

VIRGINIA ACTS OF ASSEMBLY -- 2006 SESSION

CHAPTER 637

An Act to amend and reenact § 51.1-124.4 of the Code of Virginia, relating to mandatory cash-outs associated with retirement systems.

[H 419]

Approved April 5, 2006

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-124.4 of the Code of Virginia is amended and reenacted as follows:

§ 51.1-124.4. Exemption of assets from taxation; exemption of benefits and assets from execution and assignment; trust funds; unclaimed property; eligible rollover distribution.

A. The assets of the retirement systems created under this title are hereby exempted from any state, county, or municipal tax. Retirement allowances and other benefits accrued or accruing to any person under this title and the assets of the retirement systems created under this title shall not be subject to execution, attachment, garnishment, or any other process whatsoever, except any process for a debt to any employer who has employed such person, and except for administrative actions pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 or any court process to enforce a child or child and spousal support obligation, nor shall any assignment thereof, other than a voluntary, irrevocable assignment of group life insurance pursuant to § 51.1-510, be enforceable in any court. However, retirement benefits and assets created under this title which are deemed to be marital property pursuant to Chapter 6 (§ 20-89.1 et seq.) of Title 20 may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to § 20-107.3. The assets of the retirement systems administered by the Board are trust funds and shall be used solely for the benefit of members and beneficiaries and to administer the retirement systems. The Board shall establish procedures whereby persons entitled to property held by the Board, which would be presumed abandoned under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.), may recover it.

B. Notwithstanding any provision of this chapter to the contrary that would otherwise limit a distributee's election, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The terms "eligible rollover distribution," "eligible retirement plan" and "distributee" have the meanings prescribed by § 401(a)(31) of the Internal Revenue Code (*including as such section is amended or renumbered, or any successor provision thereto*) and the regulations thereunder, as may be amended. *In the event of a mandatory cash-out, as that term is defined under the Internal Revenue Code and the regulations thereunder applicable to governmental plans, greater than \$1,000, if the member does not elect to have such distribution paid directly to an eligible retirement plan specified by the member in a direct rollover or to receive the distribution directly in accordance with this section, then the Board shall pay the distribution in a direct rollover to an individual retirement plan designated by the Board in accordance with subsection F of § 51.1-124.30.*