

CHAPTER 31

GOVERNMENT - STATE

HOUSE BILL 08-1179

BY REPRESENTATIVE(S) Gardner C., and Mitchell V.;
also SENATOR(S) Sandoval, Brophy, and Kopp.

AN ACT

**CONCERNING THE CIRCUMSTANCES UNDER WHICH DISTRIBUTIONS PAYABLE BY THE PUBLIC
EMPLOYEES' RETIREMENT ASSOCIATION MAY BE SUBJECT TO LEGAL PROCESS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-51-212, Colorado Revised Statutes, is amended to read:

24-51-212. Funds not subject to legal process. (1) Except for federal tax liens on distributions payable by the association, FOR COLORADO TAX DISTRAINTS AND LIENS PURSUANT TO SECTION 39-21-114, C.R.S., ON DISTRIBUTIONS PAYABLE BY THE ASSOCIATION, for assignments for child support purposes as provided for in sections 14-10-118 (1) and 14-14-107, C.R.S., as they existed prior to July 1, 1996, for income assignments for child support purposes pursuant to section 14-14-111.5, C.R.S., for writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, for payments from the association in compliance with a properly executed court order approving a written agreement entered into pursuant to section 14-10-113 (6), C.R.S., and for restitution that is required to be paid for the theft, embezzlement, misappropriation, or wrongful conversion of public property or in the event of a judgment for a willful and intentional violation of fiduciary duties pursuant to section 24-51-207 where the offender or a related party received direct financial gain, none of the moneys, trust funds, reserves, accounts, contributions pursuant to parts 4, 5, and 15 of this article, or benefits referred to in this article shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, bankruptcy proceedings, or other legal process. Member contributions are subject to garnishment resulting from a judgment taken for arrearages for child support or for child support debt, for restitution that is required to be paid for the theft, embezzlement, misappropriation, or wrongful conversion of public property or in the event of a judgment for a willful and intentional violation of fiduciary duties pursuant to section 24-51-207 where the

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

offender or a related party received direct financial gain, only if the membership has terminated and the member is not vested.

(2) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, UPON SERVICE TO THE ASSOCIATION OF ORDERS, INJUNCTIONS, OR WARRANTS ISSUED PURSUANT TO SECTIONS 18-17-105 AND 18-17-106 OR SECTION 16-3-301, C.R.S., APPLICABLE TO A MEMBER CONTRIBUTION ACCOUNT BASED UPON ALLEGATIONS OF THEFT, EMBEZZLEMENT, MISAPPROPRIATION, OR WRONGFUL CONVERSION OF PUBLIC PROPERTY, A MEMBER WHO TERMINATES MEMBERSHIP IS PROHIBITED FROM RECEIVING A REFUND OF THE MEMBER'S CONTRIBUTION ACCOUNT AND MATCHING EMPLOYER CONTRIBUTIONS PURSUANT TO SECTION 24-51-405, UNTIL A COURT ORDER OR THE ISSUING AUTHORITY RELEASES THE MEMBER CONTRIBUTION ACCOUNT FROM SAID ORDERS, INJUNCTIONS, OR WARRANTS.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: March 17, 2008