

1 AN ACT relating to post-retirement beneficiary changes.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 61.542 is amended to read as follows:

4 (1) Prior to the first day of the month in which the member receives his or her first
5 retirement allowance and prior to the member filing a notification of retirement or a
6 request for refund:

7 (a) Each member may designate on the form prescribed by the board a principal
8 beneficiary and contingent beneficiary for his or her account. The principal
9 beneficiary or contingent beneficiary designated by the member shall be:

- 10 1. One (1) or more persons; or
11 2. The member's estate; or
12 3. A trust;

13 (b) If multiple persons are designated as provided by paragraph (a)1. of this
14 subsection, the member shall indicate the percentage of total benefits each
15 person is to receive.

16 1. If percentages are not indicated, payments will be disbursed equally to
17 the named beneficiaries.

18 2. If the percentages indicated do not total one hundred percent (100%),
19 each beneficiary shall receive an increased or decreased percentage
20 which is proportional to the percentage allotted him or her by the
21 member.

22 3. If any of the multiple beneficiaries die prior to the member's death, the
23 remaining beneficiaries shall be entitled to the deceased beneficiary's
24 percentage of the total benefits, and each shall receive a percentage of
25 the deceased's share which is equal to the percentage allotted them by
26 the member;

27 (c) The principal and contingent beneficiary designation established by the

1 member pursuant to paragraph (a) of this subsection shall remain in full force
2 and effect until changed by the member, except:

- 3 1. A final divorce decree terminates an ex-spouse's status as beneficiary,
4 unless the member has on file in the retirement office a beneficiary
5 designation that redesignates the ex-spouse as beneficiary subsequent to
6 the issuance of the divorce decree;
 - 7 2. If a beneficiary or beneficiaries are convicted of any crime which
8 prohibits that person or persons from receiving the benefits under KRS
9 381.280, the beneficiary or beneficiaries shall not be eligible for any of
10 the benefits and the remaining beneficiary or beneficiaries or, if none,
11 the member's estate, shall become the beneficiary; and
 - 12 3. When a notification of retirement has been filed at the retirement office,
13 the designation of beneficiary on the notification of retirement, which
14 shall be one (1) person, his or her estate, or a trust, shall supersede the
15 designation of all previous beneficiaries, unless the notification of
16 retirement is withdrawn, invalid, or voided. If the notification of
17 retirement is withdrawn, invalid, or voided, the prior beneficiary
18 designation on file with the system shall remain in full force and effect
19 until changed by the member; and
- 20 (d) Except as provided by paragraph (c)3. of this subsection, if the member fails
21 to designate a beneficiary for his or her account or if the beneficiary
22 designation is determined to be void by the system, the member's estate shall
23 become the beneficiary.
- 24 (2) If the member dies prior to the first day of the month in which the member would
25 have received his or her first retirement allowance and prior to filing a notification
26 of retirement or a request for refund, any retirement benefits shall be payable to the
27 principal beneficiary, except that:

- 1 (a) If the death of the principal beneficiary or beneficiaries precedes the death of
2 the member, or if the principal beneficiary is terminated by a divorce decree,
3 the contingent beneficiary or beneficiaries become the principal beneficiary or
4 beneficiaries;
- 5 (b) If the principal beneficiary is one (1) person and is the member's spouse and
6 they are divorced on the date of the member's death, the contingent beneficiary
7 or beneficiaries become the principal beneficiary or beneficiaries;
- 8 (c) If the member is survived by his ***or her*** principal beneficiary or beneficiaries
9 who subsequently die prior to having on file at the retirement office the
10 necessary forms prescribed under authority of KRS 61.590, the contingent
11 beneficiary shall become the principal beneficiary or beneficiaries;
- 12 (d) If the deaths of all the principal beneficiaries and all of the contingent
13 beneficiaries precede the death of the member, the estate of the member
14 becomes the beneficiary; and
- 15 (e) If the member dies as a direct result of an act in line of duty as defined in KRS
16 16.505 or dies as a result of a duty-related injury as defined in KRS 61.621,
17 the surviving spouse shall supersede all previously designated principal or
18 contingent beneficiaries, unless the deceased member files a valid beneficiary
19 designation form with the retirement office after the date of marriage to the
20 surviving spouse.
- 21 (3) Prior to the first day of the month in which the member would have received his or
22 her first retirement allowance, a monthly benefit payable for life shall not be offered
23 if the beneficiary designated under subsection (1) of this section is more than one
24 (1) person, the member's estate, or a trust.
- 25 (4) When a notification of retirement ***as provided by Section 2 of this Act or a form to***
26 ***change beneficiaries as provided by subsection (5)(a) and (b) of this section*** has
27 been filed at the retirement office:

- 1 (a) The designation of beneficiary on the notification of retirement **or beneficiary**
2 **change form** shall supersede the designation of all previous beneficiaries;
- 3 (b) The beneficiary designated by the member on the member's notification of
4 retirement **or beneficiary change form** shall be one (1) person, the member's
5 estate, or a trust; and
- 6 (c) If the death of the beneficiary named on the notification of retirement precedes
7 the first day of the month in which the member receives his or her first
8 retirement allowance, the member may designate another beneficiary on the
9 member's notification of retirement.
- 10 (5) On or after the first day of the month in which the member receives his or her first
11 retirement allowance, the member shall not have the right to change his **or her**
12 beneficiary, except that:
- 13 (a) **A retired member receiving the monthly retirement allowance under the**
14 **basic payment option, a period certain option as provided by KRS 61.635(5)**
15 **to (7), or the Social Security adjustment option without survivor rights as**
16 **provided by KRS 61.635(8)(a) may elect to change his or her beneficiary at**
17 **any time by filing a beneficiary change form as prescribed by the board with**
18 **the retirement office. This paragraph shall not authorize a retired member**
19 **to change the payment option he or she selected upon retirement;**
- 20 (b) **A retired member receiving a monthly retirement allowance who marries or**
21 **remarries following retirement may make a one (1) time election within one**
22 **hundred twenty (120) days of marriage or remarriage to provide monthly**
23 **survivorship benefits to his or her new spouse by:**
- 24 **1. Designating his or her new spouse as beneficiary by filing a**
25 **beneficiary change form as prescribed by the board with the**
26 **retirement office; and**
- 27 **2. Selecting a new monthly retirement allowance option under one (1) of**

1 the survivorship options provided by KRS 61.635(2), (3), (4), and
 2 (8)(b). Any new survivorship payment option shall be actuarially
 3 equivalent to the monthly retirement allowance the retired member
 4 was receiving prior to the change and shall not impact any other
 5 benefits otherwise payable to an alternate payee under KRS 61.690;

6 (c) The estate of the retired member becomes the beneficiary if the date of death
 7 of the beneficiary precedes or coincides with the date of death of the retired
 8 member, and the retired member had not elected a new beneficiary under
 9 this subsection;

10 ~~(d)(b)~~ The estate of the retired member becomes the beneficiary if the retired
 11 member had designated a person as beneficiary who was the spouse or who
 12 later married the member and they were divorced on the date of the retired
 13 member's death, and the retired member had not elected a new beneficiary
 14 under this subsection. An ex-spouse who was the named beneficiary on the
 15 member's notification of retirement shall be reinstated as the member's
 16 beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and
 17 (8)(b) if they are remarried to each other as of the date of the retired member's
 18 death, and the retired member had not elected a new beneficiary under this
 19 subsection;~~and~~

20 ~~(e)(e)~~ The estate of the member shall not receive monthly payments if the
 21 member selected one (1) of the payment options provided by KRS 61.635(2),
 22 (3), (4), and (8)(b); and

23 (f) For purposes of this subsection, "basic payment option" means the lifetime
 24 monthly retirement allowance otherwise provided to the retired member
 25 under KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 that is
 26 not one (1) of the optional retirement plans provided under KRS 61.635.

27 (6) Following cessation of membership as provided by KRS 61.535, no beneficiary

1 designation in one (1) account shall be effective for any new retirement account
2 established pursuant to KRS 61.637 or 61.680. If the member fails to designate a
3 beneficiary for his or her new retirement account or if the beneficiary designation is
4 determined to be void by the system, the member's estate shall become the
5 beneficiary.

6 ➔Section 2. KRS 61.590 is amended to read as follows:

7 (1) (a) A member or beneficiary eligible to receive retirement benefits under any of
8 the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to
9 16.652 shall have on file at the retirement office on the form prescribed by the
10 board, a correctly completed notification of retirement, giving his or her name,
11 address, Social Security number or Kentucky Retirement Systems member
12 identification number, last day of employment, and other information the
13 system may require. The form entitled "Notification of Retirement" shall not
14 be filed more than six (6) months before the member's effective retirement
15 date.

16 (b) A member eligible to receive retirement benefits under any of the provisions
17 of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall certify
18 in writing on the "Notification of Retirement" form or another form prescribed
19 by the board that no prearranged agreement existed prior to the member's
20 retirement between the member and any participating agency in the systems
21 administered by the Kentucky Retirement Systems for the member to return to
22 employment with the participating agency. No retirement benefits shall be
23 paid to the member until the member completes the certification required by
24 this paragraph.

25 (2) After receipt of the correctly completed form entitled "Notification of Retirement",
26 the system shall cause to be prepared an estimate of the amounts the member or
27 beneficiary may expect to receive under the various plans available to the member

1 or beneficiary. This information shall be recorded on a form entitled "Estimated
2 Retirement Allowance" and forwarded to the member or beneficiary.

3 (3) The member or beneficiary shall file at the retirement office the form entitled
4 "Estimated Retirement Allowance" after he or she has checked one (1) payment
5 option of his or her choice, signed the document, and had his or her signature
6 witnessed. A member shall not have the right to select a different payment option on
7 or after the first day of the month in which the member receives his or her first
8 retirement allowance or after the effective date of a deferred retirement option as
9 provided by subsection (6) of this section, except as provided by subsection (5) of
10 Section 1 of this Act. A beneficiary shall not have the right to select a different
11 payment option after the effective date of the beneficiary's retirement allowance as
12 provided in subsection (7) of this section.

13 (4) A member or beneficiary choosing a monthly payment option shall have on file at
14 the retirement office his or her birth certificate or other acceptable evidence of date
15 of birth. If a survivorship option is chosen, proof of dates of birth of the beneficiary
16 and member shall be on file at the retirement office.

17 (5) (a) The effective date of normal retirement shall be the first month following the
18 month in which employment from all employers participating in any of the
19 systems administered by Kentucky Retirement Systems was terminated.

20 (b) The effective date of disability retirement shall be the first month following
21 the month in which the member's last day of paid employment in a regular
22 full-time position occurred, provided the member files the form entitled
23 "Estimated Retirement Allowance" no later than six (6) months following the
24 date the notification of approval for disability retirement benefits is mailed. If
25 the member fails to file the form entitled "Estimated Retirement Allowance"
26 within six (6) months of the date the notification of approval for disability
27 retirement benefits is mailed, then the member's form entitled "Notification of

1 Retirement" shall be void. The member shall be required to submit a new
2 form entitled "Notification of Retirement" to apply for disability retirement
3 and reestablish eligibility for disability retirement benefits.

4 (c) The effective date of early retirement shall be the first month following the
5 month a correctly completed form entitled "Notification of Retirement" is
6 filed at the retirement office or a future month designated by the member, if
7 employment from all employers participating in any of the systems
8 administered by Kentucky Retirement Systems has been terminated and if the
9 member files the form entitled "Estimated Retirement Allowance" no later
10 than six (6) months following termination. If the member fails to file the form
11 entitled "Estimated Retirement Allowance" within six (6) months following
12 the effective retirement date of the member, then the member's form entitled
13 "Notification of Retirement" shall be void and the member shall be required to
14 submit a new form entitled "Notification of Retirement" to apply for early
15 retirement.

16 (6) The effective date of a deferred retirement option as provided under KRS 16.576(5)
17 shall be the month following age sixty-five (65), or the month following written
18 notification from the member that he wishes to begin receiving retirement
19 payments. In the event of the death of a member who has deferred his or her
20 retirement allowance, the effective date of retirement shall be the month following
21 the member's death.

22 (7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a
23 beneficiary's retirement allowance under normal, early, or disability retirement shall
24 be as prescribed in subsection (5) or (6) of this section if the member dies before the
25 first day of the month in which the member would have received his or her first
26 retirement allowance and his or her beneficiary becomes eligible for payments
27 under KRS 16.578 or 61.640.

1 ➔Section 3. KRS 61.615 is amended to read as follows:

- 2 (1) If the board's medical examiner determines that a recipient of a disability retirement
3 allowance is, prior to his or her normal retirement date, employed in a position with
4 the same or similar duties, or in a position with duties requiring greater residual
5 functional capacity and physical exertion, as the position from which he was
6 disabled, except where the recipient has returned to work on a trial basis not to
7 exceed nine (9) months, the system may reduce or discontinue the retirement
8 allowance. Each recipient of a disability retirement allowance who is engaged in
9 gainful employment shall notify the system of any employment; otherwise, the
10 system shall have the right to recover payments of a disability retirement allowance
11 made during the employment.
- 12 (2) If the board's medical examiner determines that a recipient of a disability retirement
13 allowance is, prior to his or her normal retirement date, no longer incapacitated by
14 the bodily injury, mental illness, or disease for which he receives a disability
15 retirement allowance, the board may reduce or discontinue the retirement
16 allowance.
- 17 (3) The system shall have full power and exclusive authority to reduce or discontinue a
18 disability retirement allowance and the system shall utilize the services of a medical
19 examiner as provided in KRS 61.665, in determining whether to continue, reduce,
20 or discontinue a disability retirement allowance under this section.
- 21 (a) The system shall select a medical examiner to evaluate the forms and medical
22 information submitted by the person. If there is objective medical evidence of
23 a mental impairment, the medical examiner may request the board's licensed
24 mental health professional to assist in determining the level of the mental
25 impairment.
- 26 (b) The medical examiners shall be paid a reasonable amount by the retirement
27 system for each case evaluated.

- 1 (c) The medical examiner shall recommend that disability retirement allowance
2 be continued, reduced, or discontinued.
- 3 1. If the medical examiner recommends that the disability retirement
4 allowance be continued, the system shall make retirement payments in
5 accordance with the retirement plan selected by the person.
- 6 2. If the medical examiner recommends that the disability retirement
7 allowance be reduced or discontinued, the system shall send notice of
8 the recommendation by United States first-class mail to the person's last
9 address on file in the retirement office.
- 10 a. The person shall have sixty (60) days from the day that the system
11 mailed the notice to file at the retirement office additional
12 supporting employment or medical information and certify to the
13 retirement office that the forms and additional supporting
14 employment information or medical information are ready to be
15 evaluated by the medical examiner or to appeal the
16 recommendation of the medical examiner to reduce or discontinue
17 the disability retirement allowance by filing at the retirement office
18 a request for a formal hearing.
- 19 b. If the person fails or refuses to file at the retirement office the
20 forms, the additional supporting employment information, and
21 current medical information or to appeal the recommendation of
22 the medical examiners to reduce or discontinue the disability
23 retirement allowance, his or her retirement allowance shall be
24 discontinued on the first day of the month following the expiration
25 of the period of the sixty (60) days from the day the system mailed
26 the notice of the recommendation to the person's last address on
27 file in the retirement office.

- 1 (d) The medical examiner shall make a recommendation based upon the
2 evaluation of additional supporting medical information submitted in
3 accordance with paragraph (c)2.a. of this subsection.
- 4 1. If the medical examiner recommends that the disability retirement
5 allowance be continued, the system shall make disability retirement
6 payments in accordance with the retirement plan selected by the person.
- 7 2. If the medical examiner recommends that the disability retirement
8 allowance be reduced or discontinued based upon the evaluation of
9 additional supporting medical information, the system shall send notice
10 of this recommendation by United States first-class mail to the person's
11 last address on file in the retirement office.
- 12 a. The person shall have sixty (60) days from the day that the system
13 mailed the notice of the recommendation to appeal the
14 recommendation to reduce or discontinue the disability retirement
15 allowance by filing at the retirement office a request for formal
16 hearing.
- 17 b. If the person fails or refuses to appeal the recommendation of the
18 medical examiners to reduce or discontinue the disability
19 retirement allowance, his *or her* retirement allowance shall be
20 discontinued on the first day of the month following the expiration
21 of the period of the sixty (60) days from the day the system mailed
22 the notice of the recommendation to the person's last address on
23 file in the retirement office.
- 24 (e) Any person whose disability benefits have been reduced or discontinued,
25 pursuant to paragraph (c)2. or (d)2. of this subsection, may file at the
26 retirement office a request for formal hearing to be conducted in accordance
27 with KRS Chapter 13B. The right to demand a formal hearing shall be limited

1 to a period of sixty (60) days after the person had notice, as described in
2 paragraph (c) or (d) of this subsection. The request for formal hearing shall be
3 filed with the system, at the retirement office in Frankfort. The request for
4 formal hearing shall include a short and plain statement of the reasons the
5 reduction, discontinuance, or denial of disability retirement is being contested.

6 (f) Failure of the person to request a formal hearing within the period of time
7 specified shall preclude the person from proceeding any further with
8 contesting the reduction or discontinuation of disability retirement allowance,
9 except as provided in subsection (6)(d) of this section. This paragraph shall
10 not limit the person's right to appeal to a court.

11 (g) A final order of the board shall be based on substantial evidence appearing in
12 the record as a whole and shall set forth the decision of the board and the facts
13 and law upon which the decision is based. If the board orders that the person's
14 disability retirement allowance be discontinued or reduced, the order shall
15 take effect on the first day of the month following the day the system mailed
16 the order to the person's last address on file in the retirement office. Judicial
17 review of the final board order shall not operate as a stay and the system shall
18 discontinue or reduce the person's disability retirement allowance as provided
19 in this section.

20 (h) Notwithstanding any other provisions of this section, the system may require
21 the person to submit to one (1) or more medical or psychological
22 examinations at any time. The system shall be responsible for any costs
23 associated with any examinations of the person requested by the medical
24 examiner or the system for the purpose of providing medical information
25 deemed necessary by the medical examiner or the system. Notice of the time
26 and place of the examination shall be mailed to the person or his ***or her*** legal
27 representative. If the person fails or refuses to submit to one (1) or more

1 medical examinations, his or her rights to further disability retirement
2 allowance shall cease.

3 (i) All requests for a hearing pursuant to this section shall be made in writing.

4 (4) The board may establish an appeals committee whose members shall be appointed
5 by the chair and who shall have the authority to act upon the recommendations and
6 reports of the hearing officer pursuant to this section on behalf of the board.

7 (5) Any person aggrieved by a final order of the board may seek judicial review after all
8 administrative appeals have been exhausted by filing a petition for judicial review
9 in the Franklin Circuit Court in accordance with KRS Chapter 13B.

10 (6) If a disability retirement allowance is reduced or discontinued for a person who
11 began participating in the system prior to January 1, 2014, the person may apply for
12 early retirement benefits as provided under KRS 61.559, subject to the following
13 provisions:

14 (a) The person may not change his or her beneficiary or payment option, except
15 as provided by subsection (5) of Section 1 of this Act;

16 (b) If the person has returned to employment with an employer participating in
17 one (1) of the systems administered by Kentucky Retirement Systems, the
18 service and creditable compensation shall be used in recomputing his or her
19 benefit, except that the person's final compensation shall not be less than the
20 final compensation last used in determining his or her retirement allowance;

21 (c) The benefit shall be reduced as provided by KRS 61.595(2);

22 (d) The person shall remain eligible for reinstatement of his or her disability
23 allowance upon reevaluation by the medical review board until his or her
24 normal retirement age. The person shall apply for reinstatement of disability
25 benefits in accordance with the provisions of this section. An application for
26 reinstatement of disability benefits shall be administered as an application
27 under KRS 61.600, and only the bodily injuries, mental illnesses, diseases, or

1 conditions for which the person was originally approved for disability benefits
2 shall be considered. Bodily injuries, mental illnesses, diseases, or conditions
3 that came into existence after the person's last day of paid employment shall
4 not be considered as a basis for reinstatement of disability benefits. Bodily
5 injuries, mental illnesses, diseases, or conditions alleged by the person as
6 being incapacitating, but which were not the basis for the award of disability
7 retirement benefits, shall not be considered. If the person establishes that the
8 disability benefits should be reinstated, the retirement system shall pay
9 disability benefits effective from the first day of the month following the
10 month in which the person applied for reinstatement of the disability benefits;
11 and

12 (e) Upon attaining normal retirement age, the person shall receive the higher of
13 either his or her disability retirement allowance or his or her early retirement
14 allowance.

15 (7) No disability retirement allowance shall be reduced or discontinued by the system
16 after the person's normal retirement date except in case of reemployment as
17 provided for by KRS 61.637. If a disability retirement allowance has been reduced
18 or discontinued, except if the person is reemployed as provided for by KRS 61.637,
19 the retirement allowance shall be reinstated upon attainment of the person's normal
20 retirement date to the retirement allowance prior to adjustment. No reinstated
21 payment shall be less than the person is receiving upon attainment of the person's
22 normal retirement date.

23 ➔Section 4. KRS 61.630 is amended to read as follows:

24 (1) If a retired member who did not elect an optional retirement plan dies at any time on
25 or after the first day of the month in which the member received or would have
26 received his or her first retirement allowance but before receiving total retirement
27 allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS

1 78.520 to 78.852 at least equal to his or her accumulated contributions as of the
2 date of his or her retirement, the difference between the accumulated contributions
3 and the total allowances shall be payable in a lump sum to the properly designated
4 beneficiary. Except as otherwise provided by subsection (5) of Section 1 of this
5 Act, if a living person designated as the beneficiary predeceases the retired member,
6 the estate shall become the beneficiary. Except as otherwise provided by subsection
7 (5) of Section 1 of this Act, if a spouse designated as the beneficiary is divorced
8 from the retired member as of the member's death, the estate shall become the
9 beneficiary.

10 (2) If a retired member who elected an optional retirement plan and his or her
11 beneficiary both die at any time on or after the first day of the month in which the
12 member received or would have received his or her first retirement allowance but
13 before receiving total retirement allowances provided in KRS 16.510 to 16.652,
14 KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to the retired
15 member's accumulated contributions as of the date of his or her retirement, the
16 difference between the accumulated contributions and the total allowances shall be
17 payable in a lump sum to the estate of the last deceased, except that the retired
18 member's estate shall receive the payment if the beneficiary was the spouse and they
19 were divorced as of the date of the member's death. If the retired member and
20 beneficiary die simultaneously, the estate of the retired member shall become the
21 beneficiary.

22 (3) If a beneficiary receiving a lifetime retirement allowance under KRS 16.578 or
23 61.640 dies before receiving total retirement allowances provided in KRS 16.510 to
24 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to the
25 member's accumulated contributions as of the date of the member's death, the
26 difference between the accumulated contributions and the total allowances shall be
27 payable in a lump sum to the estate of the beneficiary.

1 (4) If a beneficiary receiving a retirement allowance for sixty (60) or one hundred
2 twenty (120) months certain under KRS 16.576, 16.578, or 61.640, or a beneficiary
3 receiving a retirement allowance under KRS 61.635(5), (6), or (7), dies before
4 receiving all payments under the plan, the executor or administrator of his or her
5 estate shall receive a lump sum payment which shall be the actuarial equivalent to
6 the remaining payments.

7 (5) If the system is unable to verify a recipient's whereabouts or whether the recipient is
8 living, the system shall suspend the recipient's retirement allowance. If the recipient
9 is located, the system shall restore to the recipient all suspended retirement
10 allowances.

11 ➔Section 5. Retired members receiving a monthly retirement allowance from one
12 of the systems administered by the Kentucky Retirement Systems or the County
13 Employees Retirement System who married or remarried prior to the effective date of this
14 Act, and who are married to that same spouse on the effective date of this Act, shall have
15 one hundred twenty (120) days from the effective date of this Act to exercise their one (1)
16 time election to select a survivorship payment option for their new spouse in accordance
17 with subsection (5)(b) of Section 1 of this Act.