

DEPARTMENT OF BUDGET AND FINANCE

Adoption of Chapter 6-40
Hawaii Administrative Rules

(Adoption Date)

1. Chapter 6-40, Hawaii Administrative Rules, entitled "Hawaii Domestic Relations Orders", is adopted to read as follows:

“HAWAII ADMINISTRATIVE RULES

TITLE 6

DEPARTMENT OF BUDGET AND FINANCE

EMPLOYEES’ RETIREMENT SYSTEM

CHAPTER 40

HAWAII DOMESTIC RELATIONS ORDERS

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SUBCHAPTER 1

GENERAL PROVISIONS

§6-40-1 **Definitions.** Unless a different meaning is plainly required by the context, definitions generally applicable in this chapter are also provided in 88-93.5, HRS, and chapter 88, HRS. As used in this chapter:

“Benefit the member or former member with vested benefit status is expected to receive” means the benefit the member or former member with vested benefit status is expected to receive without regard to any Hawaii domestic relations order.

“Benefit the retirant is receiving” means the benefit the retirant is receiving without regard to any Hawaii domestic relations order.

“Hawaii domestic relations order” means a domestic relations order that:

- (1) Creates or recognizes the right of an alternate payee, or assigns to an alternate payee, the right to receive all or a portion of the benefits payable with respect to a member or retirant under the system;
- (2) Directs the system to disburse benefits to the alternate payee;
- (3) Clearly specifies:
 - (A) The name and last known mailing address, if any, of the member or retirant;
 - (B) The name and mailing address of the alternate payee covered by the order;
 - (C) The amount or percentage of the member's or retirant's benefits to be paid by the system to the alternate payee, or the manner in which the amount or percentage is to be determined; and
 - (D) That the order applies to the system; and
- (4) Does not:
 - (A) Purport to require the designation by the member or retirant, of a particular person as the recipient of benefits upon the death of the member or retirant;
 - (B) Purport to require the selection of a particular benefit payment plan or option or to limit the benefit payment plans or options from which the member may select;
 - (C) Require any action on the part of the system contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to an alternate payee;
 - (D) Make the award to the alternate payee an interest that is contingent on any condition other than those conditions resulting in the liability of the system for payment under its plan provisions;
 - (E) Purport to give to someone other than a member or retirant the right to designate a beneficiary or to choose any retirement plan or option available from the system;
 - (F) Attach a lien to any part of amounts payable with respect to a member or retirant;
 - (G) Award an alternate payee a portion of the benefits payable with respect to a member or retirant under the system and purport to require the system to make a lump sum payment

of the awarded portion of the benefits to the alternate payee that are not payable in a lump sum;

- (H) Purport to require the system, without action by the member, to terminate a member from membership or employment, to refund contributions, or to retire a member;
- (I) Provide any type or form of benefit, or any option, not otherwise provided by the system;
- (J) Provide increased benefits, determined on the basis of actuarial value; or
- (K) Require the system to provide benefits or refunds to an alternate payee that are required to be paid to another alternate payee pursuant to an earlier Hawaii domestic relations order; and

(5) Meets the other requirements of section 88-93.5, HRS.

[Eff] (Auth: §§88-28 and 88-93.5) (Imp: §88-93.5)

§6-40-2 Specification of amount or percentage to be paid or the manner in which the amount or percentage is to be determined. (a) A domestic relations order received by the system prior to a member's or former member's with vested benefit status retirement and termination of membership in the system, relating to retirement benefits upon retirement pursuant to sections 88-73, 88-75, 88-79, 88-281, 88-284, 88-285, 88-331, 88-334 or 88-336, HRS, and/or withdrawal of accumulated contributions or hypothetical account balance benefits upon termination of membership in the system pursuant to section 88-61, HRS, shall clearly specify the amount or percentage of the benefit the member or former member with vested benefit status is expected to receive, to be paid by the system to the alternate payee, or the manner in which the amount or percentage is to be determined, in the manner set forth in the domestic relations order forms adopted by the board, or by specifying:

- (1) The monthly retirement allowance under the retirement allowance option elected by the member or former member with vested benefit status, as follows:
 - (A) A percentage of the member's or former member's with vested benefit status monthly retirement allowance under the retirement allowance option elected by the member or

former member with vested benefit status, determined by the following formula:

$$\begin{array}{r}
 \frac{\text{_____}}{\text{(fractional marital property interest)}} \% \\
 \times \\
 \frac{\text{Months of service credits the system determines has been credited to the member or former member with vested benefit status from _____ (date of marriage) through _____ (date of divorce)}}{\text{Total months of service credit the system determines has been credited to the member or former member with vested benefit status upon retirement}}
 \end{array}$$

- (B) A percentage of the member's or former member's with vested benefit status monthly retirement allowance under the retirement allowance option elected by the member or former member with vested benefit status;
 - (C) A dollar amount of the member's or former member's with vested benefit status monthly retirement allowance under the retirement allowance option elected by the member or former member with vested benefit status; or
 - (D) None;
- (2) The refund of accumulated contributions under the retirement allowance option providing for the refund of accumulated contributions elected by the member or former member with vested benefit status, if any, as follows:
- (A) A percentage of the member's or former member's with vested benefit status refund of accumulated contributions under the retirement allowance option providing for the refund of accumulated contributions elected by the member or former member with vested benefit status, if any, determined by the following formula:

		Months of service credits the system determines has been credited to the member or former member with vested benefit status from _____ (date of marriage) through _____ (date of divorce)
_____ % (fractional marital property interest)	X	Total months of service credit the system determines has been credited to the member or former member with vested benefit status upon retirement

- (B) A percentage of the member's or former member's with vested benefit status refund of accumulated contributions under the retirement allowance option providing for the refund of accumulated contributions elected by the member or former member with vested benefit status, if any;
 - (C) A dollar amount of the member's or former member's with vested benefit status refund of accumulated contributions under the retirement allowance option providing for the refund of accumulated contributions elected by the member or former member's with vested benefit status, if any; or
 - (D) None;
- (3) The withdrawal of accumulated contributions and/or hypothetical account balance resulting in or upon a member's or former member's with vested benefit status termination of membership in the system, if any, as follows:
- (A) A percentage of the member's or former member's with vested benefit status withdrawal of accumulated contributions and/or hypothetical account balance, if any, determined by the following formula:

		Months of service credits the system determines has been credited to the member or former member with vested benefit status from _____ (date of marriage) through _____ (date of divorce)
$\frac{\text{_____ \%}}{\text{(fractional marital property interest)}}$	X	Total months of service credit the system determines has been credited to the member or former member with vested benefit status upon termination of membership

- (B) A percentage of the member's or former member's with vested benefit status withdrawal of accumulated contributions and/or hypothetical account balance, if any;
- (C) A dollar amount of the member's or former member's with vested benefit status withdrawal of accumulated contributions or hypothetical account balance, if any; or
- (D) None;
- (4) The amount or percentage of the benefit the member or former member with vested benefit status is expected to receive, to be paid by the system to the alternate payee:
 - (A) Shall not provide any type of or form of benefit, or any option, not otherwise provided by the system;
 - (B) Shall not provide increased benefits, determined on the actuarial value;
 - (C) Shall not provide benefits to the alternate payee required to be paid to another alternate payee pursuant to an earlier Hawaii domestic relations order;
 - (D) Shall be paid in priority pursuant to section 6-40-13;
 - (E) Shall not exceed the benefit the member or former member with vested benefit status is expected to receive, less

- benefits required to be paid to another alternate payee pursuant to an earlier Hawaii domestic relations order;
- (F) Shall, in the case of a member or former member with vested benefit status who terminates membership in the system by withdrawal of contributions or hypothetical account balance and resumes membership in the system, include no portion of any benefits payable to the member or former member with vested benefit status that result from the resumption of membership after the system's receipt of the certified copy of domestic relations order determined to be a Hawaii domestic relations order, even if those benefits result in part from reinstatement of service credits initially credited during marriage; and
 - (G) Shall, in the case of a member or former member with vested benefit status who retires and returns to employment requiring active membership in the system, include no portion of any benefits payable to the member or former member with vested benefit status that result from the resumption of membership after the system's receipt of the certified copy of domestic relations order determined to be a Hawaii domestic relations order; and
- (5) The payment of the filing fee in effect at the time that the order is submitted, and charges for legal and actuarial services, as follows:
- (A) The filing fee in effect at the time that the order is submitted to the system shall be paid before the order is processed or reviewed by the system;
 - (B) The charges for legal and actuarial services shall be paid before the system may issue notification of determination on an order;
 - (C) The filing fee in effect at the time that the order is submitted, and charges for legal and actuarial services, shall be paid as follows:
 - (i) A percentage to be paid by the member or former member with vested benefit status; and
 - (ii) A percentage to be paid by the alternate payee; and
 - (D) The person who requests the review of the order to establish whether the order meets the requirements for a Hawaii domestic relations order shall:

- (i) Collect and provide payment of filing fees from all parties as stated above, to the system at the time of the request for review of the order is made; and
- (ii) Collect and provide payment of charges for legal and actuarial services from all parties as stated above, to the system prior to the system's issuance of a notification of determination on an order.

(b) A domestic relations order received by the system after the retirement of a member, former member with vested benefit status, or retirant, relating to retirement benefits following retirement pursuant to sections 88-73, 88-75, 88-79, 88-281, 88-284, 88-285, 88-331, 88-334 or 88-336, HRS, shall clearly specify the amount or percentage of the retirement benefit the retirant is receiving, to be paid by the system to the alternate payee, or the manner in which the amount or percentage is to be determined, in the manner set forth in the domestic relations order forms adopted by the board, or by specifying:

- (1) The amount or percentage of monthly retirement allowance under the retirement allowance option elected by the retirant, if any, as follows:

- (A) A percentage of the retirant's monthly retirement allowance under the retirement allowance option elected by the retirant, determined by the following formula:

		Months of service credits the system determines has been credited to the retirant from _____ (date of marriage) through _____ (date of divorce)
_____ % (fractional marital property interest)	X	Total months of service credit the system determines has been credited to the retirant upon retirement

- (B) A percentage of the retirant's monthly retirement allowance under the retirement allowance option elected by the retirant;
 - (C) A dollar amount of the retirant's monthly retirement allowance under the retirement allowance option elected by the retirant, not to exceed the total distribution of the retirant's monthly retirement allowance under the retirement allowance option elected by the retirant; or
 - (D) None;
- (2) The commencement of payment of the amount or percentage of monthly retirement allowance under the retirement allowance option elected by the retirant, as follows:
- (A) The commencement date for payment of the amount or percentage of the retirant's monthly retirement allowance under the retirement allowance option elected by the retirant, not to precede the first day of the month following the date upon which the domestic relations order is determined to be qualified as a Hawaii domestic relations order; or
 - (B) Payment of the amount or percentage of the retirant's monthly retirement allowance under the retirement allowance option elected by the retirant shall commence on the first day of the month following the date upon which the domestic relations order is determined to be qualified as a Hawaii domestic relations order;
- (3) The amount or percentage of the retirement benefit the retirant is receiving, to be paid by the system to the alternate payee:
- (A) Shall not provide any type of or form of benefit, or any option, not otherwise provided by the system;
 - (B) Shall not provide increased benefits, determined on the actuarial value;
 - (C) Shall not provide retirement benefits to the alternate payee required to be paid to another alternate payee pursuant to an earlier Hawaii domestic relations order;
 - (D) Shall be paid in priority pursuant to section 6-40-13;
 - (E) Shall not exceed the retirement benefit the retirant is receiving, less retirement benefits required to be paid to

another alternate payee pursuant to an earlier Hawaii domestic relations order; and

(F) Shall, in the case of a retirant who returns to employment requiring active membership in the system, include no portion of any benefits payable to the retirant that result from the resumption of membership after the system's receipt of the certified copy of domestic relations order determined to be a Hawaii domestic relations order; and

(4) The payment of the filing fee in effect at the time that the order is submitted, and charges for legal and actuarial services, as follows:

(A) The filing fee in effect at the time that the order is submitted to the system shall be paid before the order is processed or reviewed by the system;

(B) The charges for legal and actuarial services shall be paid before the system may issue notification of determination on an order;

(C) The filing fee in effect at the time that the order is submitted, and charges for legal and actuarial services, shall be paid as follows:

(i) A percentage to be paid by the retirant; and

(ii) A percentage to be paid by the alternate payee; and

(D) The person who requests the review of the order to establish whether the order meets the requirements for a Hawaii domestic relations order shall:

(i) Collect and provide payment of filing fees from all parties as stated above, to the system at the time of the request for review of the order is made; and

(ii) Collect and provide payment of charges for legal and actuarial services from all parties as stated above, to the system prior to the system's issuance of a notification of determination on an order.

(c) For the purposes of this chapter, the number of months of service credits the system determines has been credited to a member, former member with vested benefit status, or retirant during a specified period shall be calculated pursuant to chapter 88, HRS, and chapters 6-21 and 6-29, HAR.

[Eff] (Auth: §§88-28 and 88-93.5) (Imp: §88-93.5)

§6-40-3 Request for information by a spouse or former spouse regarding member, former member with vested benefit status, or retirant.

(a) The request for information form provided by the system shall be used by a spouse or former spouse of a member, former members with vested benefits, or retirant, to make a written request for information relevant to a spouse's or former spouse's interest in the member's, former member's with vested benefits, or retirant's benefits. The system may reject as noncompliant with the requirements for a request for information, any request for information that is not in a form provided by the system. The system shall make available on the system's website the required forms of request for information, approved by the system's board of trustees at a meeting of the board duly noticed as provided by section 92-7, HRS.

(b) Upon receipt of the completed request for information form and a copy of the complaint for divorce or divorce decree, certified by the clerk of the court in which the complaint or decree was filed, the system will provide to the spouse or former spouse information relevant to the spouse's or former spouse's interest in the member's, former member's with vested benefits, or retirant's benefits, as of the date of the receipt of the form.

(c) The system is not required to notify the member, former member with vested status, or retirant of the system's receipt of a request for information under this section; provided that the system may confirm whether the system has received a request for information if a member, former member with vested status, or retirant asks the system whether the system has received any requests for information under this section. [Eff _____] (Auth: §§88-28 and 88-93.5) (Imp: §88-93.5)

§6-40-4 Responsibilities of alternate payees to the system. The alternate payee shall promptly:

- (1) Provide the system with a certified copy of the Hawaii domestic relations order and any modifications or amendments to the order;
- (2) Notify the system in writing of the alternate payee's address and any change to the alternate payee's name or address;
- (3) Submit any claims, applications or forms required by the system to effectuate any provisions of the Hawaii domestic relations order;
- (4) Comply with all reasonable requests from the system for information and documentation necessary for processing payment

- of all or any portion of payments to the alternate payees under the Hawaii domestic relations order; and
- (5) Return to the system any payment received by the alternate payee that should not have been made by the system to the alternate payee and is not payable to the member, or retirant.
[Eff _____] (Auth: §§88-28 and 88-93.5)
(Imp: §88-93.5)

SUBCHAPTER 2

REVIEW OF DOMESTIC RELATIONS ORDERS AND PROPOSED DOMESTIC RELATIONS ORDERS FOR QUALIFICATION AS HAWAII DOMESTIC RELATIONS ORDERS

§6-40-5 Required forms of Hawaii domestic relations orders. The Hawaii domestic relations order forms provided by the system shall be used by the parties to a domestic relations order, as well as by the court; provided that the system may waive the use of forms provided by the system if a domestic relations order issued by a court of another state otherwise complies with the requirements for a Hawaii domestic relations order. The system may reject as noncompliant with the requirements for a Hawaii domestic relations order any domestic relations order that is not in a form provided by the system. The system shall make available on the system's website the required forms of Hawaii domestic relations orders, approved by the system's board of trustees at a meeting of the board duly noticed as provided by section 92-7, HRS.
[Eff _____] (Auth: §§88-28 and 88-93.5) (Imp: §88-93.5)

§6-40-6 Review of proposed domestic relations orders. (a) A person who wishes to have the system review a proposed domestic relations order to establish whether it meets the requirements for a Hawaii domestic relations order shall complete and submit to the system a request for review form furnished by the system, a copy of the proposed order, and the filing fee. The request for review shall include an address and telephone number at which the person requesting the review may be contacted. If the order has been entered by a court, the order must be certified by the clerk of the court that entered the order.

(b) The person requesting review of proposed domestic relations order must be the member, the former member with vested benefit status, the retirant, the spouse or former spouse of the member, former member with vested benefit status, or retirant, or an authorized representative of any of the foregoing. If the spouse or former spouse of a member, former member with vested benefit status, or retirant, or an authorized representative of either of the foregoing is the person requesting review of a proposed domestic relations order, the person requesting the review shall also submit a copy of the complaint for divorce, or divorce decree, certified by the clerk of the court in which the complaint was filed, for the action in which the proposed domestic relations order is proposed to be entered.

(c) Upon completion of the system's review of a proposed domestic relations order, the system shall not issue a determination that a proposed domestic relations order is or is not a Hawaii domestic relations order, but shall issue a notification to the person requesting the review whether or not the proposed order meets the requirements for a Hawaii domestic relations order.

(d) The system is not required to notify a member, former member with vested benefit status, or retirant of the system's receipt of a proposed domestic relations order for review or issuance of notification under this section; provided that the system may confirm whether the system has received a proposed order for review or issued a notification if a member, former member with vested benefit status, or retirant asks the system whether the system has received a proposed domestic relations order for review or issued a notification under this section.

(e) The system's notification whether or not a proposed order meets the requirements for a Hawaii domestic relations order is advisory only and is not a determination by the system that the proposed order is or is not a Hawaii domestic relations order. [Eff _____] (Auth: §§88-28 and 88-93.5)
(Imp: §88-93.5)

§6-40-7 Review of domestic relations orders for qualification as Hawaii domestic relations orders. (a) A person who wishes to have the system review a domestic relations order entered by a court to establish whether it meets the requirements for a Hawaii domestic relations order shall complete and submit to the system a request for review form furnished by the system, a copy of the order, certified by clerk of the court that entered the order, and the filing fee. The request for review shall include an address and telephone number at which the person requesting the review may be contacted.

(b) The person requesting review of a domestic relations order entered by a court must be the member, the former member with vested benefit status, the retirant, the spouse or former spouse of the member, the former member with vested benefit status, or retirant, or an authorized representative of any of the foregoing.

(c) If a domestic relations order is submitted for review after it has been entered by the court and is thereafter amended with the intention that it shall be a Hawaii domestic relations order, the member, retirant, or the alternate payee shall submit a certified copy of the amended order to the system. The system shall review any amended order that it receives according to the same rules applicable to all other orders, including payment of processing fees and costs.

(d) Upon completion of the system's review of a domestic relations order that has been entered by a court, the system shall issue to the member, former member with vested benefit status, or retirant and the alternate payee, a determination, in writing, that the order is or is not a Hawaii domestic relations order, identifying any requirements that the order does not meet.

(e) A determination by the system that a domestic relations order is not a Hawaii domestic relations order shall be subject to review as provided in chapter 91, HRS, and the system's rules relating to contested cases.

[Eff] (Auth: §§88-28 and 88-93.5) (Imp: §88-93.5)

§6-40-8 Fees and charges for review and processing of domestic relations orders or proposed domestic relations orders. (a) The system shall post on the system's website fees and charges, approved by the system's board of trustees at a meeting of the board duly noticed as provided by section 92-7, HRS, for the review and processing of domestic relations orders and proposed domestic relations orders;

- (1) The fees paid shall be used only and directly for defraying the costs to the system of providing the processing and review of the proposed and domestic relations orders, including any required legal and actuarial costs; and
- (2) The filing fees shall be reasonably based on estimated costs of system staff processing and review of actual or proposed domestic relations orders. Charges for legal or actuarial services shall be reasonably based on estimated time required, and actual or reasonably estimated hourly rates for legal and actuarial services,

or other commercially reasonable methods of determining such charges.

(b) Before the system incurs any charges for actuarial or legal services, the system shall notify the person who requested the review of the order or proposed order of any legal or actuarial services that the system needs as part of the review. The notification of legal or actuarial services shall include an estimate of the extent of the services and the estimated charges for the services. The estimated charges for the services shall be paid to the system before the system commences review of the order or proposed order. The actual charges for legal and actuarial services shall be paid to the system before the system issues a determination or notification in response to a request for review of a domestic relations order or proposed domestic relations order.

(c) A filing fee for review of a domestic relations order or proposed domestic relations order shall be paid each time an order or proposed order is submitted for review by the system, even though the order or proposed order was previously submitted to the system for review. [Eff]
(Auth: §§88-28 and 88-93.5) (Imp: §88-93.5)

SUBCHAPTER 3

PAYMENTS PURSUANT TO HAWAII DOMESTIC RELATIONS ORDERS

§6-40-9 Withdrawal of accumulated contributions or hypothetical account balance. (a) If a Hawaii domestic relations order provides for payment to an alternate payee of all or a portion of a member's or former member's with vested benefit status accumulated contributions or hypothetical account balance upon termination of membership in the system by withdrawal of the member's or former member's with vested benefit status accumulated contributions or hypothetical account balance, the system shall notify the alternate payee, at the address provided by alternate payee pursuant to section 6-40-4, of the member's or former member's with vested benefit status request for withdrawal of accumulated contributions or hypothetical account balance.

(b) The system shall pay the alternate payee in accordance with the Hawaii domestic relations order upon the later of:

- (1) The date on which the member's or former member's with vested benefit status portion of the member's or former member's with vested benefit status accumulated contributions or hypothetical

account balance is payable to the member or former member's with vested benefit status; or

- (2) Receipt by the system of alternate payee's claim for payment and all supporting documentation required by the system for payment to the alternate payee;

provided that an alternate payee shall not be entitled to any portion of a member's or former member's with vested benefit status accumulated contributions or hypothetical account balance under a Hawaii domestic relations order that is determined to be a Hawaii domestic relations order more than eighteen months after the date on which the member's or former member's with vested benefit status portion of the member's accumulated contributions or hypothetical account balance is payable to the member.

(c) Payment to the alternate payee after the date on which the member's or former member's with vested benefit status portion of the member's or former member's with vested benefit status accumulated contributions or hypothetical account balance is payable to the member or former member's with vested benefit status shall be without interest.

(d) An alternate payee under a Hawaii domestic relations order may be considered a "distributee" for the purposes of section 6-28-10.

[Eff] (Auth: §§88-28 and 88-93.5) (Imp: §88-93.5)

§6-40-10 Pre-retirement Hawaii domestic relations order. (a) When the system receives a retirement application from a member or former member with vested benefit status who is eligible to receive a retirement benefit and whose retirement benefits are subject to a Hawaii domestic relations order, the system shall notify the alternate payee, at the address provided by alternate payee pursuant to section 6-40-4, of the member's application for retirement benefits.

(b) The system shall pay the alternate payee in accordance with the Hawaii domestic relations order commencing the same date that retirement benefit payments are effective for the member or former member with vested benefit status; provided that the system may withhold payments to the alternate payee until receipt by the system of alternate payee's claim for payment and all supporting documentation required by the system for payment to the alternate payee. Upon receipt by the system of the alternate payee's claim for payment and all supporting documentation required by the system for payment to the alternate payee, the system shall pay to alternate payee, without interest, the payments

withheld by the system. [Eff
93.5) (Imp: §88-93.5)

] (Auth: §§88-28 and 88-

§6-40-11 Pre-retirement domestic relations orders under review. (a) When the system receives a retirement application from a member or former member with vested benefit status who is eligible to receive a retirement benefit and whose retirement benefits are subject to a domestic relations order, a certified copy of which has been provided to the system for review for qualification as a Hawaii domestic relations order, the system shall notify the alternate payee named in the order, at the address provided by the alternate payee pursuant to section 6-40-4, of the member's application for retirement benefits.

(b) If the domestic relations order is determined to be a Hawaii domestic relations order, the system shall pay the alternate payee as provided in section 6-40-10(b); provided that, if the domestic relations order is determined to be a Hawaii domestic relations order more than eighteen months after the member's or former member's with vested benefit status retirement benefits commence, payments to the alternate payee shall commence on the first day of the month following the later of:

- (1) The determination that the Hawaii domestic relations order is a Hawaii domestic relations order; or
- (2) Receipt by the system of alternate payee's claim for payment and all supporting documentation required by the system for payment to the alternate payee;

(c) If the domestic relations order is determined not to be a Hawaii domestic relations order within eighteen months after the member's retirement benefits commence, payments to the alternate payee may only be made pursuant to a qualified retirement Hawaii domestic relations order as provided in section 6-40-12. [Eff
(Imp: §88-93.5)

] (Auth: §§88-28 and 88-93.5)

§6-40-12 Post-retirement Hawaii domestic relations orders. When the system receives a certified copy of a domestic relations order subsequent to the member's, former member's with vested benefit status, or retirant's retirement,

and if the domestic relations order is determined to be a Hawaii domestic relations order:

- (1) The system shall notify the retirant and alternate payee that the system has determined that the domestic relations order is a Hawaii domestic relations order; and
- (2) Payment according to the terms of the Hawaii domestic relations order under this subsection shall commence as of the first day of the month following the date upon which the order is determined to be qualified, unless the parties jointly direct that payment shall commence at a later date; provided that the system may withhold payment to the alternate payee until receipt by the system of alternate payee's claim for payment and all supporting documentation required by the system for payment to the alternate payee. Upon receipt by the system of alternate payee's claim for payment and all supporting documentation required by the system for payment to the alternate payee, the system shall pay to alternate payee, without interest, any payments withheld by the system. [Eff _____] (Auth: §§88-28 and 88-93.5) (Imp: §88-93.5)

§6-40-13 Priority of Hawaii domestic relations orders. The priority of Hawaii domestic relations orders shall be determined by the order in which the certified copies of domestic relations orders are received by the system for qualification as a Hawaii domestic order, and not by the order in which domestic relations orders are determined to be Hawaii domestic relations orders, the order in which the domestic relations orders are entered by the court, the date the complaint for divorce is filed, the date upon which an order of divorce is entered, or the date of marriage. [Eff _____] (Auth: §88-28 and 88-93.5) (Imp: §88-93.5)

§6-40-14 Effect of payments to alternate payees upon death benefits. Payments made to alternate payees according to the terms of Hawaii domestic relations orders shall be payments received by the retirant, and benefit that the retirant received, for purposes of death benefits set forth at sections 88-83,

88-283, and 88-333, HRS. [Eff] (Auth: §§88-28 and 88-93.5) (Imp: §88-93.5)

§6-40-15 **Alternate payee's claim for payment.** (a) The alternate payee shall submit a claim for payment pursuant to a Hawaii domestic relations order. The claim shall be on a form provided by the system.

(b) All claims for payment by an alternate payee shall include the following information:

- (1) The alternate payee's name, mailing address, and social security number;
- (2) The alternate payee's date of birth; and
- (3) A description of the Hawaii domestic relations order under which the alternate payee is making the claim.

(c) The alternate payee shall sign the claim. The alternate payee's signature shall be notarized unless the alternate payee signs the claim in the presence of a representative of the system.

(d) The alternate payee shall provide the following in support of the alternate payee's claim:

- (1) Government-issued identification;
 - (2) Proof of birth date, which meets the requirements for evidence of birth date under rules promulgated by the system to implement section 88-44, HRS;
 - (3) A copy of the Hawaii domestic relations order;
 - (4) An agreement for direct deposit to a financial institution of payments to the alternate payee; and
 - (5) Tax withholding agreement for pension or annuity payments.”
- [Eff] (Auth: §§88-28 and 88-93.5)
(Imp: §88-93.5)

2. The adoption of chapter 6-40, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

Emmit Kane, Chairperson
Employees' Retirement System of
the State of Hawaii, Board of
Trustees

Neal Miyahira, Director
Department of Budget and Finance

APPROVED AS TO FORM:

Deputy Attorney General