

20 NCAC 02B .0308 SPECIAL RULE: BENEFICIARY BEFORE JULY 1, 1967

In the event of the death of a person who became a member before July 1, 1967, the return of a member's contributions shall be paid to such person as the member intended to receive the return of contributions and whom the member designated as beneficiary for the death benefit as if the member had designated such person for the return of contributions if all of the following conditions are met:

- (1) the member had designated one person for the death benefit at a time when there were separate forms for designation of beneficiary for return of contributions and designation of beneficiary for the death benefit;
- (2) the person designated as beneficiary for the death benefit is living at the time of the member's death;
- (3) any previously designated beneficiary for the return of contributions who is living at the time of the member's death or, if such previously designated beneficiary dies between the time of the member's death and the time of determination of payment of the return of accumulated contributions, the legatee or legatees, heirs at law, successors, or assigns of such beneficiary, waives all claims to or interest in the return of the member's contributions;
- (4) the member did not designate any other person for the return of contributions after making a designation of beneficiary for the death benefit; and
- (5) clear and convincing evidence is presented to the Division showing that the member thought the member had or intended to have designated for the return of contributions the same person whom the member designated as beneficiary for the death benefit.

In such cases, the beneficiary shall be entitled to receive the survivor's alternate benefit pursuant to G.S. 135-5(m) to the same extent that the beneficiary would have been entitled to receive the survivor's alternate benefit under G.S. 135-5(m) if the member had actually designated such beneficiary for the return of contributions in a duly executed and filed form for the designation of beneficiary for return of contributions.

*History Note: Authority G.S. 135-5(f); 135-5(m);135-6(f);
Eff. October 29, 1979;
Readopted Eff. March 1, 2023.*