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Indicates New Matter

COMMITTEE REPORT

April 18, 2018

**H. 4673**

Introduced by Reps. G.M. Smith, Brawley and Weeks

S. Printed 4/18/18--S.

Read the first time January 31, 2018.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4673) to amend Section 62‑2‑507, as amended, Code of Laws of South Carolina, 1976, relating to the revocation of certain beneficiary designations by divorce, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill as and if amended, page 1, by striking lines 33 through 38, in Section 62-2-507(a)(4), as contained in SECTION 1, and inserting therein the following:

/ and transfer on death accounts. ‘Governing instrument’ does not include a beneficiary designation made in connection with a governmental employee benefit plan established or maintained for employees of the government of the State or a political subdivision thereof, or by an agency or instrumentality of any of the foregoing.”/

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended by the House of Representatives on January 30, 2018**

**State Expenditure**

This bill amends the definition of governing instrument in the statutes that control revocations by divorce, annulment, and orders terminating marital property rights to exclude a beneficiary designation made in connection with employee insurance, deferred compensation, and retirement systems administered by the South Carolina Public Employee Benefit Authority (PEBA). Current statutes revoke the disposition or appointment of property or beneficiary designations made by a divorced individual’s former spouse in a government instrument. This bill would allow PEBA to pay any death benefits due in accordance with the beneficiary designations made by the members of the employee benefit plans, without those beneficiary designations being subject to automatic revocation pursuant to Section 62-2-507.

**Public Employee Benefit Authority**. PEBA employee benefit plans account for the payment of benefits in its liabilities and presumes that the benefits will be paid to someone. Pursuant to this bill, PEBA will pay the benefits in accordance with the beneficiary designations made by the members of the plans. Therefore, this bill will have no expenditure impact on the general fund, other funds, or federal funds of the PEBA employee benefit programs.

**Judicial Department**. The proposed legislation would exclude State Employee Insurance Plans, South Carolina Deferred Compensation accounts, and South Carolina Retirement System plans from the definition of governing instruments and thus exempt the designations found in those plans from automatic revocation provisions. This change may result in some increased hearings and trials in Family Court, but the department anticipates that any impact to the general fund from increased litigation will be managed within current appropriations. Therefore, this bill will have no expenditure impact on the general fund, other funds, or federal funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 62‑2‑507, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REVOCATION OF CERTAIN BENEFICIARY DESIGNATIONS BY DIVORCE, ANNULMENT, OR AN ORDER TERMINATING MARITAL PROPERTY RIGHTS, SO AS TO EXEMPT BENEFICIARY DESIGNATIONS UNDER EMPLOYEE BENEFIT PLANS ADMINISTERED BY THE SOUTH CAROLINA PUBLIC EMPLOYEE BENEFIT AUTHORITY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 62‑2‑507(a)(4) of the 1976 Code, as last amended by Act 100 of 2013, is further amended to read:

“(4) ‘Governing instrument’ means an instrument executed by the divorced individual before the divorce or annulment of the individual’s marriage to the individual’s former spouse including, but not limited to wills, revocable inter vivos trusts, powers of attorney, life insurance beneficiary designations, annuity beneficiary designations, retirement plan beneficiary designations and transfer on death accounts. ‘Governing instrument’ does not include a beneficiary designation made in connection with the employee benefit plans established pursuant to the provisions of:

(i) Article 5, Chapter 11, Title 1;

(ii) Chapter 23, Title 8; or

(iii) Title 9 of the 1976 Code.”

SECTION 2. The first undesignated paragraph, before subsection (A), of Section 30‑5‑30 of the 1976 Code, as last amended by Act 144 of 2016, is further amended to read:

“Except as otherwise provided by statute, before any deed or other instrument in writing can be recorded in this State, it must be acknowledged or proved by the method described in subsection (A)(1), (A)(2), or (B).”

SECTION 3. This act takes effect upon approval by the Governor.

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