

**SUPPORTING STATEMENT FOR REQUEST FOR OMB APPROVAL
UNDER THE PAPERWORK REDUCTION ACT AND 5 CFR PART 1320**

AGENCY: Pension Benefit Guaranty Corporation

TITLE: Qualified Domestic Relations Orders Submitted to PBGC

STATUS: Request for approval of a collection of information under the Paperwork Reduction Act; OMB control number 1212-0054, expires August 31, 2009.

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Justification.

1. Need for collection. The Pension Benefit Guaranty Corporation (APBGC@) is requesting that the Office of Management and Budget (“OMB”) extend its approval of the information collection under its booklet, *Qualified Domestic Relations Orders & PBGC*, for a three-year period under the Paperwork Reduction Act.

PBGC is a federal agency that insures the benefits of over 44 million American workers and retirees in more than 29,000 private-sector defined benefit pension plans. A defined benefit pension plan that does not have enough money to pay benefits may be terminated if the employer responsible for the plan faces severe financial difficulty, such as bankruptcy, and is unable to maintain the plan. In such an event, PBGC becomes trustee of the plan and pays benefits, up to certain legal limits, to plan participants and beneficiaries.

The benefits of a pension plan participant generally may not be assigned or alienated. However, Title I of ERISA provides an exception for domestic relations orders that relate to child support, alimony payments, or the marital property rights of an alternate payee (a spouse,

former spouse, child, or other dependent of a plan participant). The exception applies only if the domestic relations order meets specific legal requirements that make it qualified, i.e., a qualified domestic relations order, or "QDRO." ERISA provides that pension plans are required to comply with only those domestic relations orders which are QDROs, and that the decision as to whether a domestic relations order is a QDRO is made by the plan administrator. Thus, as statutory trustee of terminated plans, PBGC must first determine whether any domestic relations order submitted to PBGC is qualified before any obligation to comply is triggered.

When PBGC is trustee of a plan, it reviews submitted domestic relations orders to determine whether the order is qualified before paying benefits to an alternate payee. For several years PBGC has provided the public with model QDROs and accompanying guidance in the booklet, *Qualified Domestic Relations Orders & PBGC* (previously titled, *Divorce Orders & PBGC*), to assist attorneys, other professionals, participants and alternate payees in preparing orders for plans trusted by PBGC.

Before providing the model forms and the QDRO booklet, PBGC received many inquiries on QDRO requirements and PBGC's procedures for handling orders submitted for a qualification determination. In addition, many domestic relations orders, both in draft and final form, did not meet the applicable requirements under ERISA. PBGC worked with practitioners, participants and alternate payees on a case-by-case basis to ensure that their orders were amended to meet applicable requirements. This process was time-consuming for all parties and for PBGC.

Since making the booklet and the model forms available, PBGC has experienced a decrease in (1) the number of orders that do not meet the applicable requirements, and (2) the

amount of time that practitioners, participants and alternate payees spend to ensure that the orders meet the applicable requirements, and the time PBGC spends to assist them in meeting the requirements. The requirements for submitting a QDRO are established by statute. The model QDROs and accompanying guidance do not create any additional requirements.

PBGC is not making any substantive revisions to the current QDRO booklet. One definition has been conformed to a change under the Pension Protection Act of 2006 and several references have been updated.

2. Use of information. PBGC uses the information it obtains from domestic relations orders that it has qualified to determine the proper amount and timing of benefit payments to participants and alternate payees.

3. Use of technological collection techniques. The use of technology is impracticable. Domestic relations orders which are submitted to PBGC for qualification determinations must be issued by a state court, agency, or other instrumentality with the authority to issue judgments, decrees or orders pursuant to state domestic relations law. Presently few, if any, states have technology in place to submit certified orders to PBGC electronically.

4. Duplication and similar information. All information required to be submitted under this collection of information is statutorily required in order for any part of a participant=s benefit to be assigned to an alternate payee, or for a former spouse of the participant to be treated as the participant=s surviving spouse for benefit payment purposes. The information requested is not available from another federal agency or another source.

5. Small businesses. Not applicable.

6. Consequences of no or less frequent collection. In the absence of a domestic relations

order qualified by PBGC, PBGC would be prohibited from making benefit payments to an alternate payee.

7. Special circumstances. Not applicable. This collection of information is not conducted in any manner described in item 7 of the general instructions for the supporting statement.

8. Outside input. On May 22, 2009 (at 74 FR 24050), PBGC published a Federal Register notice informing the public of its intent to seek extension of OMB approval of this collection of information and soliciting public comment on the collection of information. No comments were received.

9. Payments and Gifts. There are no payments or gifts made in connection with this collection of information.

10. Confidentiality. Confidentiality is governed by the provisions of the Freedom of Information Act and the Privacy Act.

11. Sensitive questions. This collection of information involves no questions of a sensitive nature.

12. Burden on the public. Based on its experience, PBGC expects to receive an average of 895 domestic relations orders annually, of which 740 of these will be prepared by attorneys or other professionals. The average hour burden for the alternate payee or participant is 0.75 hours if the order is prepared by a professional. In the case where the alternate payee or participant prepares the order, the average hour burden is estimated to be 10 hours. The total annual hour burden for alternate payees and participants is 2,105 hours ((740 x 0.75 hour = 555) + (155 x 10 = 1550) = 2105 hours).

13. Costs. PBGC estimates the cost burden per order to be between 2.5 and 4 hours of professional time spent preparing an order and obtaining its qualification, at an hourly rate of \$175 to \$225. Based on these estimates, the cost burden per order is estimated to be between \$438 ($\175×2.5, rounded) and \$900 ($\225×4), with \$669 as the midpoint of this range used as the average of professional fees for each of the estimated 740 orders that are prepared by a professional; there is no additional cost burden for the 155 orders that PBGC anticipates will be prepared by the alternate payee or participant. PBGC estimates the total annual burden will be 2,105 hours of the alternate payee's or participant's time, and the total annual professional costs to be \$495,060 ($\669×740). PBGC based its estimate of \$438 to \$900 based on costs and fees reported by QDRO attorneys and providers on the internet.

Because domestic relation orders are submitted infrequently and on a nonrecurring basis, there are no capital and start-up costs.

14. Costs to the Federal government. PBGC estimates the total annual cost to it of reviewing and processing orders is approximately \$250,076, based on –

- Approximately four hours to review and process each order at a rate of \$44 per hour, for a cost of \$157,520 ($895 \times 4 \times \44); and
- Approximately 0.6 of an hour to respond to each QDRO inquiry directed to PBGC at an hourly rate of \$36 per hour, with PBGC estimating it will receive approximately 4,285 inquiries annually, for a cost of \$92,556 ($0.6 \times \$36 \times 4,285$).

These estimates are based on PBGC's experience in reviewing/processing orders and responding to inquiries regarding orders.

15. Change in burden and costs. The change in annual burden (from 841.25 hours and

\$568,575 in the current inventory to 2,105 hours and \$495,060 requested) is due to PBGC's revised estimates of the number of orders it will receive each year, the number of orders that participants and alternate payees are expected to prepare themselves, and professional fees. The estimated number of responses per year has increased. Because PBGC expects more orders will be prepared by participants and alternate payees (as opposed to professionals), the estimated hourly burden has increased for participants and alternate payees, while their estimated cost burden has decreased. For those orders prepared by professionals, the estimated cost per response has increased slightly due to a net increase in estimated professional fees.

16. Publication plans. PBGC does not plan to publish the results of this collection of information.

17. Omission of expiration date. Not applicable. PBGC will display the expiration date.

18. Exceptions to certification statement. Not applicable. There are no exceptions to the certification in Item 19 of Form 83-1.