

60S-4.008 Benefits Payable Upon Death.

(1) If the death of a member occurs other than in-line-of-duty prior to the member becoming vested, the member's designated beneficiary shall receive a refund of the member's accumulated contributions, except as provided in subsection 60S-2.010(4), F.A.C.

(2) If the death of a member occurs other than in-line-of-duty after he has become vested, but prior to his effective date of retirement as provided in subsection 60S-4.0035(3), F.A.C., the following shall apply:

(a) If the member's designated beneficiary is not his spouse or other dependent who qualifies as a joint annuitant, the Division shall refund the member's accumulated contributions to the member's designated beneficiary; or

(b) If a member's designated beneficiary qualifies as joint annuitant (spouse or other dependent) the following shall apply:

1. The joint annuitant may elect to receive a refund of the member's accumulated contributions; or

2. The joint annuitant may elect to receive a monthly benefit calculated as if the member had terminated and retired as of his date of death (i.e., with benefits payable effective the first of the month following the member's death) and paid in accordance with Option 3 of paragraph 60S-4.010(1)(c), F.A.C.; or

3. The joint annuitant may elect to receive a deferred monthly benefit calculated on the age the member would have attained at the date the benefit commences and the age of the joint annuitant on the date the benefit commences and paid in accordance with Option 3 in paragraph 60S-4.010(1)(c), F.A.C.

4. If the member's joint annuitant dies without having received in benefits an amount equal to the member's accumulated contributions, the Division shall pay to the joint annuitant's estate an amount equal to the excess of the member's accumulated contributions over the total benefits received by the joint annuitant.

(3) If the death of a member occurs, other than in-line-of-duty, on or after his effective date of retirement, as provided in subsection 60S-4.0035(3), F.A.C., but prior to a benefit payment being cashed or deposited, the following shall apply:

(a) If the member's designated beneficiary is not his spouse or other dependent who qualifies as a joint annuitant, any benefits payable shall be paid in accordance with the option selected by the member; or if the member had not yet selected an option, benefits shall be paid as provided in subparagraph 60S-4.010(6)(c)1., F.A.C.

(b) If the member's designated beneficiary qualifies as a joint annuitant, as defined in Rule 60S-6.001, F.A.C., benefits shall be paid under option 3 as provided in paragraph 60S-4.008(2)(b), F.A.C.; or if the member had selected option 2, the joint annuitant may choose to receive benefits paid under either option 3, or option 2 as provided in paragraph 60S-4.010(1)(b), F.A.C.

(4) If a member is killed in the line of duty the following shall apply:

(a) Regardless of the member's length of service, the surviving spouse may elect a benefit equal to one-half of the member's monthly salary, excluding overtime and lump sum payments, at time of death for the spouse's lifetime; or if the member had completed ten or more years of creditable service, or eight or more years of creditable service as a member of the Elected Officers' Class, or seven or more years of creditable service as a

member of the Senior Management Service Class the surviving spouse may elect to receive a benefit as provided in paragraph 60S-4.008(2)(b), F.A.C.

(b) If the surviving spouse is receiving a benefit as provided in paragraph 60S-4.008(4)(a), F.A.C., and dies, the benefits which would have been payable to the surviving spouse shall be paid for the use and benefit of such member's children under 18 years of age and unmarried until the eighteenth birthday of the member's youngest child.

(c) If the member had any children under 18 years of age at the time of his death, the surviving spouse shall not be permitted to receive a refund of the member's contributions in lieu of the benefits provided in paragraph 60S-4.008(4)(a), F.A.C.

(d) If the member leaves no surviving spouse but is survived by a child or children under 18 years of age, the benefit that would have been payable to a surviving spouse as provided in paragraph 60S-4.008(4)(a), F.A.C., shall be paid for the use and benefit of such member's children under 18 years of age and unmarried until the eighteenth birthday of the member's youngest child.

(e) The distribution of benefits as provided by this subsection shall supersede any other distribution that may have been provided for by the member's designation of beneficiaries.

(f) A member's surviving spouse whose benefit was terminated because of remarriage shall have the benefit reinstated beginning July 1, 1993, at an amount which would have been payable had the benefit not been terminated.

(5) Upon the death of a retired member, joint annuitant, or beneficiary who is receiving monthly benefits, the benefits will be paid as follows:

(a) The monthly benefit shall be paid through the last day of the month of death and shall terminate, or be adjusted, if applicable, as of such date in accordance with the optional form of retirement benefit selected by the member at his date of retirement.

(b) The monthly payment made in the month of death shall be reissued to the estate of the deceased payee when the Division is advised of the death of the payee before the benefit payment is deposited or cashed. Any monthly benefits payable beyond the month of death shall be issued to the designated beneficiary.

(c) Payments to a guardian of a child receiving retirement benefits under the Florida Retirement System or any existing system shall cease when the child reaches the age of majority unless the guardian provides evidence that the continued guardianship is required.

(d) If the deceased member's joint annuitant dies without having received in benefits all remaining accumulated contributions made by the member and not received by the member before his death, the Division shall pay to the deceased joint annuitant's estate an amount equal to the excess of the member's accumulated contributions over the total benefits received by the member and/or the joint annuitant.

(e) Deductions from monthly benefits for payments to an alternate payee for Qualified Domestic Relations Orders (QDRO) or Income Deduction Orders (IDO) in the month of death shall be paid to the alternate payee. Deductions from monthly benefits for Internal Revenue Service (IRS) levies in the month of death shall be paid to the IRS. Any overpayment (received by the IRS or an alternate payee) in months after the month of the member's death shall be collected by the Division for repayment to the Florida Retirement System Trust Fund.

(6) If the designated beneficiary of a retirement account wishes to refuse his interest in such account, he shall disclaim such interest as provided in Section 689.21, F.S., as follows:

(a) If there is no designated beneficiary or if all designated beneficiaries are deceased or have disclaimed their interest in the account, the beneficiaries shall be determined as provided in subsection 60S-4.011(2), F.A.C. When a beneficiary disclaims his interest in an account, he shall be considered to have predeceased the member. The next beneficiary designated by the member or as stated in subsection 60S-4.011(2), F.A.C., as applicable, may then accept or disclaim any interest to which he is entitled. A beneficiary cannot disclaim in favor of a particular individual who is not the next designated beneficiary.

(b) Any such beneficiary may disclaim his interest in the retirement account of a non retired member as provided in subsection 60S-4.008(1) and (2), F.A.C., or of a member retired under option 1 or option 2 as provided in subsection 60S-4.009(2) or paragraph 60S-4.010(1)(b), F.A.C., respectively.

(c) Such beneficiary may disclaim his interest in such member's retirement account whether or not the beneficiary is entitled to any monetary benefit from the account (refund or monthly benefit).

(d) If joint beneficiaries are named and only one qualifies as joint annuitant, the nondependent beneficiary may disclaim his interest, allowing the remaining joint annuitant to receive the full benefit payable.

(e) Disclaimers must be filed within 24 months after the event that created the interest, that is, the death of the member or annuitant.

(7) For the purpose of determining the eligibility of a joint annuitant under paragraphs (2)(b) and (3)(b), for whom financial dependency is required as provided in paragraphs 60S-6.001(34)(b) and (c), F.A.C., the member must have provided at least one-half of the joint annuitant's total support for the 12 months immediately preceding the member's death. This determination shall be made by first calculating the joint annuitant's total support for the period from all sources, as defined in subsection 60S-6.001(61), F.A.C.; and then determining the amount of such support provided by the member. The member's portion of such support must equal at least one-half of the total amount.

(8) Death shall be presumed to be in the line of duty for the following members that satisfy the requirements of Section 112.18 or 112.081, F.S., unless the contrary is shown by competent evidence:

(a) A firefighter whose death that occurred on or after July 1, 1973, was caused by tuberculosis, heart disease, or hypertension,

(b) A state law enforcement officer whose death that occurred on or after June 18, 1999, was caused by tuberculosis, heart disease, or hypertension,

(c) A law enforcement officer whose death that occurred on or after July 1, 2002, was caused by tuberculosis, heart disease, or hypertension,

(d) A firefighter, paramedic, emergency medical technician, law enforcement officer or correctional officer whose death that occurred on or after May 23, 1996, was caused by hepatitis, meningococcal meningitis, or tuberculosis.

Specific Authority 121.031 FS. Law Implemented 61.1301, 112.18, 112.181, 121.021(14), 121.052(5), 121.055, 121.091(7) FS. History–New 1-1-72, Amended 10-20-72, 12-31-74, 7-21-75, 8-26-81, Formerly 22B-4.08, Amended 2-6-84, 1-12-87, 2-7-89, 9-5-90, 5-15-91, 11-14-91, Formerly 22B-4.008, Amended 3-18-93, 1-25-94, 8-4-94, 12-12-96, 5-10-99, 8-13-03.