

2018 Regular Session

SENATE BILL NO. 11

BY SENATOR PEACOCK

CLERKS OF COURT RET. Provides for certain eligible rollover distributions. (6/30/18)

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AN ACT

To amend and reenact R.S. 11:1532, relative to the Clerks' of Court Retirement and Relief Fund; to provide for eligible rollover distributions to certain persons; to provide for an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:1532 is hereby amended and reenacted to read as follows:

§1532. Direct rollover of eligible rollover distributions

A. Notwithstanding any provision of this pension plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

**B.** For ~~this purpose, an eligible~~ **purposes of this Section:**

**(1) "Eligible rollover distribution"** is **means** any distribution made on or after December 1, 1994, of all or any portion of the balance to the credit of the distributee, except that an **"eligible rollover distribution"** does not include: any equal

1 periodic payments (not less frequently than annually) made for the life (or life  
 2 expectancy) of the distributee or the joint lives (or joint life expectancies) of the  
 3 distributee and the distributee's designated beneficiary or for a specified period of ten  
 4 years or more; any distribution to the extent such distribution is required under  
 5 Section 401(a)(9) of the Internal Revenue Code, hereinafter referred to in this  
 6 Section as "the Code"; and the portion of any distribution that is not includable in  
 7 gross income. ~~An eligible~~

8 **(2)(a) "Eligible retirement plan" is means** an individual retirement account  
 9 described in Section 408(a) of the Code, an individual retirement annuity described  
 10 in Section 408(b) of the Code, ~~or~~ a qualified trust described in Section 401(a) of the  
 11 Code, **or, for a distribution elected by a non-spouse beneficiary, an inherited**  
 12 **individual retirement account described in Section 402(c)(11) of the Code,** that  
 13 accepts the distributee's eligible rollover distribution.

14 **(b)** In the case of an eligible rollover distribution to a surviving spouse,  
 15 however, an "eligible retirement plan" is only an individual retirement account or  
 16 individual retirement annuity. ~~A distributee includes~~

17 **(c) In the case of an eligible rollover distribution to a non-spouse**  
 18 **beneficiary, an "eligible retirement plan" is only an inherited individual**  
 19 **retirement account established for that non-spouse beneficiary in accordance**  
 20 **with Section 402(c)(11) of the Code.**

21 **(3)(a) "Distributee" means** a member or former member.

22 **(b)** In addition, the member's or former member's surviving spouse ~~and~~ **or** the  
 23 member's or former member's spouse or former spouse who is an alternate payee  
 24 under a qualified domestic relations order, as defined in Section 414(p) of the Code,  
 25 ~~are distributees~~ **is a "distributee"** with regard to the interest of the spouse or former  
 26 spouse. ~~A direct rollover is~~

27 **(c) The member's or former member's non-spouse beneficiary is also a**  
 28 **distributee.**

29 **(4) "Direct rollover" means** a payment by the plan to the eligible retirement

1 plan specified by the distributee.

2 ~~B. C.~~(1) The fund shall, within a reasonable period of time before making an eligible  
3 rollover distribution as provided for in Subsection A of this Section, provide a written  
4 explanation of the following to the recipient of such distribution:

5 (a) The provisions under which the recipient may have the distribution directly  
6 transferred to an eligible retirement plan and that the automatic distribution by direct transfer  
7 applies to certain distributions in accordance with 26 U.S.C. 401(a)(31)(B).

8 (b) The provision which requires the withholding of tax on the distribution if it is not  
9 directly transferred to an eligible retirement plan.

10 (c) The provisions under which the distribution will not be subject to tax if  
11 transferred to an eligible retirement plan within sixty days after the date on which the  
12 recipient received the distribution.

13 (d) The provisions under which distributions from the eligible retirement plan  
14 receiving the distribution may be subject to restrictions and tax consequences that are  
15 different from those applicable to distributions from the plan making such distribution.

16 (2) For the purposes of this Subsection, the term "reasonable period of time" shall  
17 have the meaning assigned to it by 26 U.S.C. 401(a)(31) and the regulations thereunder.

18 Section 2. This Act shall become effective on June 30, 2018; if vetoed by the  
19 governor and subsequently approved by the legislature, this Act shall become effective on  
20 June 30, 2018, or on the day following such approval by the legislature, whichever is later.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Laura Gail Sullivan.

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#### DIGEST

SB 11 Engrossed

2018 Regular Session

Peacock

Present federal law (the Internal Revenue Code or "IRC") allows certain eligible distributions from tax-qualified governmental pension plans like the Clerks' of Court Retirement and Relief Fund (Clerks') to be directly rolled over from the governmental plan to an eligible retirement plan specified by the recipient of the distribution (called a "distributee").

Present state law authorizes a distributee of Clerks' to elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee. Provides that an eligible retirement plan is:

- (1) An individual retirement account (IRC Section 408(a)).

(2) An individual retirement annuity (IRC Section 408(b)).

(3) A qualified trust (IRC Section 401(a)).

Present law restricts the rollover to an individual retirement account or annuity if the distributee is a surviving spouse.

Proposed law retains present law.

Proposed law provides that an inherited individual retirement account established for a non-spouse beneficiary in accordance with IRC Section 402(c)(11) is an eligible retirement plan. Further provides that any rollover to a non-spouse beneficiary shall be made only to an inherited individual retirement account.

Effective June 30, 2018.

(Amends R.S. 11:1532)