

yield of the System during each semester of each fiscal year minus management fees such as, but not limited to, fees payable to administrators of the portfolio.

(C) *Additional investment options.*—The Board may establish additional investment options through regulations, an order or a resolution.

(c) *Retirement savings account rights.*—The participants of the Program shall always have one hundred percent (100%) vested rights on the initial transfer balance provided in subsection (a)(1) of this section, their contributions to the savings account, and the investment option yield provided in subsection (a)(3) of this section.—May 15, 1951, No. 447, added as § 3-107 on Sept. 24, 1999, No. 305, § 30.

HISTORY

Codification.

See note under § 761 of this title.

Paragraphs (i)-(iii) of subsection (b)(3) were redesignated as (A)-(C) pursuant to L.P.R.A. style.

Statement of motives.

See Laws of Puerto Rico:
Sept. 24, 1999, No. 305.

§ 786-8. Retirement Savings Account Program—Savings account debits

The Administrator shall debit the savings account established for each participant of the Program for record-keeping expenses and those sums used for the purchase of an annuity for the payment of benefits or to make a global distribution pursuant to §§ 786-9 and 786-10 of this title. Once the annuity is purchased or the total balance of the savings account is distributed, the account shall cease to exist.—May 15, 1951, No. 447, added as § 3-108 on Sept. 24, 1999, No. 305, § 30.

HISTORY

Codification.

See note under § 761 of this title.

Statement of motives.

See Laws of Puerto Rico:
Sept. 24, 1999, No. 305.

§ 786-9. Retirement Savings Account Program—Benefits on separation from service

(a) *Retirement benefit.*—Upon permanent separation from service, when the separation is not due to death or total and permanent disability, the balance in the savings account of the participant of the Program shall

be distributed to the participant by the Administrator in the form and on the date provided in subsections (b) and (c) of this section, respectively.

(b) *Form of payment.*—

(1) *Married participants of the Program.*—If the participant of the Program is married as of the date of his/her permanent separation from service, the Administrator shall use the balance in the savings account for the purchase of a fifty-percent (50%) joint and survivorship annuity contract. The Administrator may give the participant of the Program the option to choose from among several insurance companies authorized by the Insurance Commissioner to conduct business in Puerto Rico, for the purchase of the fifty-percent (50%) joint and survivorship annuity contract.

(2) *Single participants of the Program.*—If the participant of the Program is not married as of the date of his/her permanent separation from service, the Administrator shall use the balance in the savings account of the participant to purchase a life annuity contract. The Administrator may give the participant of the Program the option to choose from among several insurance companies authorized by the Commissioner of Insurance to conduct business in Puerto Rico, for the purchase of the life annuity contract.

(3) *Savings accounts of less than \$10,000.*—If the balance of the savings account of the participant of the Program is less than ten thousand dollars (\$10,000) at the time of his/her permanent separation from service, the Administrator shall distribute the balance to the participant in a single lump sum.

(4) *Payment options.*—The Board may establish payment options through regulations, orders or resolutions. The selection of any payment option by a participant of the Program who is married at the time of his/her permanent separation from service, must be consented to by the spouse of the participant of the Program, in writing, before a representative of the Administrator or a notary public.

(c) *Purchase date of the annuity contract and commencement of distribution.*—The purchase of any annuity contract provided in this section, or by the Board pursuant to subsection (b)(4) of this section, shall be made after the normal retirement date of the participant of the Program, but not later than sixty (60) days from that date. The monthly payments provided in this section or under any other option provided by the Board pursuant to subsection (b)(4) of this section, shall commence after the normal retirement date of the participant of the Program, but not later than ninety (90) days from that date. The distribution of the balance of the savings account of the participant of the Program, in one lump sum, shall be made not later than sixty (60) days from the date the participant

is permanently separated from service.—May 15, 1951, No. 447, added as § 3-109 on Sept. 24, 1999, No. 305, § 30.

HISTORY

Codification.

See note under § 761 of this title.

Statement of motives.

See Laws of Puerto Rico:
Sept. 24, 1999, No. 305.

§ 786-10. Retirement Savings Account Program—Benefits upon separation from service; death, disability or terminal illness

(a) *Separation from service by death.*—The balance in the savings account of every participant of the Program who dies shall be paid in one single lump sum to the person or persons that the participant has designated as beneficiary in the form and manner established by the Administrator. In the event that the participant had not designated any person as his/her beneficiary, the balance of the savings account shall be paid in a single lump sum to the persons entitled thereto under the applicable law provisions on community property, joint ownership, and estate.

(b) *Separation from service by disability or terminal illness.*—The balance in the savings account of every participant of the Program who is permanently separated from service due to total and permanent disability as provided in this chapter, who is separated from service due to disability pursuant to §§ 376 et seq. of Title 25, or due to terminal illness, as determined by the Administrator, shall be distributed to the participant by the Administrator, at the option of the participant, in a lump sum, or through the purchase of an annuity contract, or any other optional form of payment pursuant to § 786-9 of this title.

(c) *Date of purchase of the annuity contract and commencement of distribution.*—The purchase of any annuity contract provided in this section shall be made after the separation from service due to total and permanent disability, disability under §§ 376 et seq. of Title 25, or terminal illness, but not later than sixty (60) days from that date. Monthly payments provided in this section shall commence after the separation from service due to total and permanent disability, but not later than ninety (90) days from that date. The single lump sum distribution of the savings account of the participant of the Program shall be made not later than sixty (60) days from the date the participant of the Program is permanently separated from service.—May 15, 1951, No. 447, added as § 3-110 on Sept. 24, 1999, No. 305, § 30.

HISTORY

Codification.

See note under § 761 of this title.

Statement of motives.

See Laws of Puerto Rico:
Sept. 24, 1999, No. 305.

§ 786-11. Retirement Savings Account Program—Long-term disability insurance

The Administrator, with the approval of the Board, shall establish a long-term disability benefits program, which shall provide an annuity in the event of total and permanent disability. Disability benefits must be provided through one or more disability insurance contracts with one or more insurance companies authorized by the Insurance Commissioner of Puerto Rico to conduct business in Puerto Rico. The determination as to whether a person is totally and permanently disabled, shall be made by the insurance company that issues the insurance policy covering the person. All the participants of the Program who are employees may avail themselves of the long-term disability benefits program in the manner and form established by the Administrator.—May 15, 1951, No. 447, added as § 3-111 on Sept. 24, 1999, No. 305, § 30.

HISTORY

Codification.

See note under § 761 of this title.

Statement of motives.

See Laws of Puerto Rico:
Sept. 24, 1999, No. 305.

§ 786-12. Retirement Savings Account Program—Uniform Securities Act; application

The interest of any participant in the Program shall not constitute a security for the purposes of §§ 851 et seq. of Title 10, known as the "Uniform Securities Act".—May 15, 1951, No. 447, added as § 3-112 on Sept. 24, 1999, No. 305, § 30.

HISTORY

Codification.

See note under § 761 of this title.

Statement of motives.

See Laws of Puerto Rico:
Sept. 24, 1999, No. 305.

§ 786a. Employees Retirement System—Exemption from payment of taxes, fees and tariffs

The Administration of the Retirement Systems of the Government and Judiciary is hereby exempted from the payment of taxes on any property it acquires or is under its jurisdiction, authority, control, domain, possession, or supervision. Provided, That any property tax owed at the time it is acquired or falls under its jurisdiction, authority, control, domain, possession or supervision must be paid in full pursuant to the provisions of § 462 of Title 13.

It is also exempted from the payment of rights, revenue stamps, and tariffs for any procedure in court and the granting of public instruments and recording in property registries in Puerto Rico.—May 15, 1951, No. 447, p. 1298, added as § 25-A on July 21, 1988, No. 122; renumbered as § 4-111 on Sept. 24, 1999, No. 305, § 36.

HISTORY

Codification.

See note under § 761 of this title.

Statement of motives.

See Laws of Puerto Rico:

July 21, 1988, No. 122.

§ 786b. Employees Retirement System—Participation committee

(a) There shall be created hereby a Participation Committee to be composed of three (3) participants in the Retirement System of Government Employees, one participant in the Retirement System of the Judiciary and one retiree. The participants of both Systems shall have at least five (5) years of accredited service.

(b) For the purpose of permitting free and equal participation to all members of the System and retirees, the members of this Committee shall be elected every three (3) years in a referendum. The first referendum shall occur no later than December 31, 1990. The Board shall determine through regulation the procedure for the referendum and all other matters relative to election and certification of Committee members.

(c) The Committee is authorized to make suggestions, hear complaints of its constituents, evaluate them and submit them to the Administrator, who is authorized to accept, reject or modify recommendations of the Committee. Decisions of the Administrator shall be final. The Committee shall meet at least twice a year unless otherwise directed by regulation.—May 15, 1951, No. 447, p. 1298, added as § 25-A [second] on Feb. 16, 1990, No. 1, § 19; renumbered as § 4-112 on Sept. 24, 1999, No. 305, § 36.

HISTORY

Codification.

See note under § 761 of this title.
Section 19 of Act Feb. 16, 1990, No. 1, added § 25A to Act May 15, 1951, No. 447, p. 1298, without taking into account the § 25A added previously by Act July 21, 1988, No. 122.

Statement of motives.

See Laws of Puerto Rico:

Feb. 16, 1990, No. 1.

§ 787. Employees Retirement System—Obligations of employer; fraud; saving clause

It is the intent of §§ 761 et seq. of this title that the contributions required from the employer, as well as all annuities, benefits, reimbursements, and administration expenses, shall constitute obligations of the employer.

Any person who knowingly makes any false statement, or falsifies or permits to be falsified, any record or document of this System, in any attempt to defraud the System, is guilty of a misdemeanor, and shall be punished according to the laws of Puerto Rico, and the Board shall have the right to recover any payments made under false representations.

The Board shall have the right to recover any payment erroneously or unduly made, after the effectiveness of this act; Provided, That the Board shall determine the manner and conditions under which such erroneously and unduly paid sums shall be recovered, and shall inform to the Secretary of the Treasury the action taken, for the pertinent purposes.

If any section, sentence, clause or phrase of §§ 761 et seq. of this title is declared null or unconstitutional, such declaration shall in no manner affect the other sections, sentences, clauses or phrases of §§ 761 et seq. of this title, which shall remain in full force and effect as fully as if the section, sentence, clause or phrase so declared null or unconstitutional were not a part of §§ 761 et seq. of this title.—May 15, 1951, No. 447, p. 1298, § 26; June 11, 1954, No. 56, p. 304; renumbered as § 4-113 on Sept. 24, 1999, No. 305, § 36.

HISTORY

Text references.

The "effectiveness of this act" mentioned in the third paragraph refers to Act May 15, 1951, No. 447, p. 1298, § 26 of which, as amended, constitutes this section.

Codification.

See note under § 761 of this title.

Amendments—1954.

Act 1954 added the third paragraph relating to recovery of payments.

§ 788. Employees Retirement System—Statutory intent; repeal

Any act or part thereof contravening this chapter is hereby repealed. This chapter does not have the purpose of repealing the diverse acts cited in § 762 of this title. Inasmuch as these acts are not in contention with the provisions of this chapter, and up to the point that they are applicable with respect to the vested rights and benefits payable under the said acts, these shall continue in effect after the effective date of this Act.—May 15, 1951, No. 447, p. 1298, § 27; renumbered as § 4-114 and amended on Sept. 24, 1999, No. 305, § 37.

HISTORY

Text references.

The reference to the "effective date of this Act" is to Act Sept. 24, 1999, No. 305, which renumbered and amended this section.

Codification.

See note under § 761 of this title.

Amendments—1999.

Act 1999 amended this section generally.

Statement of motives.

See Laws of Puerto Rico:
Sept. 24, 1999, No. 305.

Appropriations.

Section 28 of Act May 15, 1951, No. 447, p. 1298, provides: "There is hereby [by this act] appropriated the sum of one million (1,000,000) dollars to the Employees Retirement System of the Insular Government of Puerto Rico and its Instrumentalities as the first contribution by the Insular Government in accordance with § 21 of this Act [which amended this section]. Of this amount the Administrator may use, with the approval of the Governor, the necessary sum for the organization of the System."

§ 788a. Pension to surviving spouse and children

(a) When a participant of the Employees Retirement System of the Government of Puerto Rico and its Instrumentalities, and/or of the Judiciary Retirement System dies while receiving a retirement or disability annuity pension from said system, the surviving spouse and minor or physically and/or mentally disabled children shall be entitled to a pension which shall be determined pursuant to the provisions of this section.

If the pensioned participant is, at the time of his death, covered by Title II of the Federal Social Security Act, the above-mentioned persons shall not be entitled to the pension granted hereunder.

(b) The persons mentioned in subsection (a) hereof shall receive in equal parts sixty percent (60%) of the annuity pension received by the pensioned participant at the time of his death.

(c) In the case of minors or mentally disabled children the pension corresponding to them may be given to their father or mother, as the case

may be, or to any other person designated by the Court of First Instance, always bearing in mind the welfare of said minors or mentally disabled children.

(d) The surviving spouses of the deceased pensioned participants shall receive the pension provided by this section as long as they remain in a state of widowhood. In the event of minors, the payments shall be made until they attain eighteen (18) years of age, except if they are persons permanently disabled to work by reason of their mental condition or physical handicaps or until they attain twenty-five (25) years of age if they are pursuing studies.

Said studies must be pursued in an institution recognized by the Council of Higher Education of Puerto Rico or by the Department of Education, as the case may be.

(e) If the pensioned participant is covered at the time of his death by Title II of the Federal Social Security Act, the persons mentioned in subsection (a) of this section shall receive, in equal parts, thirty percent (30%) of the annuity received by the pensioned participant at the time of his death, instead of what is provided in subsection (b). The surviving spouse of the pensioned participant shall receive the pension provided in this subsection upon attaining the age of sixty (60) years. It is further provided that the surviving spouse must have been married at least ten (10) years to the deceased participant and shall receive the pension as long as the spouse remains in a state of widowhood.

This subsection shall not apply to the cases of participants in the systems that are not coordinated with the Federal Social Security Act, to whom the sixty percent (60%) of the annuity referred to in subsection (b) of this section shall continue to apply.

(f) Any of the persons mentioned in this section, who disagree with the determination that the Administrator of the Retirement System and its instrumentalities and/or of the Puerto Rico Judiciary Retirement System may make with regard to his application for the payment of benefits, may request the consideration of same within the term of thirty (30) days after having been notified of the decision of the Administrator.

If the reconsideration is not requested or if the latter is adverse, the claimant may appeal to the Board of Trustees of the Retirement System within thirty (30) days after the date in which the initial decision of the Director has become final or after having been notified of the final decision in reconsideration.

If the appeal before the Board of Trustees is adverse to said claimant the latter may file with the Court of First Instance a writ of review against the decision of the Board of Trustees within thirty (30) days after having been notified of same.