

**§ 231k. Incompetence**

(a) Every individual receiving or claiming benefits, or to whom any right or privilege is extended, under this subchapter or any other Act of Congress now or hereafter administered, in whole or in part, by the Board shall be conclusively presumed to have been competent until the date on which the Board receives written notice, in a form and manner acceptable to the Board, that he is an incompetent, or a minor, for whom a guardian or other person legally vested with the care of his person or estate has been appointed: *Provided, however,* That, regardless of the legal competency or incompetency of an individual entitled to a benefit administered by the Board, the Board may, if it finds the interest of such individual to be served thereby, recognize actions by, and conduct transactions with, and make payments to, such individual, or recognize actions by, and conduct transactions with, and make payments to, a relative or some other person for such individual's use and benefit.

(b) Every guardian or other person legally vested with the care of the person or estate of an incompetent or minor who is receiving or claiming benefits, or to whom any right or privilege is extended, under this subchapter or any other Act of Congress now or hereafter administered, in whole or in part, by the Board shall have power everywhere, in the manner and to the extent prescribed by the Board, but subject to the provisions of the preceding subsection, to take any action necessary or appropriate to perfect any right or exercise any privilege of the incompetent or minor and to conduct all transactions on his behalf under this subchapter or any other Act of Congress now or hereafter administered, in whole or in part, by the Board. Any payment made pursuant to the provisions of this section shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

(Aug. 29, 1935, ch. 812, §12, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1345.)

**§ 231l. Penalties**

(a) Any person who shall knowingly fail or refuse to make any report or furnish any information required by the Board in the administration of this subchapter, including the provisions of section 231f(b)(2) of this title or who shall knowingly make or cause to be made any false or fraudulent statement or report when a statement or report is required to be made for the purpose of this subchapter, or who shall knowingly make or aid in making any false or fraudulent statement or claim for the purpose of causing an award or payment to be made, shall be punished by a fine of not more than \$10,000 or by imprisonment not exceeding one year, or both.

(b) All fines and penalties imposed by a court pursuant to this subchapter shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the Railroad Retirement Account.

(Aug. 29, 1935, ch. 812, §13, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1345.)

**§ 231m. Assignability; exemption from levy**

(a) Except as provided in subsection (b) of this section and the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.], notwithstanding any other law of the United States, or of any State, territory, or the District of Columbia, no annuity or supplemental annuity shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated<sup>1</sup>

(b)(1) This section shall not operate to exclude the amount of any supplemental annuity paid to an individual under section 231a(b) of this title from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.].

(2) This section shall not operate to prohibit the characterization or treatment of that portion of an annuity under this subchapter which is not computed under section 231b(a), 231c(a), or 231c(f) of this title, or any portion of a supplemental annuity under this subchapter, as community property for the purposes of, or property subject to, distribution in accordance with a court decree of divorce, annulment, or legal separation or the terms of any court-approved property settlement incident to any such court decree. The Board shall make payments of such portions in accordance with any such characterization or treatment or any such decree or settlement.

(3)(A) Payments made pursuant to paragraph (2) of this subsection shall not require that the employee be entitled to an annuity under section 231a(a)(1) of this title: *Provided, however,* That where an employee is not entitled to such an annuity, payments made pursuant to paragraph (2) may not begin before the month in which the following three conditions are satisfied:

(i) The employee has completed ten years of service in the railroad industry or, five years of service all of which accrues after December 31, 1995.

(ii) The spouse or former spouse attains age 62.

(iii) The employee attains age 62 (or if deceased, would have attained age 62).

(B) Payments made pursuant to paragraph (2) of this subsection shall terminate upon the death of the spouse or former spouse, unless the court document provides for termination at an earlier date. Notwithstanding the language in a court order, that portion of payments made pursuant to paragraph (2) which represents payments computed pursuant to section 231b(f)(2) of this title shall not be paid after the death of the employee.

(C) If the employee is not entitled to an annuity under section 231a(a)(1) of this title, payments made pursuant to paragraph (2) of this subsection shall be computed as though the employee were entitled to an annuity.

<sup>1</sup> So in original. Probably should be followed by a period.

(Aug. 29, 1935, ch. 812, §14, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1345; amended Pub. L. 98-76, title IV, §419(a), Aug. 12, 1983, 97 Stat. 438; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 110-458, title I, §110(a)(1), Dec. 23, 2008, 122 Stat. 5112.)

#### AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110-458 added par. (3).

1986—Subsecs. (a), (b)(1). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1983—Subsec. (a). Pub. L. 98-76, §419(a)(1), substituted “(a) Except as provided in subsection (b) of this section and the Internal Revenue Code of 1954, notwithstanding” for “Notwithstanding”.

Subsec. (b)(1). Pub. L. 98-76, §419(a)(2), substituted “(b)(1) This” for “: *Provided, however,* That the provisions of this”.

Subsec. (b)(2). Pub. L. 98-76, §419(a)(3), added par. (2).

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-458, title I, §110(b)(1), Dec. 23, 2008, 122 Stat. 5112, provided that: “The amendment made by subsection (a)(1) [amending this section] shall apply with respect to payments due for months after August 2007. If, prior to the effective date of such amendment, payment pursuant to paragraph (2) of section 14(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231m(b)) was terminated because of the employee’s death, payment to the former spouse may be reinstated for months after August 2007.”

#### EFFECTIVE DATE OF 1983 AMENDMENT

Section 419(b) of Pub. L. 98-76 provided that: “The amendments made by this section [amending this section] shall apply with respect to annuity amounts payable for months beginning after the date of the enactment of this Act [Aug. 12, 1983].”

### § 231n. Railroad Retirement Account

#### (a) Maintenance of account; authorization of appropriations

The Railroad Retirement Account established by section 15(a) of the Railroad Retirement Act of 1937 [45 U.S.C. 228o(a)] shall continue to be maintained in the Treasury of the United States. There is hereby appropriated to such Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, to provide for the payment of benefits to be made from such Account in accordance with the provisions of section 231f(c)(1) of this title, and to provide for expenses necessary for the Board in the administration of all provisions of this subchapter, an amount equal to amounts covered into the Treasury (minus refunds) during each fiscal year under the Railroad Retirement Tax Act [26 U.S.C. 3201 et seq.].

#### (b) Authorization of appropriations; military service costs and administrative expenses

In addition to the amount appropriated in subsection (a) of this section, there is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, such amount as the Board determines to be necessary to meet (A) the additional costs, resulting from the crediting of military service under this subchapter, of benefits payable under section 231a of this title, but only to the extent that such Account is not reimbursed for such costs under

section 231f(c)(2) of this title, (B) the additional administrative expenses resulting from the crediting of military service under this subchapter, and (C) any loss in interest to such Account resulting from the payment of additional benefits based on military service credited under this subchapter: *Provided, however,* That, in determining the amount to be appropriated to the Railroad Retirement Account for any fiscal year pursuant to the provisions of this subsection, there shall not be considered any costs resulting from the crediting of military service under this subchapter for which appropriations to such Account have already been made pursuant to section 4(l) of the Railroad Retirement Act of 1937 [45 U.S.C. 228c-1(l)]. Any determination as to loss in interest to the Railroad Retirement Account pursuant to clause (C) of the first sentence of this subsection shall take into account interest from the date each annuity based, in part, on military service began to accrue or was increased to the date or dates on which the amount appropriated is credited to the Account. The cost resulting from the payment of additional benefits under this subchapter based on military service determined pursuant to the preceding provisions of this subsection shall be adjusted by applying thereto the ratio of the total net level cost of all benefits under this subchapter to the portion of such net level cost remaining after the exclusion of administrative expenses and interest charges on the unfunded accrued liability as determined under the last completed actuarial valuation pursuant to the provisions of subsection (g) of this section. At the close of the fiscal year ending June 30, 1975, and each fiscal year thereafter, the Board shall, as promptly as practicable, determine the amount to be appropriated to the Account pursuant to the provisions of this subsection, and shall certify such amount to the Secretary of the Treasury for transfer from the general fund in the Treasury to the Railroad Retirement Account. When authorized by an appropriation Act, the Secretary of the Treasury shall transfer to the Railroad Retirement Account from the general fund in the Treasury such amounts as, from time to time, may be determined by the Board pursuant to the provisions of this subsection and certified by the Board for transfer to such Account. In any determination made pursuant to section 231f(c)(2) of this title, no further charges shall be made against the Trust Funds established by title II of the Social Security Act [42 U.S.C. 401 et seq.] for military service rendered before January 1, 1957, and with respect to which appropriations authorized by clause (2) of the first sentence of section 4(l) of the Railroad Retirement Act of 1937 shall have been credited to the Railroad Retirement Account, but the additional benefit payments incurred by such Trust Funds by reason of such military service shall be taken in account in making any such determination.

(c) **Repealed. Pub. L. 107-90, title I, §106(b), Dec. 21, 2001, 115 Stat. 887**

#### (d) Dual Benefits Payments Account

(1) There is hereby created an account in the Treasury of the United States to be known as the Dual Benefits Payments Account. There is