

Florida State Bankruptcy Exemptions

Article 10 § 4. Homestead; exemptions

(a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by a natural person:

(1) a homestead, if located outside a municipality, to the extent of one hundred sixty acres of contiguous land and improvements thereon, which shall not be reduced without the owner's consent by reason of subsequent inclusion in a municipality; or if located within a municipality, to the extent of one-half acre of contiguous land, upon which the exemption shall be limited to the residence of the owner or the owner's family;

(2) personal property to the value of one thousand dollars.

(b) These exemptions shall inure to the surviving spouse or heirs of the owner.

(c) The homestead shall not be subject to devise if the owner is survived by spouse or minor child, except the homestead may be devised to the owner's spouse if there be no minor child. The owner of homestead real estate, joined by the spouse if married, may alienate the homestead by mortgage, sale or gift and, if married, may by deed transfer the title to an estate by the entirety with the spouse. If the owner or spouse is incompetent, the method of alienation or encumbrance shall be as provided by law.

Florida Statutes

§ 222.05. Setting apart leasehold

Any person owning and occupying any dwelling house, including a mobile home used as a residence, or modular home, on land not his or her own which he or she may lawfully possess, by lease or otherwise, and claiming such house, mobile home, or modular home as his or her homestead, shall be entitled to the exemption of such house, mobile home, or modular home from levy and sale as aforesaid.

§ 222.11. Exemption of wages from garnishment

(1) As used in this section, the term:

(a) "Earnings" includes compensation paid or payable, in money of a sum certain, for personal services or labor whether denominated as wages, salary, commission, or bonus.

(b) "Disposable earnings" means that part of the earnings of any head of family remaining after the deduction from those earnings of any amounts required by law to be withheld.

(c) "Head of family" includes any natural person who is providing more than one-half of the support for a child or other dependent.

(2) (a) All of the disposable earnings of a head of family whose disposable earnings are less than or equal to \$ 500 a week are exempt from attachment or garnishment.

(b) Disposable earnings of a head of a family, which are greater than \$ 500 a week, may not be attached or garnished unless such person has agreed otherwise in writing. In no event shall the amount attached or garnished exceed the amount allowed under the Consumer Credit Protection Act, 15 U.S.C. s. 1673.

(c) Disposable earnings of a person other than a head of family may not be attached or garnished in excess of the amount allowed under the Consumer Credit Protection Act, 15 U.S.C. s. 1673.

(3) Earnings that are exempt under subsection (2) and are credited or deposited in any financial institution are exempt from attachment or garnishment for 6 months after the earnings are received by the financial institution if the funds can be traced and properly identified as earnings. Commingling of earnings with other funds does not by itself defeat the ability of a head of family to trace earnings.

§ 222.13. Life insurance policies; disposition of proceeds

(1) Whenever any person residing in the state shall die leaving insurance on his or her life, the said insurance shall inure exclusively to the benefit of the person for whose use and benefit such insurance is designated in the policy, and the proceeds thereof shall be exempt from the claims of creditors of the insured unless the insurance policy or a valid assignment thereof provides otherwise. Notwithstanding the foregoing, whenever the insurance, by designation or otherwise, is payable to the insured or to the insured's estate or to his or her executors, administrators, or assigns, the insurance proceeds shall become a part of the insured's estate for all purposes and shall be administered by the personal representative of the estate of the insured in accordance with the probate laws of the state in like manner as other assets of the insured's estate.

(2) Payments as herein directed shall, in every such case, discharge the insurer from any further liability under the policy, and the insurer shall in no event be responsible for, or be required to see to, the application of such payments.

§ 222.14. Exemption of cash surrender value of life insurance policies and annuity contracts from legal process

The cash surrender values of life insurance policies issued upon the lives of citizens or residents of the state and the proceeds of annuity contracts issued to citizens or residents of the state, upon whatever form, shall not in any case be liable to attachment, garnishment or legal process in favor of any creditor of the person whose life is so insured or of any creditor of the person who is the beneficiary of such annuity contract, unless the insurance policy or annuity contract was effected for the benefit of such creditor.

§ 222.15. Wages or unemployment compensation payments due deceased employee may be paid spouse or certain relatives

(1) It is lawful for any employer, in case of the death of an employee, to pay to the wife or husband, and in case there is no wife or husband, then to the child or children, provided the child or children are over the age of 18 years, and in case there is no child or children, then to the father or mother, any wages or travel expenses that may be due such employee at the time of his or her death.

(2) It is also lawful for the Agency for Workforce Innovation, in case of death of any unemployed individual, to pay to those persons referred to in subsection (1) any unemployment compensation payments that may be due to the individual at the time of his or her death.

§ 222.16. Wages or unemployment compensation payments so paid not subject to administration

Any wages, travel expenses, or unemployment compensation payments so paid under the authority of s. 222.15 shall not be considered as assets of the estate and subject to administration; provided, however, that the travel expenses so exempted from administration shall not exceed the sum of \$ 300.

§ 222.18. Exempting disability income benefits from legal processes

Disability income benefits under any policy or contract of life, health, accident, or other insurance of whatever form, shall not in any case be liable to attachment, garnishment, or legal process in the state, in favor of any creditor or creditors of the recipient of such disability income benefits, unless such policy or contract of insurance was effected for the benefit of such creditor or creditors.

§ 222.20. Nonavailability of federal bankruptcy exemptions

In accordance with the provision of s. 522(b) of the Bankruptcy Code of 1978 (11 U.S.C. s. 522(b)), residents of this state shall not be entitled to the federal exemptions provided in s. 522(d) of the Bankruptcy Code of 1978 (11 U.S.C. s. 522(d)). Nothing herein shall affect the exemptions given to residents of this state by the State Constitution and the Florida Statutes.

§ 222.201. Availability of federal bankruptcy exemptions

(1) Notwithstanding s. 222.20, an individual debtor under the federal Bankruptcy Reform Act of 1978 may exempt, in addition to any other exemptions allowed under state law, any property listed in subsection (d)(10) of s. 522 of that act.

(2) The provisions of this section apply to any bankruptcy action that is filed on or after October 1, 1987.

§ 222.21. Exemption of pension money and retirement or profit-sharing benefits from legal processes

(1) Money received by any debtor as pensioner of the United States within 3 months next preceding the issuing of an execution, attachment, or garnishment process may not be applied to the payment of the debts of the pensioner when it is made to appear by the affidavit of the debtor or otherwise that the pension money is necessary for the maintenance of the debtor's support or a family supported wholly or in part by the pension money. The filing of the affidavit by the debtor, or the making of such proof by the debtor, is prima facie evidence; and it is the duty of the court in which the proceeding is pending to release all pension moneys held by such attachment or garnishment process, immediately, upon the filing of such affidavit or the making of such proof.

(2) (a) Except as provided in paragraph (b), any money or other assets payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement or profit-sharing plan that is qualified under s. 401(a), s. 403(a), s. 403(b), s. 408, s. 408A, or s. 409 of the Internal Revenue Code of 1986, as amended, is exempt from all claims of creditors of the beneficiary or participant.

(b) Any plan or arrangement described in paragraph (a) is not exempt from the claims of an alternate payee under a qualified domestic relations order. However, the interest of any alternate payee under a qualified domestic relations order is exempt from all claims of any creditor, other than the Department of Children and Family Services, of the alternate payee. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meanings ascribed to them in s. 414(p) of the Internal Revenue Code of 1986.

(c) The provisions of paragraphs (a) and (b) apply to any proceeding that is filed on or after October 1, 1987.

(2) (a) Except as provided in paragraph (d), any money or other assets payable to an owner, a participant, or a beneficiary from, or any interest of any owner, participant, or beneficiary in, a fund or account is exempt from all claims of creditors of the owner, beneficiary, or participant if the fund or account is:

1. Maintained in accordance with a master plan, volume submitter plan, prototype plan, or any other plan or governing instrument that has been preapproved by the Internal Revenue Service as exempt from taxation under s. 401(a), s. 403(a), s. 403(b), s. 408, s. 408A, s. 409, s. 414, s. 457(b), or s. 501(a) of the Internal Revenue Code of 1986, as amended, unless it has been subsequently determined that the plan or governing instrument is not exempt from taxation in a proceeding that has become final and nonappealable;

2. Maintained in accordance with a plan or governing instrument that has been determined by the Internal Revenue Service to be exempt from taxation under s. 401(a), s. 403(a), s. 403(b), s. 408, s. 408A, s. 409, s. 414, s. 457(b), or s. 501(a) of the Internal Revenue Code of 1986, as amended, unless it has been subsequently determined that the plan or governing instrument is not exempt from taxation in a proceeding that has become final and nonappealable; or

3. Not maintained in accordance with a plan or governing instrument described in subparagraph 1. or 2. if the person claiming exemption under this paragraph proves by a preponderance of the evidence that the fund or account is maintained in accordance with a plan or governing instrument that:

a. Is in substantial compliance with the applicable requirements for tax exemption under s. 401(a), s. 403(a), s. 403(b), s. 408, s. 408A, s. 409, s. 414, s. 457(b), or s. 501(a) of the Internal Revenue Code of 1986, as amended; or

b. Would have been in substantial compliance with the applicable requirements for tax exemption under s. 401(a), s. 403(a), s. 403(b), s. 408, s. 408A, s. 409, s. 414, s. 457(b), or s. 501(a) of the Internal Revenue Code of 1986, as amended, but for the negligent or wrongful conduct of a person or persons other than the person who is claiming the exemption under this section.

(b) It is not necessary that a fund or account that is described in paragraph (a) be maintained in accordance with a plan or governing instrument that is covered by any part of the Employee Retirement Income Security Act for money or assets payable from or any interest in that fund or account to be exempt from claims of creditors under that paragraph.

(c) Any money or other assets that are exempt from claims of creditors under paragraph (a) do not cease to qualify for exemption by reason of a direct transfer or eligible rollover that is excluded from gross income under s. 402(c) of the Internal Revenue Code of 1986.

(d) Any fund or account described in paragraph (a) is not exempt from the claims of an alternate payee under a qualified domestic relations order. However, the interest of any alternate payee under a qualified domestic relations order is exempt from all claims of any creditor, other than the Department of Revenue, of the alternate payee. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meanings ascribed to them in s. 414(p) of the Internal Revenue Code of 1986.

(e) This subsection applies to any proceeding that is filed on or after the effective date of this act.

§ 222.22. Exemption of assets in qualified tuition programs, medical savings accounts, and Coverdell education savings accounts from legal process

(1) Moneys paid into or out of, the assets of, and the income of any validly existing qualified tuition program authorized by s. 529 of the Internal Revenue Code of 1986, as amended, including, but not limited to, the Florida Prepaid College Trust Fund advance payment contracts under s. 1009.98 and Florida Prepaid College Trust Fund participation agreements under s. 1009.981, are not liable to attachment, levy, garnishment, or legal process in the state in favor of any creditor of or claimant against any program participant, purchaser, owner or contributor, or program beneficiary.

(2) Moneys paid into or out of, the assets of, and the income of a health savings account or medical savings account authorized under ss. 220 and 223 of the Internal Revenue Code of 1986, as amended, are not liable to attachment, levy, garnishment, or legal process in this state in favor of any creditor of or claimant against any account participant, purchaser, owner or contributor, or account beneficiary.

(3) Moneys paid into or out of, the assets of, and the income of any Coverdell education savings account, also known as an educational IRA, established or existing in accordance with s. 530 of the Internal Revenue Code of 1986, as amended, are not liable to attachment, levy, garnishment, or legal process in this state in favor of any creditor of or claimant against any account participant, purchaser, owner or contributor, or account beneficiary.

(4) (a) Moneys paid into or out of the assets of and the income of any hurricane savings account established by an insurance policyholder for residential property in this state equal to twice the deductible sum of such insurance to cover an insurance deductible or other uninsured portion of the risks of loss from a hurricane, rising flood waters, or other catastrophic windstorm event are not liable to attachment, levy, garnishment, or legal process in this state in favor of any creditor of or claimant against any account participant, purchaser, owner or contributor, or account beneficiary.

(b) As used in this subsection, the term "hurricane savings account" means an account established by the owner of residential real estate in this state, which meets the requirements of homestead exemption under s. 4, Art. X of the State Constitution, who specifies that the purpose of the account is to cover the amount of insurance deductibles and other uninsured portions of risks of loss from hurricanes, rising flood waters, or other catastrophic windstorm events.

(c) This subsection shall take effect only when the federal government provides tax-exempt or tax-deferred status to a hurricane savings account, disaster savings account, or other similar account created to cover an insurance deductible or other uninsured portion of the risks of loss from a hurricane, rising flood waters, or other catastrophic windstorm event.

§ 222.25. Other individual property exempt from legal process

The following property is exempt from attachment, garnishment, or other legal process:

(1) A debtor's interest, not to exceed \$ 1,000 in value, in a single motor vehicle as defined in s. 320.01.

(2) A debtor's interest in any professionally prescribed health aids for the debtor or a dependent of the debtor.

(3) A debtor's interest in a refund or a credit received or to be received, or the traceable deposits in a financial institution of a debtor's interest in a refund or credit, pursuant to s. 32 of the Internal Revenue Code of 1986, as amended. This exemption does not apply to a debt owed for child support or spousal support.

§ 440.22. Assignment and exemption from claims of creditors

No assignment, release, or commutation of compensation or benefits due or payable under this chapter except as provided by this chapter shall be valid, and such compensation and benefits shall be exempt from all claims of creditors, and from levy, execution and attachments or other remedy for recovery or collection of a debt, which exemption may not be waived. However, the exemption of workers' compensation claims from creditors does not extend to claims based on an award of child support or alimony.

§ 443.051. Benefits not alienable; exception, child support intercept

(1) DEFINITIONS. --As used in this section:

(a) "Unemployment compensation" means any compensation payable under state law, including amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances for unemployment.

(b) "Support obligations" includes only those obligations that are being enforced under a plan described in s. 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.

(2) BENEFITS NOT ALIENABLE. --Except as provided in subsection (3), benefits due under this chapter may not be assigned, pledged, encumbered, released, or commuted and, except as otherwise provided in this chapter, are 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.

(3) EXCEPTION, SUPPORT INTERCEPT.

(a) Each individual filing a new claim for unemployment compensation must disclose at the time of filing the claim whether she or he owes support obligations that are being enforced by the Department of Revenue. If an applicant discloses that she or he owes support obligations and she or he is determined to be eligible for unemployment compensation benefits, the Agency for Workforce Innovation shall notify the Department of Revenue if the department is enforcing the support obligation. The Department of Revenue shall, at least biweekly, provide the Agency for Workforce Innovation with a magnetic tape or other electronic data file disclosing the individuals who owe support obligations and the amount of any legally required deductions.

(b) The Agency for Workforce Innovation shall deduct and withhold from any unemployment compensation otherwise payable to an individual disclosed under paragraph (a) who owes support obligations:

1. The amount determined under an agreement submitted to the Agency for Workforce Innovation under s. 454(19)(B)(i) of the Social Security Act by the Department of Revenue;

2. The amount required to be deducted and withheld from unemployment compensation through legal process as defined in s. 459 of the Social Security Act; or

3. The amount otherwise specified by the individual to the Agency for Workforce Innovation to be deducted and withheld under this section.

(c) The Agency for Workforce Innovation shall pay any amount deducted and withheld under paragraph (b) to the Department of Revenue.

(d) Any amount deducted and withheld under this subsection shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the Department of Revenue for support obligations.

(e) The Department of Revenue shall reimburse the Agency for Workforce Innovation for the administrative costs incurred by the agency under this subsection which are attributable to support obligations being enforced by the department.

§ 632.619. Benefits not attachable

No money or other benefit, charity, relief, or aid to be paid, provided, or rendered by any society, shall be subject to attachment, garnishment, or other process, nor 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.

§ 185.25. Exemption from tax and execution

For any municipality, chapter plan, local law municipality, or local law plan under this chapter, the pensions, annuities, or any other benefits accrued or accruing to any person under any municipality, chapter plan, local law municipality, or local law plan under the provisions of this chapter and the accumulated contributions and the cash securities in the funds created under this chapter are exempted from any state, county, or municipal tax of the state and shall not be subject to execution or attachment or to any legal process whatsoever and shall be unassignable.

§ 175.241. Exemption from tax and execution

For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the pensions, annuities, or other benefits accrued or accruing to any person under any chapter plan or local law plan under the provisions of this chapter and the accumulated contributions and the cash securities in the funds created under this chapter are hereby exempted from any state, county, or municipal tax and shall not be subject to execution or attachment or to any legal process whatsoever, and shall be unassignable.

§ 238.15. Exemption of funds from taxation, execution, and assignment

The pensions, annuities or any other benefits accrued or accruing to any person under the provisions of this chapter and the accumulated contributions and cash securities in the funds created under this chapter are exempted from any state, county or municipal tax of the state, and shall not be subject to execution or attachment or to any legal process whatsoever, and shall be unassignable, except:

(1) That any teacher who has retired shall have the right and power to authorize in writing the Department of Management Services to deduct from his or her monthly retirement allowance money for the payment of the premiums on group insurance for hospital, medical and surgical benefits, under a plan or plans for such benefits approved in writing by the Chief Financial Officer, and upon receipt of such request the department shall make the monthly payments as directed; and

(2) As may be otherwise specifically provided for in this chapter.

§ 121.131. Benefits exempt from taxes and execution

The benefits accrued to any person under the provisions of this chapter and the accumulated contributions, securities, or other investments in the trust funds hereby created are exempt from any state, county, or municipal tax of the state and shall not be subject to assignment, execution, or attachment or to any legal process whatsoever.

§ 122.15. Benefits exempt from taxes and execution

(1) The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of this chapter and the accumulated contributions and the cash securities in the funds created under this chapter are hereby exempted from any state, county or municipal tax of the state and shall not be subject to execution or attachment or to any legal process whatsoever and shall be unassignable.

(2) This subsection shall have no effect upon this section except that the department may, upon written request from the retired member, deduct premiums for group hospitalization insurance from the retirement benefit paid such retired member.

§ 769.05. Proceeds of recovery for injuries exempt from garnishment and execution

Writs of garnishment, execution or other processes, shall not issue out of any court to reach any money due or likely to become due as damages under the provisions of this chapter.

§ 112.215. Government employees; deferred compensation program

(1) This section shall be known and may be cited as the "Government Employees' Deferred Compensation Plan Act."

(2) For the purposes of this section, the term "employee" means any person, whether appointed, elected, or under contract, providing services for the state; any state agency or county or other political subdivision of the state; any municipality; any state university board of trustees; or any constitutional county officer under s. 1(d), Art. VIII of the State Constitution for which compensation or statutory fees are paid.

(3) In accordance with a plan of deferred compensation which has been approved as herein provided, the state or any state agency, county, municipality, other political subdivision, or constitutional county officer may, by contract or a collective bargaining agreement, agree with any employee to defer all or any portion of that employee's otherwise payable compensation and, pursuant to the terms of such approved plan and in such proportions as may be designated or directed under that plan, place such deferred compensation in savings accounts or use the same to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or such other investment products as may have been approved for the purposes of carrying out the objectives of such plan. Such insurance, annuity, savings, or investment products shall be underwritten and offered in compliance with the applicable federal and state laws and regulations by persons who are duly authorized by applicable state and federal authorities.

(4) (a) The Chief Financial Officer, with the approval of the State Board of Administration, shall establish such plan or plans of deferred compensation for state employees, including all such investment vehicles or products incident thereto, as may be available through, or offered by, qualified companies or persons, and may approve one or more such plans for implementation by and on behalf of the state and its agencies and employees.

(b) If the Chief Financial Officer deems it advisable, he or she shall have the power, with the approval of the State Board of Administration, to create a trust or other special funds for the segregation of funds or assets resulting from compensation deferred at the request of employees of the state or its agencies and for the administration of such program.

(c) The Chief Financial Officer, with the approval of the State Board of Administration, may delegate responsibility for administration of the plan to a person the Chief Financial Officer determines to be qualified, compensate such person, and, directly or through such person or pursuant to a collective bargaining agreement, contract with a private corporation or institution to provide such services as may be part of any such plan or as may be deemed necessary or proper by the Chief Financial Officer or such person, including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, asset purchase, control, and safekeeping, and direct disbursement of funds to employees or other beneficiaries. The Chief Financial Officer may authorize a person, private corporation, or institution to make direct disbursement of funds under the plan to an employee or other beneficiary.

(d) In accordance with such approved plan, and upon contract or agreement with an eligible employee, deferrals of compensation may be accomplished by payroll deductions made by the appropriate officer or officers of the state, with such funds being thereafter held and administered in accordance with the plan.

(e) The administrative costs of the deferred compensation plan must be wholly or partially self-funded. Fees for such self-funding of the plan shall be paid by investment providers and may be recouped from their respective plan participants. Such fees shall be deposited in the Deferred Compensation Trust Fund.

(5) Any county, municipality, or other political subdivision of the state may by ordinance, and any constitutional county officer under s. 1(d), Art. VIII of the State Constitution of 1968 may by contract agreement or other documentation constituting approval, adopt and establish for itself and its employees a deferred compensation program. The ordinance shall designate an appropriate official of the county, municipality, or political subdivision to approve and administer a deferred compensation plan or otherwise provide for such approval and administration. The ordinance shall also designate a public official or body to make the determinations provided for in paragraph (6)(b). If a constitutional county officer elects to adopt and establish for that office and its employees a deferred compensation program, the constitutional county officer shall be the appropriate official to make the determinations provided for in this subsection and in paragraph (6)(b).

(6) (a) No deferred compensation plan of the state shall become effective until approved by the State Board of Administration and the Chief Financial Officer is satisfied by opinion from such federal agency or agencies as may be deemed necessary that the compensation deferred thereunder and/or the investment products purchased pursuant to the plan will not be included in the employee's taxable income under federal or state law until it is actually received by such employee under the terms of the plan, and that such compensation will nonetheless be deemed compensation at the time of deferral for the purposes of social security coverage, for the purposes of the state retirement system, and for any other retirement, pension, or benefit program established by law.

(b) No deferred compensation plan of a county, municipality, other political subdivision, or constitutional county officer shall become effective until the appropriate official or body designated under subsection (5) is satisfied by opinion from such federal agency or agencies as may be deemed necessary that the compensation deferred thereunder and/or the investment products purchased pursuant to the plan will not be included in the employee's taxable income under federal or state law until it is actually received by such employee under the terms of the plan, and that such compensation will nonetheless be deemed compensation at the time of deferral for the purposes of social security coverage, for the purposes of the retirement system of the appropriate county, municipality, political subdivision, or constitutional county officer, and for any other retirement, pension, or benefit program established by law.

(7) The deferred compensation programs authorized by this section, and any plan approved and adopted as herein provided, shall exist and serve in addition to any other retirement, pension, or benefit systems established by the state or its agencies, counties, municipalities, other political subdivisions, or constitutional county officers and shall not supersede, make inoperative, or reduce any benefits provided by the Florida Retirement System or by another retirement, pension, or benefit program established by law. All records identifying individual participants in any plan under this section and their personal account activities shall be confidential and are exempt from the provisions of s. 119.07(1).

(8) (a) There is created a Deferred Compensation Advisory Council composed of seven members.

1. One member shall be appointed by the Speaker of the House of Representatives and the President of the Senate jointly and shall be an employee of the legislative branch.

2. One member shall be appointed by the Chief Justice of the Supreme Court and shall be an employee of the judicial branch.

3. One member shall be appointed by the chair of the Public Employees Relations Commission and shall be a nonexempt public employee.

4. The remaining four members shall be employed by the executive branch and shall be appointed as follows:

a. One member shall be appointed by the Chancellor of the State University System and shall be an employee of the university system.

b. One member shall be appointed by the Chief Financial Officer and shall be an employee of the Chief Financial Officer.

- c. One member shall be appointed by the Governor and shall be an employee of the executive branch.
- d. One member shall be appointed by the Executive Director of the State Board of Administration and shall be an employee of the State Board of Administration.
- (b) Each member shall serve for a term of 4 years from the date of appointment, except that a vacancy shall be filled by appointment for the remainder of the term.
- (c) Members shall elect a chair annually.
- (d) The council shall meet at the call of its chair, at the request of a majority of its membership, or at the request of the Chief Financial Officer, but not less than twice a year. The business of the council shall be presented to the council in the form of an agenda. The agenda shall be set by the Chief Financial Officer and shall include items of business requested by the council members.
- (e) A majority of the members shall constitute a quorum, and action by a majority of a quorum shall be official.
- (f) The council shall make a report of each meeting to the Chief Financial Officer, which shall show the names of the members present and shall include a record of its discussions, recommendations, and actions taken. The Chief Financial Officer shall keep the records of the proceedings of each meeting on file and shall make the records available to any interested person or group.
- (g) Members of the council shall serve without compensation but shall be entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061.
- (h) The advisory council shall provide assistance and recommendations to the Chief Financial Officer relating to the provisions of the plan, the insurance or investment options to be offered under the plan, and any other contracts or appointments deemed necessary by the council and the Chief Financial Officer to carry out the provisions of this act. The Chief Financial Officer shall inform the council of the manner in which each council recommendation is being addressed. The Chief Financial Officer shall provide the council, at least annually, a report on the status of the deferred compensation program, including, but not limited to, information on participant enrollment, amount of compensation deferred, total plan assets, product provider performance, and participant satisfaction with the program.
- (9) The purchase of any insurance contract or annuity or the investment in another investment option under any plan of deferred compensation provided for in the United States Internal Revenue Code and not prohibited under the laws of this state for an employee shall impose no liability or responsibility whatsoever on the state, county, municipality, other political subdivision, or constitutional county officer, except to show that the payments have been remitted for the purposes for which the compensation has been deferred.
- (10) (a) The moneys, pensions, annuities, or other benefits accrued or accruing to any person under the provisions of any plan providing for the deferral of compensation and the accumulated contributions and the cash and securities in the funds created thereunder are hereby exempt from any state, county, or municipal tax. They shall not be subject to execution or attachment or to any legal process whatsoever by a creditor of the employee and shall be unassignable by the employee.
- (b) 1. There is created in the State Treasury the Deferred Compensation Trust Fund, through which the Chief Financial Officer as trustee shall hold moneys, pensions, annuities, or other benefits accrued or accruing under and pursuant to 26 U.S.C. s. 457 and the deferred compensation plan provided for therein and adopted by this state; and
- a. All amounts of compensation deferred thereunder;

- b. All property and rights purchased with such amounts; and
- c. All income attributable to such amounts, property, or rights.

2. Notwithstanding the mandates of 26 U.S.C. s. 457(b)(6), all of the assets specified in subparagraph 1. shall be held in trust for the exclusive benefit of participants and their beneficiaries as mandated by 26 U.S.C. s. 457(g)(1).

(11) With respect to any funds held pursuant to a deferred compensation plan, any investment option provider that is a bank or savings association and that provides time deposit accounts and certificates of deposit as an investment product to the plan participants may, with the approval of the State Board of Administration for providers in the state plan, or with the approval of the appropriate official or body designated under subsection (5) for a plan of a county, municipality, other political subdivision, or constitutional county officer, be exempt from the provisions of chapter 280 requiring it to be a qualified public depository, provided:

(a) The bank or savings association shall, to the extent that the time deposit accounts or certificates of deposit are not insured by the Federal Deposit Insurance Corporation, deposit or issue collateral with the Chief Financial Officer for all state funds held by it under a deferred compensation plan, or with such other appropriate official for all public funds held by it under a deferred compensation plan of a county, municipality, other political subdivision, or constitutional county officer, in an amount which equals at least 150 percent of all uninsured deferred compensation funds then held.

(b) Said collateral shall be of the kind permitted by s. 280.13 and shall be pledged in the manner provided for by the applicable provisions of chapter 280.

The Chief Financial Officer shall have all the applicable powers provided in ss. 280.04, 280.05, and 280.08 relating to the sale or other disposition of the pledged collateral.

(12) The Chief Financial Officer may adopt any rule necessary to administer and implement this act with respect to deferred compensation plans for state employees.

(13) When permitted by federal law, the plan administrator may provide for a pretax trustee-to-trustee transfer of amounts in a participant's deferred compensation account for the purchase of prior service credit in a public sector retirement system.

(14) This subsection may not impair an existing contract. In each county that has one or more constitutional county officers, the board of county commissioners and the constitutional county officers shall negotiate a joint deferred compensation program for all their respective employees under s. 163.01. If all parties to the negotiation cannot agree upon a joint deferred compensation program, the provisions of subsection (5) apply.

§ 112.363. Retiree health insurance subsidy

(1) PURPOSE OF SECTION. --The purpose of this section is to provide a monthly subsidy payment to retired members of any state-administered retirement system in order to assist such retired members in paying the costs of health insurance.

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.

(a) A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(16)(a), and 250.22, recipients of health insurance coverage under s. 110.1232, or any other special pension or relief act shall not be eligible for such payments.

(b) For purposes of this section, a person is deemed retired from a state-administered retirement system when he or she terminates employment with all employers participating in the Florida Retirement System as described in s. 121.021(39) and:

1. For a participant of the Public Employee Optional Retirement Program established under part II of chapter 121, the participant meets the age or service requirements to qualify for normal retirement as set forth in s. 121.021(29).

2. For a member of the Florida Retirement System defined benefit program, or any employee who maintains creditable service under both the defined benefit program and the Public Employee Optional Retirement Program, the member begins drawing retirement benefits from the defined benefit program of the Florida Retirement System.

(c) 1. Effective July 1, 2001, any person retiring on or after such date as a member of the Florida Retirement System, including any participant of the defined contribution program administered pursuant to part II of chapter 121, must have satisfied the vesting requirements for his or her membership class under the Florida Retirement System defined benefit program as administered under part I of chapter 121.

2. Notwithstanding the provisions of subparagraph 1., a person retiring due to disability must either qualify for a regular or in-line-of-duty disability benefit as provided in s. 121.091(4) or qualify for a disability benefit under a disability plan established under part II of chapter 121, as appropriate.

(d) Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the Department of Management Services. Participation in a former employer's group health insurance program is not a requirement for eligibility under this section.

(e) Participants in the Senior Management Service Optional Annuity Program as provided in s. 121.055(6) and the State University System Optional Retirement Program as provided in s. 121.35 shall not receive the retiree health insurance subsidy provided in this section. The employer of such participant shall pay the contributions required in subsection (8) to the annuity program provided in s. 121.055(6)(d) or s. 121.35(4)(a), as applicable.

(3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.

(a) Beginning January 1, 1988, each eligible retiree or a beneficiary who is a spouse or financial dependent thereof shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by \$ 1; however, no retiree may receive a subsidy payment of more than \$ 30 or less than \$ 10.

(b) Beginning January 1, 1989, each eligible retiree or a beneficiary who is a spouse or financial dependent shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by \$ 2; however, no retiree may receive a subsidy payment of more than \$ 60 or less than \$ 20.

(c) Beginning January 1, 1991, each eligible retiree or a beneficiary who is a spouse or financial dependent shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by \$ 3; however, no retiree may receive a subsidy payment of more than \$ 90 or less than \$ 30.

(d) Beginning January 1, 1999, each eligible retiree or, if the retiree is deceased, his or her beneficiary who is receiving a monthly benefit from such retiree's account and who is a spouse, or a person who meets the definition of joint annuitant in s. 121.021(28), shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by \$ 5; however, no

eligible retiree or such beneficiary may receive a subsidy payment of more than \$ 150 or less than \$ 50. If there are multiple beneficiaries, the total payment must not be greater than the payment to which the retiree was entitled.

(e) 1. Beginning July 1, 2001, each eligible retiree of the defined benefit program of the Florida Retirement System, or, if the retiree is deceased, his or her beneficiary who is receiving a monthly benefit from such retiree's account and who is a spouse, or a person who meets the definition of joint annuitant in s. 121.021(28), shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by \$ 5; however, no eligible retiree or beneficiary may receive a subsidy payment of more than \$ 150 or less than \$ 30. If there are multiple beneficiaries, the total payment must not be greater than the payment to which the retiree was entitled. The health insurance subsidy amount payable to any person receiving the retiree health insurance subsidy payment on July 1, 2001, shall not be reduced solely by operation of this subparagraph.

2. Beginning July 1, 2002, each eligible participant of the Public Employee Optional Retirement Program of the Florida Retirement System who has met the requirements of this section, or, if the participant is deceased, his or her spouse who is the participant's designated beneficiary, shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as provided in this subparagraph, completed at the time of retirement, multiplied by \$ 5; however, no eligible retiree or beneficiary may receive a subsidy payment of more than \$ 150 or less than \$ 30. For purposes of determining a participant's creditable service used to calculate the health insurance subsidy, a participant's years of service credit or fraction thereof shall be based on the participant's work year as defined in s. 121.021(54). Credit shall be awarded for a full work year whenever health insurance subsidy contributions have been made as required by law for each month in the participant's work year. In addition, all years of creditable service retained under the Florida Retirement System defined benefit program shall be included as creditable service for purposes of this section. Notwithstanding any other provision in this section to the contrary, the spouse at the time of death shall be the participant's beneficiary unless such participant has designated a different beneficiary subsequent to the participant's most recent marriage.

(4) PAYMENT OF RETIREE HEALTH INSURANCE SUBSIDY. --Beginning January 1, 1988, any monthly retiree health insurance subsidy amount due and payable under this section shall be paid to retired members by the Department of Management Services or under the direction and control of the department.

(5) TRUST FUND ESTABLISHED. --There is hereby established a trust fund in the state treasury to be entitled the Retiree Health Insurance Subsidy Trust Fund. Said trust fund shall be used to account for all moneys received and disbursed pursuant to this section. Should funding for the retiree health insurance subsidy program fail to provide full benefits for all participants, the benefits may be reduced or canceled at any time.

(6) INVESTMENTS OF THE TRUST FUND. --The State Board of Administration created by the authority of the State Constitution shall invest and reinvest the funds of the trust fund in accordance with ss. 215.44-215.53. Costs incurred by the Board of Administration incurring from the provisions of this section shall be deducted from the interest earnings accruing to the trust fund.

(7) ADMINISTRATION OF SYSTEM. --The Department of Management Services may adopt such rules and regulations as are necessary for the effective and efficient administration of this section. The cost of administration shall be appropriated from the trust fund.

(8) CONTRIBUTIONS. --For purposes of funding the insurance subsidy provided by this section:

(a) Beginning October 1, 1987, the employer of each member of a state-administered retirement plan shall contribute 0.24 percent of gross compensation each pay period.

(b) Beginning January 1, 1989, the employer of each member of a state-administered retirement plan shall contribute 0.48 percent of gross compensation each pay period.

(c) Beginning January 1, 1994, the employer of each member of a state-administered retirement plan shall contribute 0.56 percent of gross compensation each pay period.

(d) Beginning January 1, 1995, the employer of each member of a state-administered retirement plan shall contribute 0.66 percent