in the investment plan, pending resolution of the
640 invalid distribution. The member or former member who has been
641 deemed retired or who has been determined by the state board to
642 have taken an invalid distribution may appeal the agency
643 decision through the complaint process as provided under s.
644 121.4501(9)(g)3. As used in this subparagraph, the term "invalid

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645 distribution" means any distribution from an account in the
646 investment plan which is taken in violation of this section, s.
647 121.091(9), or s. 121.4501.

648 (b) If a member elects to receive his or her benefits upon
649 termination of employment as defined in s. 121.021, the member
650 must submit a written application or an application by
651 electronic means to the third-party administrator indicating his
652 or her preferred distribution date and selecting an authorized
653 method of distribution as provided in paragraph (c). The member
654 may defer receipt of benefits until he or she chooses to make
655 such application, subject to federal requirements.

656 (c) Upon receipt by the third-party administrator of a
657 properly executed application for distribution of benefits, the
658 total accumulated benefit is payable to the member pro rata
659 across all Florida Retirement System benefit sources as:

- 660 1. A lump-sum or partial distribution to the member;
- 661 2. A lump-sum direct rollover distribution whereby all
662 accrued benefits, plus interest and investment earnings, are
663 paid from the member's account directly to the custodian of an
664 eligible retirement plan, as defined in s. 402(c)(8)(B) of the
665 Internal Revenue Code, on behalf of the member; or
- 666 3. Periodic distributions, as authorized by the state
667 board.

668 (d) The distribution payment method selected by the member
669 or beneficiary, and the retirement of the member or beneficiary,
670 is final and irrevocable at the time a benefit distribution
671 payment is cashed, deposited, or transferred to another
672 financial institution. Any additional service that remains

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673 unclaimed at retirement may not be claimed or purchased, and the
674 type of retirement may not be changed, except that if a member
675 recovers from a disability, the member may subsequently request
676 benefits under subsection (2).

677 (e) A member may not receive a distribution of employee
678 contributions if a pending qualified domestic relations order is
679 filed against the member's investment plan account.

680 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided
681 under this subsection are payable in lieu of the benefits that
682 would otherwise be payable under the provisions of subsection
683 (1). Such benefits must be funded from employer contributions
684 made under s. 121.571, transferred employee contributions and
685 funds accumulated pursuant to paragraph (a), and interest and
686 earnings thereon.

687 (a) Transfer of funds.—To qualify to receive monthly
688 disability benefits under this subsection:

689 1. All moneys accumulated in the member's account,
690 including vested and nonvested accumulations as described in s.
691 121.4501(6), must be transferred from such individual accounts
692 to the division for deposit in the disability account of the
693 Florida Retirement System Trust Fund. Such moneys must be
694 accounted for separately. Earnings must be credited on an annual
695 basis for amounts held in the disability accounts of the Florida
696 Retirement System Trust Fund based on actual earnings of the
697 trust fund.

698 2. If the member has retained retirement credit earned
699 under the pension plan as provided in s. 121.4501(3), a sum
700 representing the actuarial present value of such credit within

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701 the Florida Retirement System Trust Fund shall be reassigned by
702 the division from the pension plan to the disability program as
703 implemented under this subsection and shall be deposited in the
704 disability account of the trust fund. Such moneys must be
705 accounted for separately.

706 (b) Disability retirement; entitlement.—

707 1. A member of the investment plan who becomes totally and
708 permanently disabled, as defined in paragraph (d), after
709 completing 8 years of creditable service, or a member who
710 becomes totally and permanently disabled in the line of duty
711 regardless of length of service, is entitled to a monthly
712 disability benefit.

713 2. In order for service to apply toward the 8 years of
714 creditable service required for regular disability benefits, or
715 toward the creditable service used in calculating a service-
716 based benefit as provided under paragraph (g), the service must
717 be creditable service as described below:

718 a. The member's period of service under the investment
719 plan shall be considered creditable service, except as provided
720 in subparagraph d.

721 b. If the member has elected to retain credit for service
722 under the pension plan as provided under s. 121.4501(3), all
723 such service shall be considered creditable service.

724 c. If the member elects to transfer to his or her member
725 accounts a sum representing the present value of his or her
726 retirement credit under the pension plan as provided under s.
727 121.4501(3), the period of service under the pension plan
728 represented in the present value amounts transferred shall be

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729 considered creditable service, except as provided in
730 subparagraph d.

731 d. If a member has terminated employment and has taken
732 distribution of his or her funds as provided in subsection (1),
733 all creditable service represented by such distributed funds is
734 forfeited for purposes of this subsection.

735 (c) Disability retirement effective date.—The effective
736 retirement date for a member who applies and is approved for
737 disability retirement shall be established as provided under s.
738 121.091(4)(a)2. and 3.

739 (d) Total and permanent disability.—A member shall be
740 considered totally and permanently disabled if, in the opinion
741 of the division, he or she is prevented, by reason of a
742 medically determinable physical or mental impairment, from
743 rendering useful and efficient service as an officer or
744 employee.

745 (e) Proof of disability.— Before approving payment of any
746 disability retirement benefit, the division shall require proof
747 that the member is totally and permanently disabled as provided
748 under s. 121.091(4)(c).

749 (f) Disability retirement benefit.—Upon the disability
750 retirement of a member under this subsection, the member shall
751 receive a monthly benefit that begins accruing on the first day
752 of the month of disability retirement, as approved by the
753 division, and is payable on the last day of that month and each
754 month thereafter during his or her lifetime and continued
755 disability. All disability benefits must be paid out of the
756 disability account of the Florida Retirement System Trust Fund

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757 established under this subsection.

758 (g) Computation of disability retirement benefit.—The
759 amount of each monthly payment must be calculated as provided
760 under s. 121.091(4)(f). Creditable service under both the
761 pension plan and the investment plan shall be applicable as
762 provided under paragraph (b).

763 (h) Reapplication.—A member whose initial application for
764 disability retirement is denied may reapply for disability
765 benefits as provided in s. 121.091(4)(g).

766 (i) Membership.—Upon approval of a member's application
767 for disability benefits, the member shall be transferred to the
768 pension plan, effective upon his or her disability retirement
769 effective date.

770 (j) Option to cancel.—A member whose application for
771 disability benefits is approved may cancel the application if
772 the cancellation request is received by the division before a
773 disability retirement warrant has been deposited, cashed, or
774 received by direct deposit. Upon cancellation:

775 1. The member's transfer to the pension plan under
776 paragraph (i) shall be nullified;

777 2. The member shall be retroactively reinstated in the
778 investment plan without hiatus;

779 3. All funds transferred to the Florida Retirement System
780 Trust Fund under paragraph (a) must be returned to the member
781 accounts from which the funds were drawn; and

782 4. The member may elect to receive the benefit payable
783 under subsection (1) in lieu of disability benefits.

784 (k) Recovery from disability.—

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785 1. The division may require periodic reexaminations at the
786 expense of the disability program account of the Florida
787 Retirement System Trust Fund. Except as provided in subparagraph
788 2., all other matters relating to recovery from disability shall
789 be as provided under s. 121.091(4)(h).

790 2. Upon recovery from disability, the recipient of
791 disability retirement benefits under this subsection shall be a
792 compulsory member of the investment plan. The net difference
793 between the recipient's original account balance transferred to
794 the Florida Retirement System Trust Fund, including earnings and
795 total disability benefits paid to such recipient, if any, shall
796 be determined as provided in sub-subparagraph a.

797 a. An amount equal to the total benefits paid shall be
798 subtracted from that portion of the transferred account balance
799 consisting of vested accumulations as described under s.
800 121.4501(6), if any, and an amount equal to the remainder of
801 benefit amounts paid, if any, shall be subtracted from any
802 remaining nonvested accumulations.

803 b. Amounts subtracted under sub-subparagraph a. must be
804 retained within the disability account of the Florida Retirement
805 System Trust Fund. Any remaining account balance shall be
806 transferred to the third-party administrator for disposition as
807 provided under sub-subparagraph c. or sub-subparagraph d., as
808 appropriate.

809 c. If the recipient returns to covered employment,
810 transferred amounts must be deposited in individual accounts
811 under the investment plan, as directed by the member. Vested and
812 nonvested amounts shall be accounted for separately as provided

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813 | in s. 121.4501(6).

814 | d. If the recipient fails to return to covered employment
815 | upon recovery from disability:

816 | (I) Any remaining vested amount must be deposited in
817 | individual accounts under the investment plan, as directed by
818 | the member, and is payable as provided in subsection (1).

819 | (II) Any remaining nonvested amount must be held in a
820 | suspense account and is forfeitable after 5 years as provided in
821 | s. 121.4501(6).

822 | 3. If present value was reassigned from the pension plan
823 | to the disability program as provided under subparagraph (a)2.,
824 | the full present value amount must be returned to the defined
825 | benefit account within the Florida Retirement System Trust Fund
826 | and the member's associated retirement credit under the pension
827 | plan must be reinstated in full. Any benefit based upon such
828 | credit must be calculated as provided in s. 121.091(4)(h)1.

829 | (1) Nonadmissible causes of disability.—A member is not
830 | entitled to a disability retirement benefit if the disability
831 | results from any injury or disease as described in s.
832 | 121.091(4)(i).

833 | (m) Disability retirement of justice or judge by order of
834 | Supreme Court.—

835 | 1. If a member is a justice of the Supreme Court, judge of
836 | a district court of appeal, circuit judge, or judge of a county
837 | court who has served for the years equal to, or greater than,
838 | the vesting requirement in s. 121.021(45) as an elected
839 | constitutional judicial officer, including service as a judicial
840 | officer in any court abolished pursuant to Art. V of the State

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841 Constitution, and who is retired for disability pursuant to s.
842 12, Art. V of the State Constitution, the member's Option 1
843 monthly disability benefit amount as provided in s.
844 121.091(6)(a)1. shall be two-thirds of his or her monthly
845 compensation as of the member's disability retirement date. The
846 member may alternatively elect to receive an actuarially
847 adjusted disability retirement benefit under any other option as
848 provided in s. 121.091(6)(a) or to receive the normal benefit
849 payable under subsection (1).

850 2. If any justice or judge who is a member of the
851 investment plan is retired for disability pursuant to s. 12,
852 Art. V of the State Constitution and elects to receive a monthly
853 disability benefit under the provisions of this paragraph:

854 a. Any present value amount that was transferred to his or
855 her investment plan account and all employer and employee
856 contributions made to such account on his or her behalf, plus
857 interest and earnings thereon, must be transferred to and
858 deposited in the disability account of the Florida Retirement
859 System Trust Fund; and

860 b. The monthly disability benefits payable under this
861 paragraph shall be paid from the disability account of the
862 Florida Retirement System Trust Fund.

863 (n) Death of retiree or beneficiary.—Upon the death of a
864 disabled retiree or beneficiary of the retiree who is receiving
865 monthly disability benefits under this subsection, the monthly
866 benefits shall be paid through the last day of the month of
867 death and shall terminate, or be adjusted, if applicable, as of
868 that date in accordance with the optional form of benefit

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869 selected at the time of retirement. The department may adopt
870 rules necessary to administer this paragraph.

871 (3) DEATH BENEFITS.—Under the Florida Retirement System
872 Investment Plan:

873 (a) Survivor benefits are payable in accordance with the
874 following terms and conditions:

875 1. To the extent vested, benefits are payable only to a
876 member's beneficiary or beneficiaries as designated by the
877 member as provided in s. 121.4501(20).

878 2. Benefits shall be paid by the third-party administrator
879 or designated approved providers in accordance with the law, the
880 contracts, and any applicable state board rule or policy.

881 3. To receive benefits, the member must be deceased.

882 (b) In the event of a member's death, all vested
883 accumulations as described in s. 121.4501(6), less withholding
884 taxes remitted to the Internal Revenue Service, shall be
885 distributed, as provided in paragraph (c) or as described in s.
886 121.4501(20), as if the member retired on the date of death. No
887 other death benefits are available for survivors of members,
888 except for benefits, or coverage for benefits, as are otherwise
889 provided by law or separately provided by the employer, at the
890 employer's discretion.

891 (c) Upon receipt by the third-party administrator of a
892 properly executed application for distribution of benefits, the
893 total accumulated benefit is payable by the third-party
894 administrator to the member's surviving beneficiary or
895 beneficiaries, as:

896 1. A lump-sum distribution payable to the beneficiary or

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897 beneficiaries, or to the deceased member's estate;

898 2. An eligible rollover distribution, if permitted, on
899 behalf of the surviving spouse of a deceased member, whereby all
900 accrued benefits, plus interest and investment earnings, are
901 paid from the deceased member's account directly to the
902 custodian of an eligible retirement plan, as described in s.
903 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
904 surviving spouse; or

905 3. A partial lump-sum payment whereby a portion of the
906 accrued benefit is paid to the deceased member's surviving
907 spouse or other designated beneficiaries, less withholding taxes
908 remitted to the Internal Revenue Service, and the remaining
909 amount is transferred directly to the custodian of an eligible
910 retirement plan, if permitted, as described in s. 402(c)(8)(B)
911 of the Internal Revenue Code, on behalf of the surviving spouse.
912 The proportions must be specified by the member or the surviving
913 beneficiary.

914
915 This paragraph does not abrogate other applicable provisions of
916 state or federal law providing for payment of death benefits.

917 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to
918 any person under the Florida Retirement System Investment Plan,
919 and any contributions accumulated under the plan, are not
920 subject to assignment, execution, attachment, or any legal
921 process, except for qualified domestic relations orders by a
922 court of competent jurisdiction, income deduction orders as
923 provided in s. 61.1301, and federal income tax levies.

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924 Section 11. Paragraph (b) of subsection (5) and subsection
 925 (7) of section 1012.875, Florida Statutes, are amended to read:
 926 1012.875 State Community College System Optional
 927 Retirement Program.—Each Florida College System institution may
 928 implement an optional retirement program, if such program is
 929 established therefor pursuant to s. 1001.64(20), under which
 930 annuity or other contracts providing retirement and death
 931 benefits may be purchased by, and on behalf of, eligible
 932 employees who participate in the program, in accordance with s.
 933 403(b) of the Internal Revenue Code. Except as otherwise
 934 provided herein, this retirement program, which shall be known
 935 as the State Community College System Optional Retirement
 936 Program, may be implemented and administered only by an
 937 individual Florida College System institution or by a consortium
 938 of Florida College System institutions.

939 (5)

940 (b) Benefits are payable under the optional retirement
 941 program to program participants or their beneficiaries and paid
 942 only by the designated company in accordance with the terms of
 943 the contracts applicable to the program participant. Benefits
 944 shall accrue in individual accounts that are participant-
 945 directed, portable, and funded by employer and employee
 946 contributions and the earnings thereon. Benefit payments may not
 947 be made until the member has been terminated for 3 calendar
 948 months, except the college may authorize a distribution of up to
 949 10 percent of the member's account after the member is
 950 terminated from employment with all Florida Retirement System
 951 participating employers for 1 calendar month if the member has

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952 reached the normal retirement date as defined in s. 121.021. The
 953 board of trustees for the college may adopt rules to implement
 954 this paragraph. Benefits funded by employer and employee
 955 contributions are payable in accordance with the following terms
 956 and conditions:

957 1. Benefits shall be payable only to a participant, to his
 958 or her beneficiaries, or to his or her estate, as designated by
 959 the participant.

960 2. Benefits shall be paid by the provider company or
 961 companies in accordance with the law, the provisions of the
 962 contract, and any applicable employer rule or policy.

963 3. In the event of a participant's death, moneys
 964 accumulated by, or on behalf of, the participant, less
 965 withholding taxes remitted to the Internal Revenue Service, if
 966 any, shall be distributed to the participant's designated
 967 beneficiary or beneficiaries, or to the participant's estate, as
 968 if the participant retired on the date of death as provided in
 969 paragraph (d). No other death benefits are available for
 970 survivors of participants under the optional retirement program
 971 except for such benefits, or coverage for such benefits, as are
 972 separately afforded by the employer at the employer's
 973 discretion.

974 (7) Benefits, including employee contributions, are not
 975 payable for employee hardships, unforeseeable emergencies,
 976 loans, medical expenses, educational expenses, purchase of a
 977 principal residence, payments necessary to prevent eviction or
 978 foreclosure on an employee's principal residence, or any other
 979 reason except a requested distribution for retirement, a

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980 mandatory de minimis distribution authorized by the
981 administrator, or a required minimum distribution provided
982 pursuant to the Internal Revenue Code ~~before termination from~~
983 ~~all employment relationships with participating employers for 3~~
984 ~~calendar months.~~

985 Section 12. This act shall take effect July 1, 2012.