

June 9, 2000
L-2000-21

TO : Bobby V. Ferguson
Director of Programs

FROM : Steven A. Bartholow
General Counsel

SUBJECT : Community Property/Marital Estate-Nebraska
Partition of Employee Annuity Under Section 14(b)(2)

This is to advise that the law of the state of Nebraska has changed with respect to the finality of divorce decrees issued by Nebraska courts. Prior to September 9, 1995, a Nebraska divorce decree which partitioned an annuitant's Railroad Retirement Act annuity in accordance with the Board's regulations under 20 CFR 295 was not final and operative until six months from the date the divorce decree was entered. See Legal Opinion 89-106. Chapter 42-372.01 of the Revised Statutes of Nebraska has been amended to provide:

42-372.01. Decree; when final. (1) Except for purposes of appeal as prescribed in section 42-372, for purposes of remarriage as prescribed in subsection (2) of this section, and for purposes of continuation of health insurance coverage as prescribed in subsection (3) of this section, a decree dissolving a marriage becomes final and operative thirty days after the decree is rendered or on the date of death of one of the parties to the dissolution, whichever occurs first. If the decree becomes final and operative upon the date of death of one of the parties to the dissolution, the decree shall be treated as if it became final and operative the date it was rendered.

(2) For purposes of remarriage other than remarriage between the parties, a decree dissolving a marriage becomes final and operative six months after the decree is rendered or on the date of death of one of the parties to the dissolution, whichever occurs first. If the decree becomes final and operative upon the date of death of one of the parties to the dissolution, the decree shall be treated as if it became final and operative the date it was rendered.

(3) For purposes of continuation of health insurance coverage, a decree dissolving a marriage becomes final and operative six months after the decree is rendered.

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Accordingly, based on the change in Nebraska law, it is my opinion that a Nebraska divorce decree is now final and operative 30 days from the date the decree is rendered.

This opinion does not alter the substance of my opinion in L-89-106 other than to recognize the Nebraska statutory change from six months to 30 days, in the time when a divorce decree becomes final, as it applies to the Board.