



New York State Teachers' Retirement System

10 Corporate Woods Drive
Albany, NY 12211-2395

(800) 356-3128 or 447-2666 (Albany-area calls)
Web Site: www.nystrs.org

Thomas K. Lee, Executive Director

Chapter 173 of the Laws of 2008 Fact Summary

Chapter 173 of the Laws of 2008, signed into law on July 7, relates, in relevant part, to the revocatory effect of a final judgment or decree of divorce, annulment or judicial separation on certain revocable designations, appointments, and dispositions of a member's former spouse.¹ The following is a summary of the provisions of Chapter 173 as it relates to membership in NYSTRS:

- In general, Chapter 173 provides that a divorce, annulment or judicial separation of a marriage revokes a NYSTRS member's prior designation of a former spouse as beneficiary of certain death benefits and retirement options – except as provided by the express terms of a governing instrument (for example, a domestic relations order on file with NYSTRS).
- The designations impacted by Chapter 173 include:
 - The In-Service Death Benefit;
 - The post-retirement continuation of the In-Service Death Benefit;
 - The Vested Death Benefit; and,
 - Any lump-sum retirement option under which the member is permitted to change the beneficiary (the Declining Reserve option, the Annuity Reserve option, the Largest Lump Sum option, the Guarantee Period options, and the Alternative option, to the extent the benefit is a fixed lump sum or guaranteed certain)
- Chapter 173 does not apply to designations that are irrevocable by law, such as the beneficiary designation of a joint and survivor retirement option, or designations that are required under a certified domestic relations order on file with NYSTRS.
- Under Chapter 173, the former spouse is treated as having predeceased the member at the time of the revocation, provided there has been no intervening beneficiary designation. In other words, the designation of beneficiary form in which the former spouse was designated is revoked as it relates to the designation of the former spouse, but it remains in force relative to the designation of any other primary or contingent beneficiaries named on the form.

¹ Chapter 173 repeals §5-1.4 of the New York Estates, Powers and Trusts Law, and adds a new §5-1.4.



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- For Chapter 173 to apply, NYSTRS must receive written notice of the divorce, annulment or judicial separation before it issues payment of the death benefit.
- The designation of a former spouse as beneficiary is revived upon the member's remarriage to the former spouse, again provided there has been no intervening beneficiary designation and NYSTRS is notified of the remarriage.
- If the member wishes to maintain the former spouse as the beneficiary subsequent to the divorce, annulment, or judicial separation, the member must re-designate the former spouse as beneficiary on a beneficiary form submitted to NYSTRS after the date of the divorce, annulment, or judicial separation.
- In addition, Chapter 173 also revokes a former spouse's rights to serve as a personal representative, executor, guardian, attorney-in-fact or any other fiduciary role for the member once a divorce is in place, **but only if the marriage ended on or after July 7, 2008** – the day Chapter 173 was enacted.

To ensure benefits are distributed as intended, it is important for divorced members to review their beneficiary designations with NYSTRS and, if necessary, file a new *Designation of Beneficiary* form (NET-11.4). A member's current beneficiary designation is stated in the *Benefit Profile* mailed annually to active members, and the *Retired Member Profile* mailed annually to retired members. For registered members, beneficiary information is available on NYSTRS' Web site with a MyNYSTRS account.

If you have any questions, please contact NYSTRS' Legal Department at (800) 348-7298.