

CHAPTER 561

(Senate Bill 592)

AN ACT concerning

State Retirement and Pension System – Compliance with Federal Tax Provisions

FOR the purpose of prohibiting the Board of Trustees for the State Retirement and Pension System from using certain forfeitures of benefits for certain purposes; requiring that certain forfeitures of benefits be used for certain purposes; providing that the State Retirement Agency may make certain payments to certain eligible retirement plans specified by certain designated beneficiaries of a member of the State Retirement and Pension System; allowing certain members of the State Retirement and Pension System to make direct rollovers of certain distributions on or after a certain date; providing that an eligible rollover distribution includes certain distributions to certain spouses or former spouses of members of the State Retirement and Pension System; providing that distributions totaling less than a certain amount are not eligible rollover distributions; clarifying that certain portions of distributions remain eligible rollover distributions even if these portions consist of certain employee contributions; limiting the investment options that may be used for transfers of certain portions of eligible rollover distributions; providing that certain investment options be considered in a certain manner; altering certain definitions; altering the application of a certain Act to apply to certain members or retirees of the State Retirement and Pension System who request certain beneficiary changes on or after a certain date; and generally relating to conforming the State Retirement and Pension System to certain federal tax legislation.

BY adding to

Article – State Personnel and Pensions
Section 20–209
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions
Section 21–601 and 21–602
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Chapter 500 of the Acts of the General Assembly of 2005

Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Personnel and Pensions

20–209.

(A) IN CONFORMITY WITH § 401(A)(8) OF THE INTERNAL REVENUE CODE, ANY FORFEITURE OF BENEFITS BY A MEMBER OR FORMER MEMBER OF THE SEVERAL SYSTEMS MAY NOT BE USED BY THE BOARD OF TRUSTEES TO PAY BENEFIT INCREASES.

(B) ANY FORFEITURE OF BENEFITS BY A MEMBER SHALL BE USED TO REDUCE EMPLOYER CONTRIBUTIONS.

21–601.

(a) In this subtitle the following words have the meanings indicated.

(b) “Direct rollover” means a payment by the State Retirement Agency directly to the eligible retirement plan specified by the participant [or], the surviving spouse of a participant, **OR THE DESIGNATED BENEFICIARY OF THE PARTICIPANT.**

(c) “Eligible retirement plan” means:

(1) an individual retirement account described in § 408(a) of the Internal Revenue Code;

(2) an individual retirement annuity, other than an endowment contract, described in § 408(b) of the Internal Revenue Code;

(3) a qualified trust described in § 401(a) of the Internal Revenue Code that is exempt from tax under § 501(a) of the Internal Revenue Code;

(4) an annuity plan described in § 403(a) of the Internal Revenue Code;

(5) an annuity plan described in § 403(b) of the Internal Revenue Code; [or]

(6) a deferred compensation plan that is maintained by an eligible employer described in § 457 of the Internal Revenue Code or any successor provisions; **OR**

(7) EFFECTIVE JANUARY 1, 2008, A ROTH INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN § 408A OF THE INTERNAL REVENUE CODE.

(d) (1) “Eligible rollover distribution” means a distribution:

(i) on or after January 1, 1993, to a participant of all or any part of the balance to the credit of the participant in any State system;

(ii) on or after January 1, 2002, to the surviving spouse of a member, former member, or retiree, **OR TO A SPOUSE OR FORMER SPOUSE WHO IS AN ALTERNATE PAYEE UNDER AN ELIGIBLE DOMESTIC RELATIONS ORDER, AS DEFINED IN § 414(P) OF THE INTERNAL REVENUE CODE**, of all or any part of the balance to the credit of the member, former member, retiree, or surviving spouse in any State system; or

(iii) on or after January 1, 2007, to the designated beneficiary of a member, former member, or retiree of all or any part of the balance to the credit of the member, former member, retiree, or designated beneficiary in any State system.

(2) “Eligible rollover distribution” does not include:

(i) any distribution that is one of a series of substantially equal periodic payments that are made at least annually for the life or life expectancy of the participant or the joint lives or joint life expectancies of the participant and the participant’s beneficiary;

(ii) any distribution that is one of a series of substantially equal periodic payments made for a specified period of at least 10 years; [or]

(iii) any distribution that is required under § 401(a)(9) of the Internal Revenue Code; **OR**

(IV) ANY DISTRIBUTION THAT IS REASONABLY EXPECTED TO TOTAL LESS THAN \$200 DURING THE CALENDAR YEAR.

(3) (I) EFFECTIVE JANUARY 1, 2002, A PORTION OF A DISTRIBUTION WILL NOT FAIL TO BE AN ELIGIBLE ROLLOVER DISTRIBUTION MERELY BECAUSE THAT PORTION CONSISTS OF AFTER-TAX EMPLOYEE CONTRIBUTIONS THAT ARE NOT INCLUDIBLE IN GROSS INCOME.

(II) A PORTION OF A DISTRIBUTION DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE TRANSFERRED ONLY TO:

1. AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN § 408(A) OR (B) OF THE INTERNAL REVENUE CODE;

2. A QUALIFIED DEFINED CONTRIBUTION PLAN DESCRIBED IN § 401(A) OF THE INTERNAL REVENUE CODE; OR

3. ON OR AFTER JANUARY 1, 2007, TO A QUALIFIED DEFINED BENEFIT PLAN DESCRIBED IN § 401(A) OF THE INTERNAL REVENUE CODE OR TO AN ANNUITY CONTRACT DESCRIBED IN § 403(B) OF THE INTERNAL REVENUE CODE, THAT AGREES TO ACCOUNT SEPARATELY FOR AMOUNTS TRANSFERRED TO THE ACCOUNT AND EARNINGS RECEIVED AS A RESULT OF THE TRANSFERRED AMOUNTS.

(e) “Supplemental plan” means the Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans.

21-602.

(a) Except as provided in subsections (b) and (c) of this section, a participant may elect on the form the Board of Trustees requires to have all or any part of an eligible rollover distribution paid to the eligible retirement plan in a direct rollover.

(b) **(1) [If] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF** an eligible rollover distribution is payable to the designated beneficiary of a member, former member, or retiree, the designated beneficiary may only elect to have all or any part of the eligible rollover distribution paid in a direct rollover to an individual retirement account or individual retirement annuity.

(2) (I) A NONSPOUSE DESIGNATED BENEFICIARY MAY ROLL OVER AN ELIGIBLE ROLLOVER DISTRIBUTION ONLY TO AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY ESTABLISHED FOR THE PURPOSE OF RECEIVING THE DISTRIBUTION.

(II) AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY ESTABLISHED UNDER THIS PARAGRAPH SHALL BE TREATED AS AN INHERITED INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY WITHIN THE MEANING OF § 408(D)(3)(C) OF THE INTERNAL REVENUE CODE.

(c) A member who is eligible to participate in the plan administered by the supplemental plan under Title 35, Subtitle 5 of this article may elect to have all or any part of the eligible rollover distribution paid in a direct rollover to the plan in accordance with the regulations adopted by the supplemental plan.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply [only prospectively and may not be applied or interpreted to have any effect on or application] to any member **OR RETIREE** of the State Retirement and Pension System who [retires on or before December 31, 2005] **REQUESTS TO CHANGE A BENEFICIARY ON OR AFTER JANUARY 1, 2006.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.