DISCLAIMER

The South Carolina Legislative Council is offering access to the unannotated South Carolina Code of Laws on the Internet as a service to the public. The unannotated South Carolina Code on the General Assembly's website is now current through the 2010 session. The unannotated South Carolina Code, consisting only of Code text and numbering, may be copied from this website at the reader's expense and effort without need for permission.

The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the unannotated South Carolina Code available on the South Carolina General Assembly's website, the unannotated South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify Legislative Printing, Information and Technology Systems at LPITS@scstatehouse.gov regarding any apparent errors or omissions in content of Code sections on this website, in which case LPITS will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

CHAPTER 21.

 THE SOUTH CAROLINA RETIREMENT SYSTEMS CLAIMS PROCEDURES ACT

**SECTION 9‑21‑10.** Title

This chapter may be cited as the “South Carolina Retirement Systems Claims Procedures Act”.

**SECTION 9‑21‑20.** Definitions

As used in this chapter:

(1) “Administrative Law Judge Division” means the Administrative Law Judge Division created pursuant to Section 1‑23‑500.

(2) “Board” means the State Budget and Control Board.

(3) “Claimant” means a member or a member’s designated beneficiary who has filed a claim pursuant to this chapter.

(4) “Director” means the Director of the South Carolina Retirement System, the South Carolina Police Officers System, the Retirement System for Members of the General Assembly, the Retirement System for Judges and Solicitors, and the National Guard Retirement System.

(5) “Exhaustion of agency remedy” means that the member has:

(a) filed a timely claim pursuant to Section 9‑21‑50 containing the information required pursuant to that section;

(b) participated in the agency claims procedure established by the board; and

(c) obtained a final retirement system decision.

(6) “Member” means a participant in the South Carolina Retirement System, the South Carolina Police Officers System, the Retirement System for Members of the General Assembly, the Retirement System for Judges and Solicitors, the State Optional Retirement Program, the National Guard Retirement System, or a person claiming the status and entitlements of a “member”.

(7) “Member’s designated beneficiary” or “ beneficiary” means a person designated by a participant in the South Carolina Retirement System, the South Carolina Police Officers System, the Retirement System for Members of the General Assembly, the Retirement System for Judges and Solicitors, or the State Optional Retirement Program, to receive a benefit from the retirement systems or a person claiming the status and entitlements of a “member’s designated beneficiary”.

(8) “South Carolina Retirement Systems” or “ retirement systems” means the division of the board administering the South Carolina Retirement System, the South Carolina Police Officers System, the Retirement System for Members of the General Assembly, the Retirement System for Judges and Solicitors, the State Optional Retirement Program, or the National Guard Retirement System.

**SECTION 9‑21‑30.** Scope of chapter; exclusive remedy

This chapter applies to a controversy or dispute between a member or a member’s designated beneficiary and the retirement systems which arises pursuant to or by virtue of any of the provisions of this title. The procedures set forth in this chapter constitute the exclusive remedy for a dispute or controversy between the retirement systems and a member or a member’s designated beneficiary arising pursuant to or by virtue of Title 9 of the Code of Laws of South Carolina, 1976. A claim presenting a dispute or controversy arising pursuant to or by virtue of this title must be resolved in accordance with the procedures and provisions provided in this chapter.

**SECTION 9‑21‑40.** Who may prosecute claim

A claim brought pursuant to this chapter must be prosecuted by the member or the member’s designated beneficiary, respectively, or by an attorney authorized by the member or the designated beneficiary, respectively. A member or member’s designated beneficiary may not bring a claim under this chapter as a representative of any other member or any other member’s designated beneficiary unless acting as the guardian ad litem for the real party in interest. A claim may not be prosecuted on behalf of a class.

**SECTION 9‑21‑50.** Claims concerning administrative decisions; time for filing; contents; procedure for resolution; retroactive benefits; final decisions adverse to claimant

(A) A member or the member’s designated beneficiary shall file a claim concerning an administrative decision by the retirement systems arising pursuant to or by virtue of this title that adversely affects the personal interest of the member or the member’s designated beneficiary by the filing of a written claim with the director within one year of the decision by the retirement systems.

(B) The written claim must set forth:

(1) the name, address, and social security number of the member; and if brought by the member’s designated beneficiary, the name and social security number of the beneficiary;

(2) the basis of the claimant’s dispute with the retirement systems;

(3) a statement of facts supporting the claimant’s position;

(4) a statement outlining the reasons for the claim, including any law or authority upon which the claimant relies; and

(5) any other relevant information that the retirement systems may reasonably prescribe.

(C) The retirement systems must resolve a claim filed pursuant to this chapter in accordance with the procedures established by the board. These procedures for review of claims must be adopted by the board in public session and made available to members. These procedures for dispute resolution adopted by the board must include and provide for an opportunity for the claimant to present the claim either in writing or in a conference, or both, before the issuance of a final agency determination. In addition, the procedures must provide for informing the claimant of the evidence or information that was relied upon by the retirement systems in making its final decision. Notwithstanding any other provision of law, the procedures established by the board are not governed by either Article 1 or 3 of Chapter 23 of Title 1.

(D) A claimant is not entitled to receive retroactive retirement benefits or any other monetary relief for a period that exceeds one year from the date of the filing of the claim under this chapter.

(E) The retirement systems must make a determination concerning the claim at the conclusion of the internal agency process.

(F) A retirement system’s final decision that is adverse to the claimant must be in writing and must:

(1) be sent by mail to the address provided the retirement systems by the claimant or delivered to the claimant;

(2) explain the basis of the retirement systems’ decision; and

(3) inform the claimant of the claimant’s right to file an appeal with the Administrative Law Judge Division.

**SECTION 9‑21‑60.** Review by Administrative Law Judge Division

Upon exhaustion of the agency remedy set out in this chapter, a claimant may seek review of the retirement systems’ final decision by filing a request for a contested case hearing with the Administrative Law Judge Division within thirty calendar days after the claimant receives the retirement systems’ final decision. The Administrative Law Judge Division must review the decision of the retirement systems de novo in accordance with its rules of procedure. If a claimant requests consideration by the Administrative Law Judge Division before having exhausted the claimant’s agency remedy, the Administrative Law Judge Division must dismiss the request without prejudice.

**SECTION 9‑21‑70.** Appeals to court of appeals.

A claimant may appeal a final decision of the Administrative Law Court in a case brought pursuant to this chapter to the court of appeals pursuant to Section 1‑23‑380 and the South Carolina Appellate Court Rules. If a claimant brings an action covered by this chapter in the court of common pleas, the court must dismiss the case without prejudice.