

Statement on Signing the Retirement Equity Act of 1984

August 23, 1984

I am pleased to sign into law H.R. 4280, the Retirement Equity Act of 1984. This important legislation is the first private pension bill in our history to recognize explicitly the importance of women both to the American family and to the Nation's labor force. It contains significant measures to enhance women's ability to earn pensions in their own right. It improves and protects the vital role of pensions as retirement income to widows.

An end to inequities in the provision of pension benefits to women has been a top priority of my administration. In September 1983 I sent to Congress our own pension equity bill. I am pleased that most of that bill has been incorporated into this legislation I have now approved.

Existing pension rules, when originally enacted, did not fully anticipate the dual roles many women have come to play as both members of the paid labor force and as wives and mothers during periods of full-time work in the home. Provisions in many pension plans now operate in ways that fail to recognize paid work performed by women at certain periods in their lives and penalize them for time spent in childrearing. To address this inequity, the Retirement Equity Act lowers the age limits on participation and vesting, permitting more pension credits to be earned during the early working years when women are most likely to be employed. The legislation also eases break-in-service rules so that parents who bear children and stay home to care for them in the early years will no longer lose the pension credits they previously earned while working.

The Retirement Equity Act also clarifies that each person in a marriage has a right to benefit from the other's pension. No longer will one member of a married couple be able to sign away survivor benefits for the other. A spouse's written consent now will be required on any decision not to provide survivors' protection. The legislation also helps assure that when a vested employee dies before retirement, the employee's surviving spouse will benefit from the pension credits the employee has earned, and it restricts considerably the latitude now allowed pension plans to impose additional conditions on survivors' benefits. Survivors' benefits will be paid automatically in more instances than now. In addition, the bill makes it clear that State courts can allocate pension rights in divorce cases and other domestic relations settlements.

The enactment of this legislation has been a bipartisan effort, and I wish to thank the many Members of both the House and Senate for their hard work. This law is a most significant addition to our continuing efforts to remove economic discrimination against women in our nation.

Note: As enacted, H.R. 4280 is Public Law 98 - 397, approved August 23.

President of the United States of America Ronald Reagan

The Retirement Equity Act of 1984

(USA)

The Retirement Equity Act was signed by the President on August 23, 1984. As a result, pension, profit-sharing and stock bonus plans will face a new set of rules, intended primarily to achieve pension equity for women. Plan sponsors will have to comply with the new legislation for plan years beginning after December 31, 1984, although later effective dates are provided for collectively bargained plans. However, certain of the joint-and-survivor benefit requirements are effective on August 23, 1984.

The principal changes brought about by the Retirement Equity Act are summarized below.

Participation and Vesting Changes

Recognizing that many women work a major portion of their career during their twenties, Congress has reduced the highest age a plan can use for pension participation from age 25 to age 21. In addition to requiring benefit accruals at an earlier age, this will increase the plan sponsor's total premium for Pension Benefit Guaranty Corporation termination insurance, because the premium is calculated on a per capita basis. Plans can continue to require one year of service as a condition of participation. Service performed after the worker's eighteenth birthday will have to be counted for vesting purposes, compared to service after age 22 currently.

Break in Service Rules

Workers who quit and later return to the same employer will not lose credit for the earlier service unless the consecutive 1-year breaks in service total at least 5 years, or, if greater, the aggregate years of service before the break. This applies to nonvested participants; service of workers with any vested benefit is already protected under current law. Employers must begin keeping records of terminated employees for at least five years so that any re-hires can be properly credited with their earlier service.

Maternity and Paternity Leave

New rules will also protect the benefits of persons absent from work because of pregnancy, birth, adoption, or the care of the child immediately after birth or adoption placement. During such an absence, the individual will be treated as having completed the number of hours that

would normally have been credited for that period (or, if unknown, eight hours per workday), up to a total of 501 hours--enough to prevent a break in service for that year. The hours will be credited either in the year the absence begins if a break in service would otherwise occur, or in the following year. These hours will be taken into account for participation and vesting purposes, but not for benefit accrual.

Survivor Benefits

The new law will require that pension plans (including most defined contribution plans) and profit-sharing or stock bonus plans automatically provide benefits in the form of a joint-and-survivor annuity. Exceptions are made for profit-sharing plans and stock bonus plans and money purchase plans established as part of an ESOP. Any of these types of plans is exempt from the new requirements only if (1) the plan pays the surviving spouse the entire account balance on the death of the worker, (2) under a plan that offers a life annuity, the participant elects another form of benefit payment, and (3) the plan is not a transferee of a plan required to provide automatic survivor benefits. A participant can waive the joint-and-survivor annuity, but only if the spouse agrees in writing. Employers must set up procedures for handling these agreements, which must either be witnessed by a plan representative or notarized.

Preretirement survivor benefits, which until now have been mandatory only for workers within ten years of normal retirement or eligible to retire, will be required for workers with any vested benefits. Like the joint-and-survivor annuity, this protection can only be waived with the written consent of the spouse. Plans can delay payment of a preretirement survivor benefit only until the worker would have reached the earliest retirement age under the plan, unless the surviving spouse wants payments to begin after that. Plans need not subsidize the costs of providing the preretirement survivor benefit. These costs may be passed on to the plan participants through actuarial reductions.

The joint-and-survivor provisions take effect for plan years beginning after December 31, 1984 (or later for collectively bargained plans). However, the spousal consent requirements go into effect for elections or revocations made on or after January 1, 1985, even if the plan year begins later. The survivor of any vested participant with an hour of service after August 23, 1984 (the enactment date) who dies this year must be paid a preretirement survivor annuity.

Some workers who have terminated employment but who have not yet begun receiving benefits will be granted joint-and-survivor rights and preretirement survivor annuities under a complicated set of transition rules. For example, a person with deferred vested benefits and at least ten years of service who worked at least one hour between the beginning of the first plan year after December 31, 1975 and the date of enactment, may elect a preretirement survivor annuity. But unlike current employees, such a person will not have this benefit automatically. Plans will be required to notify participants of their rights under these transition rules.

Domestic Relations Orders

Congress has made it clear that pension plans can obey qualified domestic relations orders regarding the distribution of plan benefits in cases such as divorce without violating ERISA's spendthrift provisions. The order must meet certain requirements, however: It must specify the amount or percentage of the benefits to be paid to an alternate payee (such as a former spouse or a child) or how such an amount is to be determined as well as the number of payments or the period over which the benefits are to be paid. A qualified order cannot require a plan to pay benefits in a form not otherwise available under the plan, nor can it require the plan to pay increased benefits.

An alternate payee can begin receiving payments from the plan, if a court so orders, on or after the worker's earliest retirement date even if the participant is still employed. When payments begin before the worker retires, the alternate payee's benefits will be based on the worker's accrued normal retirement benefit, reduced as for early retirement, not taking into account any employer subsidy for early retirement. The order may specify, though, that when the worker subsequently retires, the alternate payee will receive a share of any subsidized benefit the participant is entitled to. Exceptions to tax rules (those governing 401(k) plans, for example) are included to permit plans to obey an order even though the worker has not terminated employment.

The domestic relations provisions apply beginning on January 1, 1985. Plans must treat domestic relations orders received before the date of enactment as qualified orders to the extent payments are being made, and may treat any other orders entered before 1985 as qualified.

Cash Out of Accrued Benefits

The size of a benefit that a plan can pay out without the participant's consent in the case of a worker who terminates employment has been raised from \$1,750 to \$3,500. Similarly, if the value of a joint-and-survivor annuity or preretirement survivor benefit does not exceed \$3,500, the plan can distribute the full amount upon the death of the participant without consent. In all these cases, the plan cannot use interest rates greater than the PBGC lump-sum rate to calculate the value of the benefit to be distributed.

Notice Requirements

Administrators will be required to notify participants of several additional items: Benefit statements will have to include a notice that certain benefits may be forfeited if a participant dies before a particular date. Also, recipients of rollover distributions must be given notice that the distribution will not be taxed currently to the extent it is transferred within 60 days to another pension plan or an IRA. At specified times, plans must notify workers of their rights to waive joint-and-survivor annuities and preretirement survivor benefits.

Reduction of Accrued Benefits

Plan amendments reducing early retirement benefits or "retirement-type subsidies" will be treated as prohibited reductions in accrued benefits,

unless they apply to future benefit accruals only. The Senate Finance Committee report accompanying the legislation indicates that disability, medical, and death benefits as well as social security supplements and plant shutdown benefits are not to be considered retirement-type subsidies. According to the committee report, early retirement subsidies provided only during a temporary period or "window" will not be affected by this legislation, as many had feared.

STATEMENT OF PATRICIA TICE
BEFORE THE
WAYS AND MEANS COMMITTEE
October 25, 1983

Mr. Chairman, thank you for allowing me to give this brief statement today. My name is Patricia Tice and I am from Potomac, Maryland. I originally wanted to testify because I thought I could be helped by the pending legislation. But I have learned that the legislative process is slow.

Briefly, my story is this. My husband, Art, worked at IBM for 24 years. During this time I moved with him frequently to further his career. These were sacrifices I was willing to make because he was a talented programmer and IBM always made me feel like part of the corporate family. Then three years ago, my husband was stricken with brain cancer. At the time, I didn't have a job and I started to get worried about my retirement future. When I checked with IBM, I found shocking news - I wouldn't end up with a dime of my husband's pension unless he lived to age 55.

My husband was 50 when he died early this morning. I have marveled at Art's perseverance in the past and I see how hard he fought to stay alive. He was worried about me. He really thought I would be covered by the IBM pension plan when he died and was devastated to find out that I would lose the pension we both had earned.

Art was a model employee. IBM gave him a substantial raise the week before he got sick. He was modest and un-

assertive; someone who quietly and inexorably got any job he was assigned done with perfection. I was always so proud of him and supported him through everything, even twenty-hour days while he labored on the NASA space program. He won the award in 1967 for the "Manned-Flight Awareness Program" for his superb work with Apollo XV. His name is among those that have been immortalized on microfilm in a capsule on the moon. I'm sure not too many people can brag about that!

For the past few months I've lived from day to day. My son and I slept at the hospital; meanwhile I was going to work at a new demanding job at AT&T. This is my first "career" and I know it's necessary for me to put in lots of hours to build the reputation I need for my immediate and future survival. I don't know whether I'll ever be able to work long enough to get a pension of my own. But even if I did, it would be no more than a fraction of what I should be getting in return for the loyal and devoted service both Art and I gave to IBM.

I guess one of the most important things I can offer now is to urge every man to check into his pension benefits early on and find out the requirements for widows benefits. I know Art and I only skimmed the pension booklet; it was so difficult to read. But everybody, worker and homemaker alike, needs to check the pension requirements early on. Of course in my situation, even though both Art and I intended to make the right choices for retirement, we couldn't because the law and the IBM pension plan - which could have done better, by the

way - stood in our way.

All I know is that I really feel broken-hearted and betrayed on every front. Not only have I lost my husband, a loving man who could never be replaced, but I also feel like I've been abandoned by IBM. I feel like they don't care what happens to me in old age. I guess I also know, deep inside, that it's not IBM's fault, because it's the law that allows this to happen. But it makes absolutely no sense to me. I can't understand how any of us can allow a system that is so arbitrary and unjust to exist for so long. I can't fathom how anybody can support a law that so blatantly works against the best interests of women - who work and sacrifice in the home so their husbands can earn the pension in the first place. I ask today that you change the law so that anybody who has earned a right to a pension has the chance to provide for his wife no matter when he dies. This is only fair, and, it seems to me, the only way it can be.

Thank you.

ORAL STATEMENT OF GERALDINE COMPTON

BEFORE THE

HOUSE WAYS AND MEANS COMMITTEE

OCTOBER 25, 1983

Mr. Chairman, I welcome this opportunity to testify today. My name is Geraldine Compton and I come all the way from Phelps, Kentucky, to tell my story. I hope that somehow what I have to say will help change the law so that women who find themselves in my position will be able to get a share of their husband's pension.

I was married to Thomas Compton for 36 years. He was a good family man and a hard worker. He spent 27 of our married years with the Kentland Elkhorn Company in Biggs, Kentucky, where he worked in the coal mines. In all the years I knew him, he never missed a day of work unless he was very sick. The kids only got to see him on weekends because he worked until 11:30 every night. I even remember many times when he would work double shifts to fill in for someone who didn't show up. I never knew whether he was working inside or outside the mines. And I knew it was dangerous. I can't tell you how many nights I lay in bed wondering whether my husband was going to make it back home to me.

In 1978, he had a severe heart attack and was disabled. He still tried to be active as much as possible but he was in and out of the hospital. Knowing his condition, he was concerned about what would happen to me if he died first. We talked often about it and he told me that his pension would be there to help

me through retirement. I had no reason to question.

Unfortunately, he died of a heart attack in May of 1980. About a month later I got a letter from the pension fund telling me that I wouldn't get a dime of his pension. Why? They told me that he died "too early" - four hours before his 55th birthday. I couldn't believe this could happen. I thought to myself, "Four hours, that's ridiculous!" What this boils down to is that my husband died at 7:55. If somehow he could have waited until midnight, I'd now have a pension. Nobody in our small community could believe this, either. But sure enough, the pension plan denied me my widow's benefits. They said that plans did not have to give widow's benefits to the widow of a worker who died before early retirement age. One of the trustees thought this was really unfair and wanted to give me the pension anyway, But the other two trustees stuck by the law and refused me any of the pension.

Nothing has ever seemed to unfair to me in my whole life. I stood by my husband's side for 36 years. I raised our two kids. I did everything I thought I was supposed to do and then, because my husband died at the "wrong time" - four hours too early! - I was left without his pension. I really don't understand this logic at all. Why should I be penalized now because he happened to die a few hours before early retirement age? I find it real hard to swallow that the law, instead of furthering justice, deprives a woman of her right to a decent retirement.

Call it foresight. I was wise enough to open a small flower shop some years ago just to give me extra income. As long as my health is with me, I will have some money to keep me going -

for now. But I'm not fooling myself that I'll be able to work forever and I know it'll get rougher to get by as I get older. I just can't get it out of my head that because of four hours, I'll now have to live with a reduced income for life.

I ask you today to please support the legislation that will provide pension security to thousands of women throughout the country. The Economic Equity Act will make sure that other women in my position will not lose out just because their husband died a few hours, days, months or years too early. Thank you for letting me speak today. If what I've said can help other women, then I know my long trip from Kentucky was worth the while.

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PENSION MEASURE PASSED BY SENATE WOULD AID WOMEN

SYMBOL OF EQUAL RIGHTS

Intent Is to Insure Benefits for
People Who Do Not Fit a
Standard Work Pattern

By JANE PERLEZ

Special to The New York Times

WASHINGTON, Aug. 6 — The Senate today approved legislation designed to make it easier for women to earn retirement benefits under employee pension plans, either their spouses' or their own.

The pension changes, which would apply to both men and women, have been pushed by legislators in both parties as a symbol of concern for women's rights. President Reagan has said he would sign the bill, known as the Retirement Equity Act of 1984.

The bill passed the House unanimously in May and was approved today in the Senate by a voice vote. Sponsors said there was no need for a conference and that the bill would return to the House Wednesday for a final vote on minor differences in the Senate version.—

Main Concern on Women

Proponents of the legislation have argued that women have been hurt economically by provisions in a 1974 private pension bill that they say benefited men but not women. Pension funds would have to be in compliance with the new legislation by next Jan. 1.

The Pension Rights Center, a non-profit group in Washington that lobbied for the bill, said today a 1973 study by the Department of Labor estimated that each year about 10,000 widows were losing benefits. The reason, the center, was that the women's husbands died before the early retirement age, usually set at 55, and had not signed over their benefits.

Senate Passes Bill on Pensions

Senator Bob Dole, Republican of Kansas, was the key sponsor of the bill in the Senate. "I believe," he said today, "that this legislation, in particular the more generous participation and vesting rules, will significantly improve the likelihood that women and others whose work patterns do not fit into the traditional mode will actually receive a retirement benefit."

Differences in Coverage

The bill's main sponsor in the House, Representative Geraldine A. Ferraro of Queens, the Democratic Vice-Presidential nominee, argued in debates on the bill that women were being cut off from pension benefits because they women generally earned significantly lower salaries than men and because their work patterns were more disrupted, a result of raising families.

The President's Commission on Pension Policy of 1980 reported that in 1979 59 percent of employed men were covered by pension plans, whereas 31 percent of women were covered. And in 1981, the Census Bureau estimated that the average private pension received by a man was \$4,152 a year, as against an average of \$2,427 for a woman.

In a statement today, Representative Ferraro said the legislation, which she first introduced four years ago, would "mean a more secure old age for thousands of American women now deprived of pension benefits by loopholes which do not recognize their contribution to our economy."

Mrs. Ferraro, pointing out that 72 percent of the elderly poor in the nation were women, said the bill represented a "major step toward true economic equity for women working both inside and outside the home."

Permission for Waiver

A major portion of the legislation would require a spouse's written permission before an employee could waive survivor benefits. This was intended to make it more likely that survivor benefits would be paid to homemakers who depend on the pensions of their working spouses, according to Marsha Ackerman, an aide to Representative Ferraro.

Currently, under the Employee Retirement Income Security Act of 1974, the prime piece of legislation setting minimum standards for private pension plans, only the employee has the option to waive survivors' benefits.

Another major portion of the bill requires payment of benefits to the spouse of a worker who was fully vested, or had become eligible for the plan after working for a certain number of years, even if the worker dies, typically before the early retirement age of 55. That law required that employees be vested in a pension plan after 10 years on the job.

Under the bill approved today, a person would be entitled to survivor benefits if her spouse died at age 40 after working for 11 years. These benefits would be received when the surviving spouse reached 55.

Breaks in Career

In an effort to adjust private pension plans for women who enter the work force relatively early and interrupt their careers to have children, the bill approved today would lower from 25 to 21 the age at which workers must be allowed to participate in plans.

The legislation also requires pension plans to count the years of employees' service from the time they turn 18, in calculating when they have worked long enough to be eligible for a pension at retirement. The age now used for that calculation is 22.

This would mean, for example, that if an individual began a job at 18, that person would be eligible at 21 to join the pension plan and would be credited three years toward the minimum number necessary to be eligible for a pension.

The bill would also allow employees who have worked fewer than five years to take five years off without losing pension credit for earlier service, and it would bar pension plans from counting a one-year maternity or paternity leave as a break in service.

Awards in Divorce Cases

In a divorce settlement, the bill would authorize a court to award a person the right to part of her former spouse's pension as part of the settlement.

Another section of the pension bill approved today specifies that decisions to waive preretirement survivor benefits must be made after a worker turns 35, with the spouse's permission, and that decisions to forgo post-retirement survivor benefits be made within 90 days before pension payments begin.