

§ 135-64. Benefits on death after retirement.

(a) In the event of the death of a former member while in receipt of a retirement allowance pursuant to his retirement under the provisions of G.S. 135-57, or after a former member's sixty-fifth birthday while in receipt of a retirement allowance pursuant to his retirement under the provisions of G.S. 135-59, there shall be paid to the former member's surviving spouse, if any, an annual retirement allowance, payable monthly, which shall commence on the first day of the calendar month next following the date of death of the former member and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such allowance shall be equal to one half of the allowance that was payable to the former member for the month immediately prior to his month of death, or which would have been so payable had an optional mode of payment not been elected under the provisions of G.S. 135-61, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former member at date of death exceeds that of his spouse.

(b) In the event of the death of a former member prior to his sixty-fifth birthday while in receipt of a retirement allowance pursuant to his retirement under the provisions of G.S. 135-59, there shall be paid to the former member's surviving spouse, if any, an annual retirement allowance, payable monthly, which shall commence on the first day of the calendar month next following the date of death of the former member and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such allowance shall be equal to one half of the allowance to which the former member would have been entitled under the provisions of G.S. 135-58 if he had remained in service from his disability retirement date to his date of death with no change in his final compensation or status and had then retired, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former member at date of death exceeds that of his spouse.

(c) In the event of the death of a former member while in receipt of a retirement allowance under the provisions of G.S. 135-58, 135-60, or 135-61, if such former member is not survived by a spouse to whom a retirement allowance is payable under the provisions of subsection (a) or subsection (b) above, nor survived by a beneficiary to whom a monthly survivorship benefit is payable under one of the optional modes of payment under G.S. 135-61, there shall be paid to such person as the member shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the member at his date of retirement over the total of the retirement allowances paid to him prior to his death.

(d) In the event that a retirement allowance becomes payable to the spouse of a former member under the provisions of subsection (a) or subsection (b) above, or to the designated survivor of a former member under one of the optional modes of payment under G.S. 135-61, and such retirement allowance to the spouse shall terminate on the remarriage or death of the spouse, or on the death of the designated survivor, before the total of the retirement allowances paid to the former member and his spouse or designated survivor combined equals the amount of the member's accumulated contributions at his date of retirement, the excess of such accumulated contributions over the total of the retirement allowances paid to the former member and his spouse or designated survivor combined shall be paid in a lump sum to such person as the member shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time such payment falls due, otherwise to the former member's legal representatives.

(e) In the event of the death of a retired former judge while in receipt of a retirement allowance under the provisions of G.S. 135-58(d), there shall be paid to the former judge's

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surviving spouse, if any, an annual retirement allowance payable monthly, which shall commence on the first day of the calendar month next following the date of death of the former judge and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such allowance shall be equal to one half of the allowance that was payable to the former judge for the month immediately prior to his month of death, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former judge at date of death exceeds that of his spouse.

(f) There shall be paid to the surviving unremarried spouse of any former judge who died prior to January 1, 1974, while in receipt of a retirement allowance under the provisions of a previous system, a retirement allowance which shall commence on January 1, 1974, and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of any such retirement allowance shall be equal to one half of the allowance that would have been payable to the former judge for the month of December 1973, if the previous system had been in effect at his date of retirement and if he had survived to January 1, 1974, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former judge at date of death exceeded that of his spouse.

(g) Upon the death of a retired member on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of a deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars (\$5,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

(h) Upon the death of a retired member on or after January 1, 1999, but before July 1, 2004, there shall be paid a death benefit to the surviving spouse of a deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars (\$6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

(i) Upon the death of a retired member on or after July 1, 2004, but before July 1, 2007, there shall be paid a death benefit to the surviving spouse of a deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a

group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of nine thousand dollars (\$9,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

(j) Upon the death of a retired member on or after July 1, 2007, but before January 1, 2015, there shall be paid a death benefit to the surviving spouse of a deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of ten thousand dollars (\$10,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

(k) Upon the death of a retired member on or after January 1, 2015, there shall be paid a death benefit to the person or persons designated by the member or, if not survived by a designated beneficiary, to the deceased retired member's legal representative; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of the member's death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund, the North Carolina Teachers' and State Employees' Benefit Trust, administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. Employer and non-employer contributions to the Benefit Trust and earnings on those contributions are irrevocable. The assets of the Benefit Trust are dedicated to providing benefits to members and beneficiaries in accordance with the Plan's benefit terms. The assets of the Benefit Trust are not subject to the claims of creditors of the employees and non-employees making contributions to the Benefit Trust, are not subject to the claims of any creditors of the Benefit Trust's trustees and administrators, and are not subject to the claims of creditors of members and beneficiaries. Benefit Trust assets may be used for reasonable expenses to administer benefits provided by the Fund as approved by the Board of Trustees.

The death benefit payable under this subsection shall be a lump-sum payment in the amount of ten thousand dollars (\$10,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's designated beneficiary or beneficiaries, or legal representative if not survived by a designated beneficiary, shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees. (1973, c. 640, s. 1; 1987, c. 824, s. 4; 1995, c. 509, s. 76; 1998-212, s. 28.27(b), (c); 2004-147, ss. 5, 6; 2005-91, ss. 5, 6; 2007-496, s. 4; 2009-66, ss. 11(c), (d); 2014-112, s. 3(b), (c); 2017-129, s. 2(u); 2023-105, s. 1.4.)