

ASSEMBLY, No. 4757

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED OCTOBER 8, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Provides exceptions to garnish exemption against benefits from State-administered pension systems for certain financial claims under State law.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the exemption of benefits of the State-
2 administered retirement systems from certain garnishments and
3 amending various parts of the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. N.J.S.18A:66-51 is amended to read as follows:

9 18A:66-51. The right of a person to a pension, an annuity, or a
10 retirement allowance, to the return of contributions, any benefit or
11 right accrued or accruing to a person under the provisions of this
12 article, and the moneys in the various funds created under this
13 article, shall be exempt from any State or municipal tax and from
14 levy and sale, garnishment, attachment or any other process arising
15 out of any State or Federal court except, upon the approval of the
16 Internal Revenue Service, to (1) satisfy a certificate of debt issued
17 by the Director of the New Jersey Division of Taxation pursuant to
18 subsection (c) of N.J.S.54A:9-12; (2) satisfy a debt owed to the
19 Victims of Crime Compensation Agency for the portion of an
20 assessment ordered pursuant to section 2 of P.L.1979, c.396
21 (C.2C:43-3.1) for deposit in the Victims of Crime Compensation
22 Agency account or restitution ordered to be paid to the board
23 pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime
24 Compensation Agency Account; (3) satisfy a court order for child
25 support, alimony or equitable distribution, including but not limited
26 to a “qualified domestic relations order” as defined in section
27 414(p) of the federal Internal Revenue Code (26 U.S.C. s.414(p));
28 or (4) satisfy an Internal Revenue Service levy or federal criminal
29 restitution order, and, except as hereafter in this section and as in
30 this article otherwise provided, shall be unassignable.

31 Any setoff against a member’s pension, annuity or retirement
32 allowance pursuant to this section shall be limited to the maximum
33 amount permitted by law. The Director of the Division of Pensions
34 and Benefits shall promulgate such rules and regulations as may be
35 deemed reasonable and necessary to implement the provisions of
36 this section. The regulations shall be consistent with all federal
37 requirements or limitations regarding any information utilized in
38 any collection or setoff and shall provide for (1) due notice to the
39 recipient of the pension, annuity or retirement allowance and
40 procedures to contest the setoff prior to any setoff being imposed,
41 and (2) safeguards against the disclosure or inappropriate use of any
42 personally identifiable information regarding the recipient obtained
43 or maintained pursuant to the provisions of this section.

44 Nothing in this section shall prohibit any person insured under a
45 group insurance policy, pursuant to an arrangement among the
46 insured, the group policyholder and the insurer, from making to any

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 person other than his employer, a gift assignment of the rights and
2 benefits conferred on him by any provision of such policy or by law
3 including specifically but not by way of limitation the right to
4 exercise the conversion privilege and the right to name a
5 beneficiary. Any such assignment, whether made before or after the
6 effective date of this act, shall entitle the insurer to deal with the
7 assignee as the owner of all rights and benefits conferred on the
8 insured under the policy in accordance with the terms of the
9 assignment.

10 (cf: P.L.1969, c.98, s.1)

11
12 2. Section 41 of P.L.1973, c.140 (C.43:6A-41) is amended to
13 read as follows:

14 41. The right of a person to a pension, retirement allowance or
15 any benefit or right accrued or accruing to a person under the
16 provisions of this act and the moneys in the various funds created
17 under this act, shall be exempt from any State or municipal tax and
18 from levy and sale, garnishment, attachment or any other process
19 arising out of any State or federal court except, upon the approval
20 of the Internal Revenue Service, to (1) satisfy a certificate of debt
21 issued by the Director of the New Jersey Division of Taxation
22 pursuant to subsection (c) of N.J.S.54A:9-12; (2) satisfy a debt
23 owed to the Victims of Crime Compensation Agency for the portion
24 of an assessment ordered pursuant to section 2 of P.L.1979, c.396
25 (C.2C:43-3.1) for deposit in the Victims of Crime Compensation
26 Agency account or restitution ordered to be paid to the board
27 pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime
28 Compensation Agency Account; (3) satisfy a court order for child
29 support, alimony or equitable distribution, including but not limited
30 to a "qualified domestic relations order" as defined in section
31 414(p) of the federal Internal Revenue Code (26 U.S.C. s.414(p));
32 or (4) satisfy an Internal Revenue Service levy or federal criminal
33 restitution order, and, except as hereinafter in this section and as in
34 this act otherwise provided, shall be unassignable.

35 Any setoff against a member's pension, annuity or retirement
36 allowance pursuant to this section shall be limited to the maximum
37 amount permitted by law. The Director of the Division of Pensions
38 and Benefits shall promulgate such rules and regulations as may be
39 deemed reasonable and necessary to implement the provisions of
40 this section. The regulations shall be consistent with all federal
41 requirements or limitations regarding any information utilized in
42 any collection or setoff and shall provide for (1) due notice to the
43 recipient of the pension, annuity or retirement allowance and
44 procedures to contest the setoff prior to any setoff being imposed,
45 and (2) safeguards against the disclosure or inappropriate use of any
46 personally identifiable information regarding the recipient obtained
47 or maintained pursuant to the provisions of this section.

1 Nothing in this section shall prohibit any person insured under a
2 group insurance policy, pursuant to an arrangement among the
3 insured, the group policyholder and the insurer, from making to any
4 person other than his employer, a gift assignment of the rights and
5 benefits conferred on him by any provision of such policy or by law
6 including specifically but not by way of limitation the right to
7 exercise the conversion privilege and the right to name a
8 beneficiary. Any such assignment, whether made before or after the
9 effective date of this act, shall entitle the insurer to deal with the
10 assignee as the owner of all rights and benefits conferred on the
11 insured under the policy in accordance with the terms of the
12 assignment.

13 (cf: P.L.1981, c.470, s.21)

14

15 3. Section 53 of P.L.1954, c.84 (C.43:15A-53) is amended to
16 read as follows:

17 53. The right of a person to a pension, an annuity, or a
18 retirement allowance, to the return of contributions, any benefit or
19 right accrued or accruing to a person under the provisions of this act
20 and the moneys in the various funds created under this act, shall be
21 exempt from any State or municipal tax and from levy and sale,
22 garnishment, attachment or any other process arising out of any
23 State or Federal court except to (1) satisfy a certificate of debt
24 issued by the Director of the New Jersey Division of Taxation
25 pursuant to subsection (c) of N.J.S.54A:9-12; (2) satisfy a debt
26 owed to the Victims of Crime Compensation Agency for the portion
27 of an assessment ordered pursuant to section 2 of P.L.1979, c.396
28 (C.2C:43-3.1) for deposit in the Victims of Crime Compensation
29 Agency account or restitution ordered to be paid to the board
30 pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime
31 Compensation Agency Account; (3) satisfy a court order for child
32 support, alimony or equitable distribution, including but not limited
33 to a "qualified domestic relations order" as defined in section
34 414(p) of the federal Internal Revenue Code (26 U.S.C. s.414(p));
35 or (4) satisfy an Internal Revenue Service levy or federal criminal
36 restitution order, and, except as in this section and in this act
37 otherwise provided, shall be unassignable.

38 Any setoff against a member's pension, annuity or retirement
39 allowance pursuant to this section shall be limited to the maximum
40 amount permitted by law. The Director of the Division of Pensions
41 and Benefits shall promulgate such rules and regulations as may be
42 deemed reasonable and necessary to implement the provisions of
43 this section. The regulations shall be consistent with all federal
44 requirements or limitations regarding any information utilized in
45 any collection or setoff and shall provide for (1) due notice to the
46 recipient of the pension, annuity or retirement allowance and
47 procedures to contest the setoff prior to any setoff being imposed,
48 and (2) safeguards against the disclosure or inappropriate use of any

1 personally identifiable information regarding the recipient obtained
2 or maintained pursuant to the provisions of this section.

3 Nothing in this section shall prohibit any person insured under a
4 group insurance policy, pursuant to an arrangement among the
5 insured, the group policyholder and the insurer, from making to any
6 person other than his employer, a gift assignment of the rights and
7 benefits conferred on him by any provision of such policy or by law
8 including specifically but not by way of limitation the right to
9 exercise the conversion privilege and the right to name a
10 beneficiary. Any such assignment, whether made before or after the
11 effective date of this act, shall entitle the insurer to deal with the
12 assignee as the owner of all rights and benefits conferred on the
13 insured under the policy in accordance with the terms of the
14 assignment.
15 (cf: P.L.1969, c.98, s.2)

16
17 4. Section 17 of P.L.1944, c.255 (C.43:16A-17) is amended to
18 read as follows:

19 17. The right of a person to a pension, an annuity, or a
20 retirement allowance, to the return of contributions, any benefit or
21 right accrued or accruing to a person under the provisions of this act
22 and the moneys in the various funds created under this act, shall be
23 exempt from any State or municipal tax and from levy and sale,
24 garnishment, attachment or any other process except to (1) satisfy a
25 certificate of debt issued by the Director of the New Jersey Division
26 of Taxation pursuant to subsection (c) of N.J.S.54A:9-12; (2) satisfy
27 a debt owed to the Victims of Crime Compensation Agency for the
28 portion of an assessment ordered pursuant to section 2 of
29 P.L.1979, c.396 (C.2C:43-3.1) for deposit in the Victims of Crime
30 Compensation Agency account or restitution ordered to be paid to
31 the board pursuant to N.J.S.2C:44-2 for deposit in the Victims of
32 Crime Compensation Agency Account; (3) satisfy a court order for
33 child support, alimony or equitable distribution, including but not
34 limited to a “qualified domestic relations order” as defined in
35 section 414(p) of the federal Internal Revenue Code (26 U.S.C.
36 s.414(p)); or (4) satisfy an Internal Revenue Service levy or federal
37 criminal restitution order, and, except as hereinafter in this section
38 and as in this act otherwise provided, shall be unassignable.

39 Any setoff against a member’s pension, annuity or retirement
40 allowance pursuant to this section shall be limited to the maximum
41 amount permitted by law. The Director of the Division of Pensions
42 and Benefits shall promulgate such rules and regulations as may be
43 deemed reasonable and necessary to implement the provisions of
44 this section. The regulations shall be consistent with all federal
45 requirements or limitations regarding any information utilized in
46 any collection or setoff and shall provide for (1) due notice to the
47 recipient of the pension, annuity or retirement allowance and
48 procedures to contest the setoff prior to any setoff being imposed,

1 and (2) safeguards against the disclosure or inappropriate use of any
2 personally identifiable information regarding the recipient obtained
3 or maintained pursuant to the provisions of this section.

4 Nothing in this section shall prohibit any person insured under a
5 group insurance policy, pursuant to an arrangement among the
6 insured, the group policyholder and the insurer, from making to any
7 person other than his employer, a gift assignment of the rights and
8 benefits conferred on him by any provision of such policy or by law
9 including specifically but not by way of limitation the right to
10 exercise the conversion privilege and the right to name a
11 beneficiary. Any such assignment, whether made before or after the
12 effective date of this act, shall entitle the insurer to deal with the
13 assignee as the owner of all rights and benefits conferred on the
14 insured under the policy in accordance with the terms of the
15 assignment.

16 (cf: P.L.1969, c.98, s.3)

17
18 5. Section 45 of P.L.1965, c.89 (C.53:5A-45) is amended to
19 read as follows:

20 45. The right of a person to a pension, an annuity, or a
21 retirement allowance, to the return of contributions, any benefit or
22 right accrued or accruing to a person under the provisions of this act
23 and the moneys in the various funds created under this act, shall be
24 exempt from any State or municipal tax and from levy and sale,
25 garnishment, attachment or any other process arising out of any
26 State or Federal court except to (1) satisfy a certificate of debt
27 issued by the Director of the New Jersey Division of Taxation
28 pursuant to subsection (c) of N.J.S.54A:9-12; (2) satisfy a debt
29 owed to the Victims of Crime Compensation Agency for the portion
30 of an assessment ordered pursuant to section 2 of P.L.1979, c.396
31 (C.2C:43-3.1) for deposit in the Victims of Crime Compensation
32 Agency account or restitution ordered to be paid to the board
33 pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime
34 Compensation Agency Account; (3) satisfy a court order for child
35 support, alimony or equitable distribution, including but not limited
36 to a "qualified domestic relations order" as defined in section
37 414(p) of the federal Internal Revenue Code (26 U.S.C. s.414(p));
38 or (4) satisfy an Internal Revenue Service levy or federal criminal
39 restitution order, and, except as hereinafter in this section and as in
40 this act otherwise provided, shall be unassignable.

41 Any setoff against a member's pension, annuity or retirement
42 allowance pursuant to this section shall be limited to the maximum
43 amount permitted by law. The Director of the Division of Pensions
44 and Benefits shall promulgate such rules and regulations as may be
45 deemed reasonable and necessary to implement the provisions of
46 this section. The regulations shall be consistent with all federal
47 requirements or limitations regarding any information utilized in
48 any collection or setoff and shall provide for (1) due notice to the

1 recipient of the pension, annuity or retirement allowance and
2 procedures to contest the setoff prior to any setoff being imposed,
3 and (2) safeguards against the disclosure or inappropriate use of any
4 personally identifiable information regarding the recipient obtained
5 or maintained pursuant to the provisions of this section.

6 Nothing in this section shall prohibit any person insured under a
7 group insurance policy, pursuant to an arrangement among the
8 insured, the group policyholder and the insurer, from making to any
9 person other than his employer, a gift assignment of the rights and
10 benefits conferred on him by any provision of such policy or by law
11 including specifically but not by way of limitation the right to
12 exercise the conversion privilege and the right to name a
13 beneficiary. Any such assignment, whether made before or after the
14 effective date of this act, shall entitle the insurer to deal with the
15 assignee as the owner of all rights and benefits conferred on the
16 insured under the policy in accordance with the terms of the
17 assignment.

18 (cf: P.L.1969, c.98, s.4)

19
20 6. R.S.25:2-1 is amended to read as follows:

21 25:2-1. Conveyances of personal property in trust for use of
22 persons making them void as to creditors. a. Except as provided
23 in subsection b. of this section, every deed of gift and every
24 conveyance, transfer and assignment of goods, chattels or things in
25 action, made in trust for the use of the person making the same,
26 shall be void as against creditors.

27 b. Notwithstanding the provisions of any other law to the
28 contrary, any property held in a qualifying trust and any
29 distributions from a qualifying trust, regardless of the distribution
30 plan elected for the qualifying trust, shall be exempt from all claims
31 of creditors and shall be excluded from an estate in bankruptcy,
32 except that:

33 (1) no exemption shall be allowed for any preferences or
34 fraudulent conveyances made in violation of the "Uniform
35 Fraudulent Transfer Act," R.S.25:2-20 et seq., or any other State or
36 federal law;

37 (2) no qualifying trust shall be exempt from the claims under
38 any order for child support or spousal support or of an alternate
39 payee under a qualified domestic relations order. However, the
40 interest of any alternate payee under a qualified domestic relations
41 order is exempt from all claims of any creditor of the alternate
42 payee. As used in this paragraph, the terms "alternate payee" and
43 "qualified domestic relations order" have the meanings ascribed to
44 them in section 414(p) of the federal Internal Revenue Code of
45 1986 (26 U.S.C. s.414(p)); **and**

46 (3) no qualifying trust shall be exempt from any punitive
47 damages awarded in a civil action arising from manslaughter or
48 murder; and

For purposes of this section, a "qualifying trust" means a trust created or qualified and maintained pursuant to federal law, including, but not limited to, section 401, 403, 408, 408A, 409, 529 or 530 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.401, 403, 408, 408A, 409, 529 or 530).
(cf: P.L.2001, c.153, s.1)

The bill also allows no exemption for claims by the State of New Jersey against the retirement allowances or return of pension contributions payable to a member or beneficiary of any State-administered retirement system with regard to property held in a qualifying trust and any distributions from a qualifying trust currently exempt from all claims of creditors under N.J.S.A.25:2-1.