

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1217
97TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Pensions, April 15, 2014, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

4869S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 434, RSMo, by adding thereto five new sections relating to the unlawful transfer or assignment of pension benefits.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 434, RSMo, is amended by adding thereto five new sections, to be known as sections 434.300, 434.301, 434.302, 434.303, and 434.304 to read as follows:

434.300. For purposes of sections 434.300 to 434.303, the following terms shall mean:

(1) "Benefit recipient", the person who is the plan participant or authorized beneficiary under the plan entitled to receive a plan benefit;

(2) "Pension assignee", an individual or entity that has been assigned a plan benefit or portions of a plan benefit by the benefit recipient or that otherwise claims an interest in, or control over, a plan benefit or account to which a plan benefit has been deposited. The term "pension assignee" shall not include an individual who is a designated payee under a division of benefits order;

(3) "Plan", any retirement system established by the state of Missouri, any political subdivision, or instrumentality of the state for the purpose of providing plan benefits for elected or appointed public officials or employees of the state of Missouri, any political subdivision, or instrumentality of the state;

(4) "Plan benefit", the benefit amount payable from a plan, and includes any annuity, supplemental payment, or death benefit under the plan together with any supplemental payments from public funds to the

19 benefit recipient.

434.301. 1. The right of any person to a plan benefit shall not be
2 transferable or assignable, at law or in equity, and none of the moneys
3 paid or payable or rights existing under a plan shall be subject to
4 execution, levy, attachment, garnishment, or other legal process. This
5 section shall not prohibit the division or assignability of a plan benefit
6 that is expressly authorized by law that establishes the plan or that is
7 specifically applicable to the plan, including division of benefits orders
8 and any legal process in furtherance of the collection of either a
9 judgment or administrative order for child support or spousal support.

10 2. A pension assignee shall not use any device, scheme, transfer,
11 or other artifice to evade the applicability and prohibition of this
12 section, including the deposit of such plan benefits into a joint account
13 with a pension assignee or the authorization to a pension assignee under
14 a power of attorney or other instrument or document to access an
15 account or otherwise obtain funds from an account to which plan
16 benefits have been deposited.

434.302. 1. Any contract or agreement made in violation of section
2 434.301 is void. All sums paid to or collected by a pension assignee in
3 violation of section 434.301 shall be returned by the pension assignee to
4 the benefit recipient or his or her heirs or beneficiaries as restitution.

5 2. Any benefit recipient, his or her guardian or conservator, or
6 heir or beneficiary may bring an action to enforce the restitution
7 authorized under this section.

8 3. Notwithstanding any other provision of law to the contrary,
9 any actions brought under this section must be commenced within five
10 years after any individual or entity engages in any act or practice in
11 violation of 434.301.

434.303. 1. Whenever it appears that any individual or entity is
2 engaged or is about to engage in any act or practice which is in violation
3 of section 434.301, the attorney general may bring an action in the
4 circuit court having venue to enjoin such act or practice, and upon a
5 proper showing, a temporary restraining order or a preliminary or
6 permanent injunction shall be granted without bond.

7 2. The attorney general may seek the recovery authorized under
8 section 434.302 on behalf of the benefit recipient or his or her heirs or
9 beneficiaries and the state, and may exercise the investigative and

10 enforcement powers authorized under chapter 407 to the attorney
11 general and the attorney general may have such recovery of costs as
12 authorized under chapter 407.

434.304. Nothing in sections 434.301 to 434.303 shall prohibit any
2 action permitted under chapter 409.

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