

Chapter 28A.
Tier II Retirement Benefits Program

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750. Establishment

(a) A second tier retirement benefits program is established for officials and employees of the Government of the Virgin Islands and for their dependents and beneficiaries, for the payment of retirement annuities, disability annuities, and other benefits as provided herein to the officials and employees, and to their dependents and beneficiaries.

(b) The second tier program is established to establish retirement benefits for the same purpose as stated in section 701(b) for employees who become members of the ~~system~~ System on or after October 1, 2005.

(c) The second tier program established under this chapter shall be subject to the control of the GERS Board of Trustees, and shall be known and designated as the Tier II Retirement Benefits Program.

(d) The Tier II Retirement Benefits Program is effective thirty days after the enactment of this chapter at which time employees and employers contributions shall begin. The date shall be known as the date of establishment. Retirement, disability, death benefit, and all other payments by the system shall begin to accrue from the date of establishment.

(e) All provisions of chapter 27 are applicable to this chapter, except to the extent provided otherwise in this chapter.

751. Definitions

(a) In this chapter:

(1) Tier II Retirement Benefits Program mean the second tier system, as established in section 750 of this chapter, to be administered by the Employees Retirement System of the Government of the Virgin Islands.

(2) Member means any employee included in the membership of the ~~system~~ System and participating in the Tier II program.

(3) Prior Service means service as an employee of the employer after the date of enactment of this program until the last day of service prior to the member's date of retirement.

(4) Regular Interest means interest accrued on a member's contributions, after the date of enactment of this program, compounded annually, at the rate as shall be determined by the Board, from the experience of the system.

(5) Average Compensation means the average rates of annual compensation for the ~~most recent five~~ most recent five years of credited service ~~within the last ten years of service~~, subject to the maximum salary limitations in effect during the service.

(6) Police officer means employees who perform traditional police duties or direct others in the performance of these duties, and excludes all other employees the as [sic] cadets, clerical, and housekeeping employees.

(7) Prison Guard or Corrections Officer means an employee in the Bureau of Corrections and the Department of Human Services who performs traditional correctional officer and supervisory correctional officer duties. This definition does not include any others in the Bureau or Department, such as clerical, housekeeping and food service employees or other supervisory or managerial personnel.

(8) Firefighter means an employee who performs traditional firefighting or fire prevention duties or direct others in the performance of these duties and excludes all other employees the as [sic] such as cadets, clerical, and housekeeping employees.

(9) Salary Right means compensation earned to include benefits or dues as a result of contract negotiations for the time of employment prior to separation from service, and shall also mean an increase or raise in compensation granted to any exempt employee or employee working in the unclassified service that has not yet been paid to the employee.

~~(b) Subsections (x) and (y) of section 702 have no applicability in this chapter.~~

(10) "Compensation" shall mean amounts received as pay, salary or remuneration for services rendered, provided that the maximum amount of compensation to be used for contributions by the members or in the computation of any annuity or benefit hereunder shall not exceed \$65,000. Overtime pay or compensation for special services shall not be included as compensation.

752. Membership

The following persons shall be included as members:

(a) Any person who enters the service of the Government of the Virgin Islands on and after October 1, 2005.

(b) Any person who becomes an employee on or after the date of establishment shall become a member as a condition of employment on the date of appointment. Contributions by the person shall begin ~~immediately upon completion of one month of service~~, provided that the employee shall be eligible for duty disability and death benefits from the first day of service subject to the qualifying conditions prescribed for the payment of the benefits.

(c) Any person, who:

(1) was a member of the First Tier before October 1, 2005; but

(2) was not employed with the Government of the Virgin Islands on October 1, 2005; and

(3) reenters the service of the Government more than five years after the date of separation from government service.

(d) Any person whose position and salary are specifically fixed in the annual appropriation acts.

(e) Any person employed by the employer who is not elsewhere excluded by the Virgin Islands Code from membership and whose term of employment is for at least one (1) year, provided that an initial appointment to a position for the remainder of the then current fiscal year be considered as meeting this requirement.

(f) any employee whose services are compensated on a contractual, fee or per diem basis and who works exclusively for the Government at least 40 hours per week may be included as a member and receive service credit for such periods of by paying contributions pursuant to section 753 of this chapter.

~~(f)~~(g) The following persons shall be excluded from membership in the ~~system~~System:

~~(1) Any employee whose services are compensated on a contractual or fee basis.~~

~~(2)~~(1) Any casual ~~or per diem~~ employee.

~~(3)~~(2) Any part-time employee who does not regularly work at least 50% of the normal work period.

~~(4)~~(3) Any provisional employee.

753. Credited service

(a) Any employee who has left the service of the government after the date of establishment, and re-enters service thereafter, shall be entitled to receive credit for prior service rendered prior to predecessor systems. Additionally, the member shall pay to the ~~System~~system the withdrawn

contributions, the interest paid on those contributions prior to withdrawal, and the income the [Systemsystem](#) would have earned had those contributions remained in the [Systemsystem](#) and the interest on the unpaid balance if the member elects to redeposit on an installment basis.

(b) Any employee shall be entitled to credited service, up to a maximum of three years, for all military service in the Armed Forces of the United States, including the army, navy, marines or coast guard, merchant marines, air force, or any auxiliary thereof, either by enlistment or induction, provided he has accrued at least ten years of regular credited service within the Government of the Virgin Islands. Provided, that such employee must have been a bona fide Virgin Islands resident prior to entering military service and pays an amount equal to the employer and employee contributions at the respective rates assessed for each period or portion of non-credited service the member seeks to receive credit. The member shall pay contributions in the manner prescribed in subsection (a) of this section.

(c) Prior service credit and membership service credit shall also include the time a member has served in military service, not to exceed three years, provided that the member has already accrued at least ten years of regular credited service within the Government of the Virgin Islands. The member shall pay contributions in the manner prescribed in subsection (a) of this section.

(d) Any member may be entitled to credit as prior service or membership service, as the case may be, for any period of approved leave of absence without compensation, under rules in force, which may not exceed an aggregate period of twenty-four months during the entire period of credited service of the member. The member shall pay to the [Systemsystem](#), the contributions and the income the [Systemsystem](#) would have earned had those contributions been paid to the [Systemsystem](#) during the period of his approved leave of absence without compensation, and the interest on the unpaid balance if the member elects to deposit on an installment basis, which shall not exceed a period of four years.

(e) In the computation of total credit for prior service or membership service, nine months or more of service shall constitute one year of service; six to eight months inclusive, shall constitute three-quarters of a year; three to five months inclusive, shall constitute one half of a year; less than three months shall constitute ~~one~~ one quarter of a year; not more than one year service credit shall be granted for all service rendered during a fiscal year. Fifteen days or more of service during any months shall constitute a month of service; five to fourteen days inclusive, shall constitute one-half of a month; less than five days, inclusive, shall constitute one-quarter of a month; not more than one year service credit shall be granted for all service rendered during a fiscal year.

(f) Any employee shall be entitled to credited service as a member of the Legislature, provided the service is not applied to a legislative service retirement annuity, as provided in chapter 27 of this title.

(g) No credited service benefit may be paid for excess annual leave, sick leave, leave without pay, federal service in the Virgin Islands, study leave, or for prior military service to any government employee until the [Systemsystem](#) has received retirement contributions payments from the employer and employee, the income the system would have earned had those contributions been paid to the system, and the interest on the unpaid balance if the member elects to deposit on an installment basis.

(h) Notwithstanding any other provision of this chapter, any person who is presently a member of this [Systemsystem](#) who has rendered prior permanent or continuous service to the Government of the Virgin Islands, or the federal government in the Virgin Islands, and for which credit under this [Systemsystem](#) has not been received, may receive credit for the prior service by contributing to the system contributions at the respective rates assessed for each period or portion of non-credited service the member seeks to receive credit. The member shall pay to the [Systemsystem](#) the contributions and the income the [Systemsystem](#) would have earned had those contributions been paid to the [Systemsystem](#), and the interest on the unpaid balance if the member elects to deposit on an installment basis. If the member elects to pay on an installment basis, the member shall have the maximum of thirty-six months before any retirement benefits are received to pay the contributions and the applicable interest.

(i) If the employer fails or refuses to remit contributions on behalf of any employee for any period wherein service credit is being or has been sought, the employee may remit to the [Systemsystem](#) a sum that equals the employer's and the employee's contributions for the period of credited service he has elected to obtain.

(j) Employee or employer contributions for service credit on which benefits are to be calculated must be paid prior to the date of issuance of the first retirement benefits payment.

(k) The required contributions for any service which have not been made for prior service, past service, military service, leave of absence service, and in the territory service, must be paid by cash, personal check or money order. The contributions must be accompanied by a statement identifying the service for which payment is made and must be made in lump sum for the total due or in annual payments of not less than \$500, except for the final payment if less than \$100, unless another method of payment is authorized by the [SystemBoard of Trustees](#). Interest must be added annually to any unpaid balance not received by the Benefits Division on or before October 1 of each year.

(l) The required contributions for any service which have not been made prior to a member's retirement may not be made by any person after the member's retirement. The required contributions for any service which have not been made by the members ~~[sic]~~ before his death prior to his retirement may be made only by those authorized by the [SystemBoard of Trustees](#) to purchase the service.

(m) A member may make the required contributions for past service not made by his employer.

(n) Retirement contributions paid for a prior period, whether by employer or by member, must be charged a delinquent fee of 1.5% for each calendar month or part thereof that paid contributions should have been paid. This includes prior period contributions due to incorrect wages and contributions from an earlier report or wages and contributions that should have been reported, but were not. This delinquent assessment may not be waived. If the delinquent assessment is not remitted within thirty days following the [System's Benefits Division](#) invoice, an additional delinquent assessment of 1.0% on the invoice amount shall be assessed for each calendar month or part thereof that the invoice is delinquent.

(o) Retirement contributions not remitted timely as prescribed by this chapter are delinquent, unless at the opinion of the Administrator, exceptional circumstances beyond the employer's

control prevented payment by the prescribed due date and a waiver of the delinquent fee is granted by the Administrator. A waiver may be granted only once for an employer during any one fiscal year. The employer shall pay the assessed delinquent fee, plus any additional delinquent charges that have accumulated during the time required to renew the request for a waiver of the delinquency charge.

(p) If an employer fails to pay the total amount due within one hundred and twenty calendar days from the date of the system's invoice, the Administrator shall notify the Board and certify the amounts due to the ~~System~~system. The Board shall determine the appropriate action to be taken.

~~(q) Contributions may not be made prior to the service being performed. Payment of the required employee retirement contributions for other than current service must be made in accordance with the provisions of this chapter. Contributions for the purchase of additional service may not be made prior to the accrual of five years of credited service.~~

(q) Any member may purchase additional service credit, which shall be added to his years of service credit already accrued for service worked and contributions paid. The following provisions shall apply:

(1) "Additional Service Credit" shall mean service credit that may be purchased by the member for time he has not actually worked while in the service of the employer. "Service Credit," as referred to and used in this section, shall have the same meaning as "Membership Service" in 3 V.I.C. § 702(i), (j).

(2) No member may purchase more than 5 years of additional service credit.

(3) Once a member makes an election to purchase additional service credit, he may not modify or cancel his election, and he may not make another election to purchase additional service credit, even if the amount of service credit purchased during the first election to purchase additional service credit is less than 5 years.

(4) A member must pay the full amount charged to him or her for the additional service credit prior to his date of retirement.

(5) A member may make payment for additional service in a lump sum payment or in bi-weekly installments via payroll deductions before his date of retirement. When a member elects to make payment in installment payments via payroll deductions, he will have a total of two years for each year of additional service credit to make payment, provided that the final payment must be made prior to his date of retirement.

(6) The amount that shall be charged to a member for the purchase of additional service credit shall, at a minimum, include the employer's and employee's share of contributions; however, the System shall also charge to the member, in addition to the contributions herein prescribed, an additional charge or factor that is recommended by the System's actuarial consultant. This additional charge must be adopted by the Board of Trustees and administered by the Administrator of the System.

(7) A member must have at least 10 years of service credit before he is eligible to purchase additional service credit.

(8) Additional service credit may not be used to qualify a member for Duty or Non-Duty Disability.

(9) When a member completes payment for additional service credit, the additional service credit shall be added to his years of service credit, and he the employer and employee contributions at the respective rates assessed for each period or portion of non-credited service the member seeks to receive credit. must still qualify for a service retirement annuity based on his years of membership service as referred to in subsection (1) of this section. Additional service credit may be used to qualify a member for a regular service retirement annuity only if the member has accrued at least 25 years of service credit by the time he completes payment for additional service credit may use additional service credit to qualify for receipt of said service retirement annuity, notwithstanding age and provided the additional service credit and the member's service credit equal 30 years.

(10) Any member who leaves the payroll for any reason prior to completing payment for purchase of additional service credit shall not be eligible to retain the proportionate amount of service credit for which he has already paid. When a member leaves the payroll for any reason prior to completing payment for additional service credit, the System shall return, within 30 business days, to the member the amounts it has received from the member, and no interest shall be paid. However, in the event a member is reinstated in accord with a court judgment, arbitration or other such award, he shall be eligible to have all previous rights restored, upon request to the System.

(11) The Board of Trustees may change the additional charge or factor recommended by the System's actuarial consultant, but such adjustment cannot be applied to members who have already received a summary, statement, letter, or any other form of correspondence, that acknowledges receipt of the member's application, request, or desire to purchase additional service credit, and which informs or gives notice to the member of the amount to be charged for the additional service credit and other applicable terms as provided by this section, or any section of Title 3, Chapter 27 of the Virgin Islands Code, that may be applicable.

754. Conditions for service retirement

(a) An application for an annuity shall be in writing, addressed to ~~the Board in [care]~~ of the Administrator. The annuity when granted shall begin as of the first day of the month next following the date of withdrawal from service. In no case shall an annuity become effective prior to the aforesaid date nor more than 60 days prior to the receipt of the application from the member.

(b) Any member retiring pursuant to the provisions of this chapter shall notify the System, in writing, of the intent to retire at least one (1) year prior to the date of retirement. The member shall

~~notify~~ his Department Head ~~and the Administrator,~~ of his intent to retire at least three months prior to the date of his retirement, but in no event shall a member give less than sixty days notice of his intent to retire.

(c) A police officer, eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens, firefighter, including a firefighter and police officer employed by the Virgin Islands Port Authority, marshal of the Supreme and Superior Court, or corrections officer, ~~the automatic retirement shall occur at the age of fifty five years or over after attaining a minimum of ten years of credited service; notwithstanding that withdrawal from service may have occurred prior to the time that application for annuity is made. The mandatory retirement age, as established in this subsection, may be temporarily extended as provided in section 530(g) of this title. shall be eligible to receive a retirement annuity at age 55 and upon completion of 10 years of service.~~

~~*(d) Notwithstanding his age, any member who has completed thirty years of credited service may retire on a full service retirement annuity.~~ Any member who is age fifty-five years with at least ten ~~but less than thirty~~ years of credited service may retire on a service annuity which shall be reduced by .325 of 1% for each month, or fraction thereof, that the member's age is less than sixty years.

~~(e) Notwithstanding his age, a police officer, eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens, firefighter, including a firefighter employed by the Virgin Islands Port Authority, marshal of the Supreme Court or the Superior Court, or corrections officer who has completed twenty years or more of credited service may retire on a full retirement annuity.~~

(f) Any member whose withdrawal from service occurs:

(1) prior to age sixty-five years but after at least ten years of credited service; or

(2) in the case of a police officer, eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens, firefighter, including a firefighter or police officer employed by the Virgin Islands Port Authority, marshal of the Supreme and Superior Court, or corrections officers, prior to age fifty-five years and after at least ten years of credited service, ~~but not as much as twenty years of credited service~~, and who has not received a refund of accumulated contributions, is entitled to receive a deferred service annuity payable upon attainment of age sixty-five or fifty-five years, as the case may be.

755. Amount of service retirement annuity

(a) Upon retirement from service, a member shall receive a service retirement annuity, payable semi-monthly, computed at the rate of 1.75% of his average compensation times the number of years of credited service, the aggregate of which shall not exceed 100% of his average compensation.

(1) To the amounts of annual service retirement annuity produced by the application of the foregoing rates in any case in which average compensation is less than \$4,000 per year shall be

added the sum of \$14.00 per year of credited service, and in any case in which average compensation is over \$4,500 but not more than \$6,000 per year, shall be added the sum of \$7.00 per year of credited service; however, the foregoing shall not apply to any person with forty or more years credited service.

(2) Notwithstanding any other provision of this chapter, the service retirement annuity of any member or special pensioner who has at least twenty years of credited service regardless of the retirement law in effect when the member retired shall be not less than \$1,680 per year.

(b) In the case of a police officer, fireman, including a fireman or police officer employed by the Virgin Islands Port Authority, marshal of the Supreme and Superior Court, or corrections officer, [eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens](#) or combination thereof:

(1) The retirement annuity, for credited service of less than twenty years, shall be as provided in subsection (a) of this section.

(2) The retirement annuity for credited service of twenty years or more as a police officer, firefighter, including a fireman or police officer employed by the Virgin Islands Port Authority, marshal of the Supreme and Superior Court, or corrections officer, [eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens](#) or a combination thereof, shall be the annuity produced by 2.10% of average compensation per year of credited service, but in no event may the retirement benefits payable to the person under the provisions of this chapter exceed 90% of average compensation, except as increased by paragraph (3) of this subsection; except, that any member qualifying for benefits under this paragraph may elect to receive the benefits or the benefits payable for his years of credited service under subsection (a) of this section.

(3) Beginning with the first day of the month coincident with or next following the date on which the retired police officer, firefighter, including a firefighter or police officer employed by the Virgin Islands Port Authority, marshal of the Supreme and Superior Court, or corrections officer, [eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens](#) has attained the age of sixty years and who has qualified for annuity payments under paragraph (2) of this subsection, the retirement benefits granted under this section shall be increased by 1.5% per annum and shall be increased by an additional 1.5% per annum each year thereafter.

(c) Any member receiving a service retirement annuity who reenters the service of the government either by appointment or on a contractual basis may not continue to receive his annuity while a current employee of the Government, and the service retirement annuity shall be cancelled and the member shall thereupon again become a contributor to the system. Upon subsequent retirement, the member shall receive a retirement annuity that shall consist of (a) the previous retirement annuity which had been cancelled, and (b) the additional credited service earned during reemployment.

(d) Notwithstanding any other law, no member shall receive a service retirement annuity in an amount that exceeds \$65,000 per annum, [exclusive of any cost of living annuity, bonuses or adjustments.](#)

755a. Limitation on compensation of retired contractual employees

No retiree of the federal government, the Government of the Virgin Islands, or of the private sector shall be employed by the Government of the Virgin Islands on a contractual basis the compensation of which exceeds the highest rate of salary received by that employee before retirement, and in any case such rate of compensation shall not exceed \$55,000 per year.

756. Options at retirement

(a) In lieu of the retirement allowance for his life alone, a member, but not a retired member, may elect, to revoke or change a previous election, to have the actuarial equivalent of his retirement allowance as of the date of retirement applied to provide a lesser retirement allowance, in accordance with one of the optional settlements specified in this section.

(b) Such election, revocation, or change of election may be made at any time before the effective date of retirement or after the effective date and prior to the making of the first payment on account of any retirement allowance.

(c) If a member designates a spouse as the intended beneficiary, at any time before the making of the first payment on account of the member's retirement allowance, his spouse dies, or his marriage is terminated by a final judgment of divorce or annulment, upon notice to the system, the election of the member is automatically void, and the member may make a new election.

(d) A member who has elected an optional settlement providing for the payment of a benefit to his spouse may at any time before the making of the first payment on account of his retirement allowance, substitute a different optional settlement. Such election, revocation, or change of election must be executed in writing and filed with the Board; and any member electing an optional settlement provided herein must be counseled by the systemSystem, with respect to his options and status, before and after making his election.

(e) A deceased member who was eligible for retirement and ~~If a deceased member who is eligible for retirement has~~ elected one of the optional settlements specified in this section, whomever the member selected to receive the optional benefit ~~the surviving spouse~~ shall receive the same benefits as ~~the surviving spouse would have received~~ if the date of the member's death had also been the date of his retirement and if retirement had preceded death. In the event benefits are paid to a surviving spouse, no other payment shall be made pursuant to this section.

~~(1) If a member dies without having elected an optional settlement and there is a surviving spouse, he shall be deemed for the purposes of this paragraph to have elected Optional Settlement No. 2 as provided in subsection (f).~~

~~(2) In either case, the benefits payable to the surviving spouse must be in the same amount as if the member had elected to receive credit for service rendered prior to the date he became a member of this system and had paid the full amount of the contributions in respect the to [sic] service.~~

~~(f) A member may designate one or more persons as beneficiaries. If more than one person is designated under an optional settlement involving life contingency of the beneficiary, the member is deemed to have elected the optional settlement on an equal portion of his allowance independently for each beneficiary. The options are:~~

~~The following options are available to members pursuant to this section. The options are:~~

(1) Optional Settlement 1 - The member has the right to have a retirement allowance paid him until his death if he dies before he receives the amount of his accumulated contributions at retirement, to have the balance at death paid to his beneficiary or estate.

(2) Optional Settlement 2 - The member has the right to have a retirement allowance paid him until his death and thereafter to his beneficiary for life.

(3) Optional Settlement 3 - The member has the right to have a retirement allowance paid him until his death, and thereafter one-half of his retirement allowance paid to his beneficiary for life.

757. Duty disability retirement annuity

(a) Any member who becomes totally and permanently incapacitated for service as the proximate result of bodily injuries sustained or a hazard undergone while in the performance and within the scope of his duties, shall receive a duty disability retirement annuity if the injuries or hazard were not the consequences of the willful negligence of the member.

(1) The application must be made not more than six months after the date the member has been advised that he is permanently and totally incapacitated for service, if an accidental disability, or six months after the occurrence of disablement if an occupational disease and proper proof is received from one or more physicians designated by the Board System that the member is mentally or physically incapacitated; The decision of the Board shall be based on the opinion of the physician(s) selected by the Board and not the opinions of the physicians selected by the member or any other entity, including but not limited to the Social Security Administration or Worker's Compensation Administration.

(2) In the case of members found to be permanently disabled and unfit to perform their duties in accordance with title 3 Virgin Islands Code, section 584a, subsection (d), application must be made not more than three months after the determination is made in accordance with title 3 Virgin Islands Code, section 584a, subsection (d), and no prior notice of the accident to the System office of the Board shall be required.

(3) For the purpose of this section, (a) A member is totally and permanently disabled only if his or her physical or mental impairment or impairments is so severe that he or she is not only unable to perform his or her previous work but also cannot, considering his or her age, education and work experience, engage in any other kind of substantial gainful employment which exists in the

Territory regardless of whether: (A) The work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work.

~~For the purposes of this section, totally incapacitated means the inability to perform substantial gainful employment.~~

(a)(1) For purposes of this section,

~~“Substantial gainful employment” means “any work that is generally done for pay or profit that the member is able to perform with sufficient regularity and duration to provide a reliable source of income that provides an annual income that exceeds the poverty threshold for one person as determined by the Virgin Islands Department of Human Services, irrespective of the number of hours or days that the member actually works.”~~

(b) The duty disability retirement annuity is payable during disability and is equal to 52.50% of the member's rate of compensation at date of disability in an amount not to exceed \$65,000 per annum, exclusive of any annual increment or cost of living adjustment. The annuity must be offset by any amounts received by the member as worker's compensation from the employer.

(c) The ~~System Board of Trustees~~ may request earning information from recipients of disabilities to verify claims. The recipient shall provide the earning information to the System Board within 30 days of the System's Board's request. If the recipient fails to provide the requested information within the prescribed time, the duty disability annuity shall be discontinued until the time as the requested information is provided. When the requested information is provided, the duty disability retirement annuity shall resume.

758. Duty-connected death annuity

(a) When the proximate cause of death of a member is as a result of bodily injuries sustained or a hazard undergone while in the performance and within the scope of his duties, if the injuries or hazard were not the consequence of the willful misconduct of the member, the surviving widow of the member shall be entitled to an annuity equal to 28% of the annual compensation of the member at the date of death of the member, the payment shall continue until the spouse dies or remarries. This annuity must be increased by 7% of the member's compensation on account of each unmarried minor child under age eighteen, subject to a maximum payment to a widow and children of 42% of compensation.

(1) If there is no widow or if the widow dies or remarries before any child of the deceased member attains the age of eighteen years or twenty-three years, if a full time college student, then each child under the age shall receive an annuity of 7% of the member's compensation, to continue until each child attains age eighteen, or twenty-three years, if a full-time college student, subject to a limitation of 35% of compensation to all minor children.

(2) If there is no widow or children under the age of eighteen, then payment of annuity must be made to the dependent father and dependent mother of the member, at the rate of 17.50% of compensation to each, for life, except, that if none of the aforementioned beneficiaries

is living at the death of the member, no duty-connected death annuity shall be paid under the provisions hereof.

(b) Adopted children under the age of eighteen or twenty-three, if a full-time college student, are eligible for benefits hereunder if the proceeding for adoptions shall have been initiated at least one year prior to the date of death of the member.

(c) Where any payment under any section of this chapter is due a minor, or a person mentally incompetent or under other legal disability, the payment may be made to the person who is constituted guardian or other fiduciary by the law of the Virgin Islands, or the place of residence of the claimant, or is otherwise legally vested with the care of the claimant or his estate.

(d) "In the event benefits are paid to a surviving spouse and/or the deceased member's child under this section, no other payments shall be made pursuant to this section."

759. Non-duty disability retirement annuity

(a) Any member under age sixty having at least nine years of credited service who becomes totally and permanently disabled for service, either mentally or physically, from any cause other than duty disability shall be entitled to a non-duty disability retirement annuity.

(b) The annuity shall begin to accrue upon termination of payments to the employee by the Government of amounts representing full compensation, part compensation or any other form of compensation; provided, that if written application for the annuity is not filed with the SystemBoard within sixty days of the date of termination of the compensation payments, the annuity shall begin to accrue as of the day sixty days prior to the receipt of the application.

(c) A member shall be considered totally and permanently disabled only after the SystemBoard has received (1) written certification by at least two licensed practicing physicians, selected by the SystemBoard, that the member is totally and likely to be permanently disabled from further performance of the duties of any assigned position in the service of the employer, and (2) written certification from the employer that the member has been separated from the service of the employer because of a total and permanent disability of the nature as to reasonably prevent further service to the employer, and as a consequence is not entitled to compensation from the employer.

(d) The amount of disability annuity is equal to 1.4% of average compensation for each year of credited service at a date of disability, subject to a minimum of 14% of average compensation and a maximum of 42% of average compensation in an amount not to exceed \$65,000 per annum, exclusive of any cost of living annuity, bonuses or adjustments.

(e) Any payment by the employer representing salary or part salary shall be applied to reduce the amount of the annuity payable to the member.

(f) The recipient of a non-duty disability retirement annuity shall provide earnings and medical information as requested by the Board of TrusteesSystem to verify disability claims. If the recipient fails to provide the requested information, the non-duty disability retirement annuity

must be discontinued until the time as the requested information is provided. When the requested information is provided, the non-duty disability [retirement](#) annuity [may](#) resumes.

760. Administration of disability [retirement](#) annuities

(a) At least once each year during the first five years following the allowance of disability [retirement](#) annuity to any member, and at least once in every three-year period thereafter, until a member's attainment of age 55, the ~~Board-System~~ shall require any disability beneficiary to undergo a medical examination to be made at the place of residence of the beneficiary, or any other place mutually agreed upon, by a physician or physicians engaged by the ~~Board-System~~. If an examination indicates that the beneficiary is no longer physically or mentally incapacitated for service in the position held by the member at the date of disability, payments by the system must be discontinued. The name of the member must then be placed on the appropriate list of candidates maintained for appointment to a position in the division for which he is found to be qualified at compensation at least equal to the rate he received at the time he last became a beneficiary.

(b) ~~Any member receiving a duty disability retirement annuity~~ ~~If any member receiving a duty disability annuity~~ or a non-duty disability [retirement](#) annuity [who](#) resumes gainful employment, and his earnings together and disability [retirement](#) annuity, exceed the rate of compensation of the member at the date of retirement, the ~~Board-System~~ shall reduce the amount of disability [retirement](#) annuity to an amount that, when added to the compensation being earned by the member, may not exceed the rate of compensation of the member at the date he last became a disability beneficiary.

(c) If disability beneficiary refuses to submit to a medical examination as herein provided, payments must be discontinued until a medical examination is conducted. If the medical examination is not conducted within one year, the ~~System-Board~~ shall revoke all rights the member has to receive a disability [retirement](#) annuity.

761. Death benefit provisions

(a) Upon the death of a member while in service, if no duty-connected death annuity is payable, a payment of the accumulated contributions of the deceased member is payable to a beneficiary whom he has designated.

(b) Upon the death of a retired member, unless an optional benefit has been elected as provided in section 756 of this title, a lump-sum payment equal to the ~~excess of the annual salary of the member at the date of retirement as defined in section 751(a) of this title, plus the~~ member's total contributions, over the amounts received by the member in annuity payments up to the time of his death, must be paid to the member's designated beneficiary.

(c) The death benefit payments as provided under subsections (a) and (b) of this section is payable to a beneficiary who must be designated by the member. ~~In the absence of a designation, the death benefit payments provided under subsections (a) and (b) of this section are payable to a beneficiary designated by the member.~~ In the absence of a designation, the death benefit

payments provided under subsections (a) and (b) of this section are payable to a beneficiary of the member in the following order of precedence:

(1) the surviving spouse;

(2) if there is no surviving spouse, to the child or children and descendants of children by representation, in equal amounts;

(3) the member's parents; and

(4) where none of the persons listed in subsection (c)(1-3) survives the member, the member's estate is entitled to receive payment of the excess of the member's accumulated contributions over the amount of annuity payment received by the member up to the time of his death.

~~(d) When a member dies while in service and the deceased member was qualified for a service retirement annuity as provided by the system, the deceased member's surviving spouse is entitled to a payment of the deceased member's accumulated contributions. If there is no surviving spouse, the death benefit is payable as provided in subsections (a) or (b) of this section, whichever is applicable.~~

762. Refunds

(a) Upon withdrawal from service, any member who does not have ten years of credited service and is not then eligible for a service retirement annuity is entitled to receive a refund of the accumulated contributions, plus regular interest as defined in section 751, including contributions made by the member to any superceded retirement system.

(1) Any member withdrawing from service, who does not receive a refund and later returns to service, shall receive credit for the amount of credited service earned at the time of his withdrawal from service.

(2) Any member receiving a refund shall thereby waive and relinquish all accrued rights in the system including all accrued credited service. If no specific request to the contrary is made by a member within thirty days from the date of his separation from the service, the Board System may, in its discretion, refund the accumulated contributions of any member who has less than three years of credited service; notwithstanding that the member may not have applied for a refund.

(b) Any member who has received a refund shall be considered a new member upon subsequent re-employment if the person qualifies for membership under the provisions hereof. Provided that the entire refunded amount is repaid to the employee's retirement account, a member's account shall be given service credit upon the repayment of the following:

(1) All of the refunded contributions made under the present system;

(2) Interest as determined by the Board of Trustees, based on information provided to the Board by the system's actuarial consultant; and

(3) Any additional amount as determined necessary by the Board of Trustees, based on information provided to the Board by the system's actuarial consultant.

(c) An employee who takes advantage of the provisions of this subsection must be permitted to make the contributions over a period of time, not to exceed ~~a [sic] five~~ three consecutive years, beginning at the time that the employee's eligibility to make the repayment has been determined. The member shall pay to the system the withdrawn contributions, the interest paid on those contributions prior to withdrawal, the income the System would have earned had those contributions remained in the System, and the interest on the unpaid balance, if the member elects to redeposit on an installment basis, provided the payments do not exceed a period of three consecutive years.

(d) (1) "Whenever the GERS receives from the employer a member's contributions, due to partial payment(s) of the 'salary right' of a member, as defined by 3 V.I.C. § 702(z), and such contributions are not adequate to permit the GERS to adjust the member's service retirement annuity for paid membership service, or, no Notice of Personnel Action (NOPA) is received to permit the GERS to adjust the member's service retirement annuity, the GERS shall refund the member's contributions to the member."

(2) "Payment of the member's contributions to the member shall be final and in lieu of his receipt of membership service credit, and the member shall not be entitled to any membership service credit that he would have received, or to which he would have been entitled, if contributions were paid on compensation created by the 'salary right.'"

763. Coverage for members of the Legislature

(a) There is hereby created a new retirement program for members of the Legislature of the Virgin Islands. Membership in the System for members of the Legislature currently in service shall be optional. Each member currently in service on the date of enactment of this section shall have the opportunity to elect in writing to participate in this retirement program. Any such member currently in service who desires credit for prior service as a member of the Legislature shall contribute to the System ~~++15%~~ 1+5% of his annual compensation effective on the date of enactment.

(b) Participation in this new program on the part of any current member of the Legislature shall continue until the date he becomes an annuitant, dies or accepts a refund of his contributions thereto.

(c) The rate of contribution to the System on the part of a member of the Legislature who becomes a member of the System after the date of enactment of this ~~new~~ new program shall be ~~1+5%~~ 1+5% of his annual compensation. This rate shall apply to service rendered beginning from the first date said member takes the oath of office as a member of the Legislature of the Virgin Islands. For purposes of this chapter, service as a member of the Legislature during any part of a calendar

year shall be deemed to be a year of credited service; provided that contributions are made for the full calendar year.

(d)

Members of the Legislature shall make arrangement with the System to pay the entire amount due as contributions, including any interest paid, and the income the System would have earned had those contributions remained in the system for the benefits provided, and the interest on the unpaid balance, if the member elects to deposit on an installment basis. If the member elects to pay on an installment basis, the member shall have the maximum of 36 months before any retirement benefits are received to pay the contributions and the applicable interest.

~~Members of the Legislature shall make arrangement with the System to pay the entire amount due as contributions for the benefits provided herein within four years either through bi-weekly payroll deduction for a deduction [from] their monthly Legislative annuity in order to receive the Legislative annuity and benefits provided under this section.~~

(e) The conditions governing eligibility for service retirement for any member of the Legislature and the amount of the annuity shall be as stated in this section, provided, that the Legislature shall contribute, in addition to employer's contribution, any amounts that would increase the actuarial liability as determined by the Actuary.

Vesting in a service retirement annuity shall attach upon completion of three (3) terms. Any such member shall be eligible for service retirement beginning at age fifty-five (55) on a service retirement annuity equal to the rate set forth:

1. For each year while in office during the first 6 years 3.5% of compensation.
2. For each year while in office from 7 to 12 years 4.0% of compensation.
3. For each year while in office from 13 to 20 years 4.5% of compensation.
4. For each year after 20 years in office 5.0% of compensation.

For purposes of this subsection, the term compensation shall mean the highest rate of compensation, as established by Title 2, section 71 of this Code, received by that member during his tenure as a member of the Legislature. No member shall receive more than 100% of compensation at retirement.

(f) In the case of any member of the Legislature who shall become separated from the service before he completes [an] aggregate of three (3) terms as a member of the Legislature, the total amount paid by such member of the Legislature shall, upon his application, be returned to him or such legislative service shall be credited to the member's service as provided, that such service is not applied to legislative service retirement. No such member of the Legislature shall thereafter receive credit for such service unless he again becomes a member of the Legislature and redeposit the amount so returned.

1. No such member of the Legislature shall thereafter receive credit for such service unless he again becomes a member of the Legislature and redeposit if the amount so returned, including any interest paid. Additionally, said member shall pay to the system the withdrawn contributions,

the interest paid on those contributions prior to withdrawal, and the income the system would have earned had those contributions remained in the System, and the interest on the unpaid balance if the member elects to redeposit on an installment basis.

~~2. It is further provided that from time to time the Board shall determine the rate of interest being earned on the contributions of members of the Legislature, and shall credit all contributions of members with interest at the net earnings rate, in accordance with the provisions of Section 714 of this chapter.~~

(g) Nothing contained in this chapter shall be construed to prevent any person eligible therefore from simultaneously receiving an annuity computed on the basis of years of service other than as a member of the Legislature and an annuity computed in accordance with this section; nor shall anything contained in this chapter be construed to prevent a member of the Legislature from receiving, while serving in the Legislature, an annuity for non-legislative service.

(h) No provision of this chapter or any other act relating to automatic separation from the service shall be applicable to a member of the Legislature.

(i) As used in this section, the term Legislature means the 26th Legislature of the Virgin Islands and all succeeding legislatures.

(j) In no case shall service other than as a member of the Legislature be considered service for purposes of this section, nor shall service as a member of the Legislature be considered service for any purpose other than as specified in this section.

(k) The provisions of this section with respect to conditions governing membership in the system, rates of contribution, conditions of retirement and rates of annuity, as prescribed by this Act, shall apply fully to all members of the Legislature in service on the date of enactment of this Act, and to those who become members of the Legislature thereafter. All other sections of this chapter to the extent that they confer additional rights or benefits in the System to participants therein, apply with equal force to members of the Legislature who are members of the System, as of the date of enactment of this Act, to the same extent as in the case of all other employee participants and their beneficiaries, and other provisions of this chapter to the contrary ~~notwithstanding~~ notwithstanding.

l) In the computation of total credit for prior service or membership service, nine months or more of service shall constitute one year of service; six to eight months inclusive, shall constitute three-quarters (.75) of a year; three to five months inclusive, shall constitute one-half (.50) of a year; less than three months shall constitute one-quarter (.25) of a year not more than one year service credit shall be granted for all service rendered during a fiscal year. Fifteen days or more of service during any month shall constitute a month of service; five to fourteen days inclusive, shall constitute one-half (.50) of a month; less than five days, inclusive, shall constitute one-quarter (.25) of a month.

766. Loans

(a) [Reserved for future use.]

(b) The Board is vested with the discretionary investment strategy authority to vary the investment criteria set out in this section by no greater than 25% of the aggregate amounts specified. The Board is prohibited from changing the securities ratings specified in this section, however, in its discretion, the Board may invest a maximum of 15% of the portfolio in below investment grade securities. The Board shall have the discretion, after determining it is in the best interest of the System to hold securities which have been downgraded to below investment grade, and those securities shall not apply towards the 15% below investment grade. However, the Board is prohibited from changing the securities ratings specified in this section. The allocation. The Board shall make investment decisions in accordance with the prudent man standard"prudent investor standard". The reserves of the system in excess of the cash requirements for current operations shall be invested and reinvested in the following types of securities and under the conditions and limitations herein prescribed: a diversified portfolio of assets so as to meet the objectives and goals set forth by the Board of Trustees in the System's Investment Policy Statement. The following types of securities and investments, including certain limitations, shall comprise at least 80% of the System's assets:

(1) Bonds and notes of the United States Government and its agencies and instrumentalities, the obligations of which, both as to principal and interest, are guaranteed unconditionally by the United States Government;

(2) Bonds or notes which are general obligations of any State in the United States, or of any political subdivision thereof; Provided, such political subdivision had a population as shown by the last Federal Census preceding such investment of not less than 30,000 inhabitants; And provided further, That such State or political subdivision thereof has not defaulted for a period longer than 30 days in the payment of interest or principal on any of such general obligations during the period of 10 years next preceding such investments;

(3) Bonds or other obligations that are payable from revenue or earnings specifically pledged therefor of a public utility that is municipally owned either directly or indirectly through any civil division, authority or public instrumentality of the municipality, provided: (A) the municipality has at least 30,000 inhabitants; (B) the utility has been in operation for at least 10 years prior to the date of investment; (C) bonds or other obligations of such utility have not been in default for any period longer than 30 days; (D) the rates for service are fixed and maintained and collected at all times so as to produce sufficient revenue or earnings to pay all operating and maintenance charges and both the principal and interest on such bonds or obligations; and (E) the investment in any one issue of such bonds does not exceed 15 percent of such issue, and that the total investment in this type of security shall not at any time exceed 10 percent of the total investment of the system;

(4) Bond or any other evidences of indebtedness issued or guaranteed by any ~~domestic railroad corporation, or in equipment trust certificates~~ corporation chartered under the laws of the United States, provided that these securities bear a rating of ~~BB~~"B" or better by any two nationally known security concerns. Not more than ~~2-5~~ percent of total investments shall consist of any one issue of these bonds.

(5) ~~Bonds or other evidences of indebtedness of any domestic public utility corporation, provided that these securities bear a rating of BBB or better by any [two] nationally know[n]~~

~~security rating concerns~~ Bank loans and convertible securities that bear a rating of “B” or better by any two known security concerns. *Not more than two percent of total investments shall consist of any one issue of these bonds.

(6) Bonds or other evidences of indebtedness of any domestic industrial corporation, provided that these securities bear a rating of BBB or better by any two nationally known security rating concerns. Not more than two percent of total investments shall consist of any one issue of these bonds.

(7) Bonds or obligations of the Commonwealth of Puerto Rico or of the Territories of the United States, provided that the investment in any one issue of bonds of these communities shall not exceed 10 percent thereof, and that the total investment in all securities of any one of such communities shall be limited of 2 percent of the total investment account of the ~~system~~System.

(8) Common and preferred stocks of any corporation chartered under the laws of the United States, or of any state, district or territory thereof, if listed on a national securities exchange as defined in the Federal Securities Exchange Act, and are legal for trust funds in the Virgin Islands; or common and preferred stocks of any foreign corporation if listed on any internationally recognized security exchange. The investment in the stock of any single corporation should not exceed one percent of the market value of the total investment of the fund on the date of purchase or be greater than 1 percent of the total outstanding stock of the corporation. The aggregate amount to be invested in common and preferred stocks shall be limited to ~~60-70~~ percent of the market value of the total investment of the system ~~on the date the investment is made~~. Investment in foreign stocks shall be limited to ~~10-35~~ percent of the market value of the total investment of the ~~System~~system.

(9) All securities purchased ~~by the Board~~ shall be registered in the name of the ~~System~~system, and no securities shall be purchased or sold or in any manner hypothecated except by the action of the ~~System Board~~ duly entered into the record of its proceeding. However, notwithstanding any other provision of law, the ~~System Board~~ may establish a domestic trust that will meet applicable U.S. Internal Revenue Code provisions, for the purpose of receiving, holding, paying, and transferring assets of the system on the continental U.S. mainland.

(A) Subject to the limitations prescribed in this section, the ~~System Board~~ shall have full power to hold, purchase, sell, assign, transfer and dispose of any of the securities and investments that it shall have acquired, as well as the proceeds thereof. All securities shall be acquired by the ~~System Board~~ at prices representing the prevailing market value for such securities.

(B) Except as otherwise provided herein, no trustee and no employee of the ~~System and/or the Board Board~~ shall have any direct interest in the income, gains or profits of any investments made by the ~~System Board~~, nor shall any such person receive any pay or emolument for service in connection with any investment made by the ~~System Board~~. No trustee or employee of the ~~System Board~~ shall become an endorser or surety or in any manner an obligor for money loaned or borrowed from the system.

(C) All interest and dividends derived from investments, and any gains from the sale or exchange or investments, shall be credited by the treasurer to the account of the ~~System~~system.

(10) Personal loans to members of the ~~System~~system. Provided that a member shall not have more than two loans in a fiscal year, ~~and subject to the rules and regulations that the Board may prescribe,~~ any member of the system who has contributed to the ~~System~~system for at least two years has the privilege of borrowing from the retirement ~~System~~system. The amount that any member may borrow may not exceed 75% of the member's contribution credits in the system and shall not, in any event, exceed the sum of ~~\$50~~\$75,000.

~~In case of separation from service for any reason, including death or disability of the member, any delinquent balance due on the loan, and any accrued interest thereon, shall be deducted from the accumulated contributions of the member.~~

~~In case of separation from service for any reason, including death or disability of the member, the balance due on the loan and any accrued interest thereon, shall be deducted from any refund of contributions, annuity, death benefit or any other benefit due to the member or his beneficiary.~~

This rate includes a charge for insurance on loans against death or total and permanent disability, which development shall effect a cancellation of any unpaid balance of a loan and any accrued interest thereon. The principal amount and interest thereon, must be repaid to the ~~System~~system in installments at least equal to 5% of the member's salary and at a rate that will effect repayment of the loan before the member attains ~~the retirement~~ age 70. The repayments must be deducted from the salary of the member when the member's contributions to the ~~System~~system are deducted.

(11) Mortgage loans to members for construction or purchase of a home, or improvements to a home. Subject to the rules and regulations that the Board may prescribe, any member of the system who has contributed for a[t] least five years has the privilege of borrowing from the retirement system for the initial construction phases of a home, including the construction of cisterns and foundation slabs; for the purchase of a home; or for capital improvements of a home owned by the borrowing member which improvements increase the value of the property. The Board shall, to the extent possible, apportion the loans equally between members residing in St. Croix and members residing in St. Thomas and St. John. A member, who already owns a home, whether rented or owner-occupied, is eligible for a mortgage loan (i) for capital improvements to that home; (ii) for refinancing and amortizing an existing first priority mortgage on that home; and (iii) for purchase of a second residential property. The Board shall require as a condition to making mortgage loan that the mortgagor insure the system's interest as mortgagee of the property with insurance coverage similar to that coverage which is normally required for a mortgage loan by a bank, insurance company or other mortgage lender, including but not limited to title, casualty, and life insurance.

(A) The percentage of reserves in excess of cash requirement, which shall be available for loans, will be determined by actuarial valuations.

(B) The total amount of loan outstanding to any member shall be determined by the Board of Trustees and shall not exceed ~~\$250,000~~\$350,000.

(C) Notwithstanding the age of the member, the loan authorized under this subsection may extend for a thirty year period, or until the member reaches age 70;

(D) For loans given for home construction, during the construction and until a mortgage is executed, a bond or Builder's Risk Insurance must be obtained naming the system as

beneficiary. As member's salary become[s] due and payable, it shall be deemed collateral security for the loan until the principal, together with any interest thereon, is paid in full.

(E) Every loan under this subdivision must be secured by a first or second priority mortgage upon the land and upon each building or other structure thereon which is to be constructed, purchased or improved pursuant to the provisions of this subdivision, until the principal amount of the loan and any interest thereon, are paid in full. The [SystemBoard](#) may consent to the mortgaging of real property, previously mortgaged pursuant to the provisions of this paragraph, to a private lending institution, for the purpose of securing an additional construction or improvement loan from the institution by the member-grantee or for the purpose of refinancing an existing first priority mortgage. If the [SystemBoard](#) shall determine that the total value of the land and any improvements thereon is sufficient to protect the interest of the system as holder of a second priority mortgage, then the consent agreement may include subordination of the rights of the [Systemsystem](#) in the mortgage under this paragraph for all purposes, including foreclosure proceedings by the mortgagee.

(F) Every member, securing a mortgage loan under the provisions of this subdivision, shall assign to the system as further security, until the loan and interest thereon are paid in full, all of his accumulated contributions as well as any other contributions that may accumulate in the [Systemsystem](#) in his favor; except, that in the case where two persons may hold a mortgage loan jointly, and the loan is not insured by a death or permanent disability policy as provided by subparagraph (d), and one has or becomes permanently disabled, the other may elect to have a portion of the benefits assigned by the deceased or disabled applied each month to the mortgage loan in lieu of a monthly mortgage payment by the surviving or non-disabled party until the entire amount of the assignment is depleted.

(G) The principal of the loan and interest thereon shall be repaid to the [Systemsystem](#) in installments at least equal to 10% of the member's annual salary, and at a rate that will effect a repayment of the loan prior to the member's attaining the age of seventy years. Such repayments shall be deducted from the salary of the member at the same time and in the same manner as the member's contributions to the [Systemsystem](#) are deducted.

(H) Interest on the loan must be set in advance, from time to time, by the Board. In addition to interest, the [SystemBoard](#) may charge for insurance on each loan against the eventuality of the death or the total and permanent disability of the member-grantee, which eventually shall result in a cancellation of any unpaid principal of the loan and any accrued interest thereon.

(I) The [SystemBoard](#) shall establish a special fund or account to restore to the [Systemsystem](#) any losses suffered by it as a result of defaults on any loans or of any other cause incidental to the administration or operation of the loan program under this section.

(J) The [SystemBoard](#) may, to the extent necessary to protect the interests of the [Systemsystem](#), bid for the purchase of any property on which it holds a second mortgage, provided that the bid does not exceed the combined value of the first and second mortgages on the property. Amounts necessary to meet successful bids must be paid from accounts or reserves established by the ~~System Board of Trustees or from the Retirement System Mortgage Loan Fund as cited at title 33 Virgin Islands Code, section 3026.~~

(K) No member who has obtained a loan under subsection (b), the amount of which is less than the limit provided in subsection (d) hereof, may be prohibited because of the loan from obtaining an additional loan for an amount which, when added to the amounts outstanding on any other loan or loans under this subdivision, would not exceed the limit provided in subsection (b) of this section.

(L) Nothing in this subsection shall prohibit two or more members from obtaining loans as individual members on the same property, provided that the value of the property exceeds the combined loans and the income and credit of each applicant justifies the amount of the loan to that applicant.

(M) If that a member fails to provide evidence of property insurance coverage of the system's collateral interest in the mortgaged property, the ~~System Board of Trustees~~, upon thirty days' written notice to the member, shall place the member's mortgage into the forced-placed protection program to protect the ~~System's system's~~ mortgage interest in the mortgaged property.

(N) The ~~System system~~ shall recover the cost of the forced-placed insurance premium in the following manner: (i) the member may pay the cost of the premium in full within ten days of the notice of the ~~System's Board's~~ payment of the forced-placed insurance premium; or (ii) the cost of the forced-placed premium shall be added to the unpaid mortgage principal at an amortized interest rate that is consistent with the mortgage interest rate applicable for that particular mortgage category on the date that the premium is added to the principal.

(12) Chattel mortgages to members or retirees of the ~~System system~~ shall be given, subject to the rules and regulations as the Board may prescribe, and consistent with the following conditions:

(A) Chattel mortgages shall be made for the purchase of new automobiles, new passenger carrying trucks, vans, and new motorcycles or other new passenger-carrying type vehicle.

(B) Interest on the loans must be set in advance, from time to time, by the Board and shall be repayable in no more than five years.

(C) The total amount of a chattel mortgage on the purchase of a new automobile may not exceed ~~\$18,000~~\$40,000.

(D) The chattel mortgage must be recorded with the Recorder's Office and the Virgin Islands Police Department (VIPD) of the respective district and shall be noted on the certificate of title of the vehicle when purchased.

(E) The chattel mortgage must be secured by the new automobile for which the loan is being obtained and the member shall insure the automobile for which the loan is made with comprehensive coverage for no less than the value of the system's loan on the vehicle and the insurance policy shall make the system as beneficiary to the extent of its lien.

(F) The ~~System Board~~ may not determine that members or retirees who are otherwise qualified to obtain a loan under this paragraph (12) are ineligible for a loan for the sole reason that the vehicle will be used, in whole or in part, as a taxicab.

(G) The Board shall promulgate concerning the granting of a chattel mortgage for the purchase of a new automobile. The regulations must include, but not be limited to, down payment requirements for the loans.

(H) If a member fails to provide evidence of comprehensive automobile insurance coverage to the system for the collateral interest in the chattel mortgage, the ~~System Board of Trustees~~, upon thirty days' notice to the member, shall place the member into the forced-placed automobile insurance protection program to protect the system chattel mortgage interest in the automobile.

(I) The ~~System~~ shall recover the cost of the forced-placed automobile insurance premium in the following manner: (a) the member may pay the cost of the forced-placed automobile insurance premium in full within ten days of notice of payment by the ~~System Board~~ of the forced-plan automobile insurance premium; or (b) the cost of the forced-placed automobile insurance premium shall be added to the unpaid chattel mortgage principal at an amortized interest rate that is consistent with the chattel mortgage interest rate applicable to automobile loans on the date that the premium is added to the principal.

(13)

Personal loans to members who have retired and are entitled to annuities, provided such loans do not exceed \$50,000. Retired members are allowed to refinance an existing personal loan once per fiscal year in accordance with the rules established by the Board. The Board shall prescribe rules and regulations for the issuance of such loans which insure a reasonable repayment schedule, at least three collateral options, and rate of interest not less favorable to the recipient as the rate charged for personal loans to members who are not retired. No member who has retired shall be denied a personal loan because of his or her age, race, sex, color, creed, national origin or political affiliation. This payment shall include a charge for insurance on loans against death which developments shall effect a cancellation of any unpaid balance of a loan and accrued interest thereon. The loan authorized under this paragraph shall be payable within a 10 year period.

~~Personal loans to members who have retired are entitled to annuities, if the loans do not exceed \$10,000 and that the recipient has no other outstanding personal loan from the system. The Board shall prescribe rules and regulations for the issuance of the loans which insure a reasonable repayment schedule, at least three collateral options, and a rate of interest not less favorable to the recipient than the rate charged for personal loans to members who are not retired.~~

(14) Subject to such rules and regulations as the Board may prescribe; provided that the rules and regulations do not prevent the member from obtaining a loan for the construction of a house pursuant to the provisions of paragraph (11), loans to members of the system solely for the purchase of land must be consistent with the following:

(A) Loans given for the purchase of land may be secured by a first priority mortgage. For the purpose of a securing a construction loan, the Board may consent to subordinate its interest in the first priority mortgage to a private lending institution.

(B) No land loan may exceed \$50,000.

(C) Notwithstanding the age of the member, the loan authorized under this subsection may extend for a fifteen year period.

(D) Any loan made pursuant to the provisions of this paragraph must be limited to the purchase of land on which the borrower intends to construct his principal place of residence.

(E) The provisions of paragraph (11) of this section pertaining to loan administration, the Retirement System Mortgage Loan Fund, interest rate, and repayment are applicable to loans made pursuant to this subsection to the extent they are consistent with this chapter.

(15) Real property purchased and/or developed by the Board for sale for homeownership purposes, provided, that members of the ~~system~~-System shall have preference in the purchase of any such real property from the Board.

(16) Bonds or other indebtedness issued by foreign governments or foreign corporations provided that (a) these securities bear a BBB-“B” rating or better by any two internationally known securities rating concerns, and (b) not more than 2-5 percent of total investments shall consist of any one issue of ~~these~~-these bonds, excluding Germany, Canada and Australia. The aggregate amount to have invested in foreign bonds shall be limited to 40-3 percent of the market value of the total investments of the system-~~on the date the investment is made~~.

(17) If the Board determines ~~during any fiscal year~~ that compliance with this section will result in lower overall anticipated earnings for the ~~fund~~-System than ~~are would be~~ obtainable from alternative investment opportunities that would ~~provide equal or lead to~~ superior security total portfolio performance, including guarantee of yield, the Board may substitute those ~~higher yielding~~alternative investments, to the extent actually available for acquisition, for the investments otherwise specified by this section. Additionally, if adherence to the diversification guidelines specified in this section would conflict with the Board's fiduciary obligations, or would conflict with the ~~standards for prudent investment of the fund~~“Prudent Investor Standard”, the Board may ~~substitute alternative investments~~deviate from the guidelines provided in this section. ~~In that case, the Board shall estimate the amount of funds available for investment in substitute alternative investments and the amount of funds invested pursuant to this section and shall submit a statement with regard to alternative investments, reporting the description of the type, quantity, and yield of the investments substituted in its annual report to the Legislature.~~ All investment decisions made pursuant to this section shall be made in accordance with the prudent investor standard.

(18) Notwithstanding any other provision of law, the Board of Trustees may establish the loan lending limits for all categories of loans to members.

(19) **Alternative Investments.** The Board of Trustees may administer the investment portfolio programs of the system including the Alternative Investment Programs.

(A) General; definitions. Alternative Investments are investment opportunities that have not been identified by the traditional public equity or fixed income capital markets. The alternative asset class offers the potential for significantly greater returns than those available in the public markets. The returns are commensurate with risk presented by the class, the as [sic] liquidity, lack of standard historical evaluation data, use of derivative securities and leverage.

Examples of the type of investments considered as alternative or non-traditional investments are:

(i) Private Equity

Venture Capital

Mezzanine

Acquisition/Buyouts

Restructuring

Subordinated Debt

Special Situations

(ii) Natural Resources

Oil and Gas

Agriculture

(iii) Managed Futures/Commodities

Active

Indexed

Long-Only and Long/Short

(iv) Hedge Funds and Portfolio Overlay

Macro

Long/Short

Event-Driven

Market Neutral

(v) Real Estate

(vi) Financial Futures

(vii) Swaps, to include, interest Rate Swaps and Credit Default Swaps

(viii) Financial Options and swap options

(vix) Non USD currency exposure

(x) Currency forwards

The instruments identified in vi-x above shall not apply to the fixed income portfolio 10% maximum.

(B) Types of Alternative Investments - definitions.

(i) Early-stage means companies that do not have material and sustainable revenues from operations. Early-stage companies frequently have not achieved profitability.

(ii) Intermediate-stage means companies that have achieved success in generating meaningful levels of revenues and are in a revenue/market growth phase with the expectation of achieving profitability. However, due to the heavy capital requirements needed to support growth, these companies may experience negative cash flows.

(iii) Late-stage means companies in development when the rate of growth is slowing but the business is established. Late-stage companies are expected to demonstrate profitability and positive cash flow. These companies often have a dominant position in their primary markets.

(iv) Mezzanine Funds means funds which include investments in subordinated debt or equity of public owned companies. They combine features typically associated with debt instruments, including current income and covenant protections, with the opportunity to enhance returns through warrants, conversion rights or options.

(v) Buyouts/Acquisitions means partnerships which provide funding to acquire majority or controlling interests in a business or product lines from either a public or private company.

(vi) Restructuring/Recovery means investments made in distressed or poorly performing companies, with the intent of initiating a recovery via financial restructuring or the introduction of management expertise. Partnership investments may include debt or equity securities.

(vii) International means funds that make the majority of their investments by strategy and policy outside of the United States.

(viii) Managed Futures means the management of contracts involving the obligations to purchase, or deliver, a specified commodity or financial instrument at a specified price at some specific future period.

(ix) Hedge Funds means partnerships that use investment and risk management skills to seek positive returns regardless of market direction.

(x) Market Neutral Strategies means investments wherein both long and short positions are taken by the manager, and as long as the long position outperforms the short position, market returns have no bearing on the outcome.

(xi) Subordinated Debt means a debt obligation that has unsecured junior claims to interest and principal subordinated to ordinary debentures or other debt obligations of the issuing corporation.

(xii) Special Situations means unusual investment opportunities due to some special development, i.e. a merger, oil discovery, new product development, etc., that is expected to

most favorably affect the earnings outlook for the public's psychology with respect to the prospects for a particular company.

(xiii) Venture Capital means capital that is subject to more than a normal degree of risk, usually associated with a new business or venture, made either directly or indirectly in a commingled fund.

(xiv) Real Estate means real estate wherever situated and shall include investments in real estate trust.

767. Financing

(a) The various obligations of the ~~system~~ System may be financed in accordance with actuarial reserve requirements from contributions by members, contributions by the employer, interest income, and other income accruing to the ~~System~~ system. From time to time, the ~~System Board~~ shall actuarially calculate the rate of contribution for members and employers of the ~~System~~ system and ~~recommend to the Governor and Legislature~~ make the necessary ~~any~~ adjustments in contributions ~~rates~~.

(b) Each employee who is a member of the Government Employees' Retirement System shall contribute a percentage of compensation as follows:

(1) Regular members must pay a rate of ~~82.5%~~ of his compensation for FY2014, 10.5% for FY2015, and 11.5% for FY2016. Thereafter, the rates shall be established by the Board of Trustees.

(2) Any police officer, firefighter, including a firefighter or police officer employed by the Virgin Islands Port Authority, marshal of the Supreme and Superior Court, or corrections officer, eligible employees with the Virgin Islands Water and Power Authority, and eligible employees working with chlorine, sewage or carcinogens must pay a rate of 11.625% of his compensation for FY2014, 12.625% for FY2015, 13.625% for FY2016. Thereafter, the rates shall be established by the Board of Trustees.

(3) The employer shall contribute an amount paid upon a percentage of employees' compensation of 1420.50% for FY2014, 23.50% for FY2015, 26.5% for FY2016, 29.5% for FY2016, 32.5% for FY2017, 35.5% for FY2018 and 38.5% for FY2019. Thereafter, the rates shall be established by the Board of Trustees.

(c) The employee contribution must be made in the form of a deduction from compensation, and must be made notwithstanding that the compensation paid in cash to the employee shall be reduced thereby below the minimum prescribed by law.

(d) Every employee who is a member of the system shall be deemed to consent to the deduction made from his compensation, and payment to the employee of compensation less the deduction shall constitute a full and complete discharge and acquittance of all claims and

demands whatsoever for the services rendered by the employee during the period covered by the payment, except as to the benefits provided under this chapter.

(e) A computation must be made ~~bi~~-annually of the actuarial reserve requirements for the several annuities and benefits provided in this title for members and the beneficiaries for services rendered, and to be rendered, by the members.

(f) The employer shall make contributions that, together with the member's contributions and the income of the system, will be sufficient to provide adequate actuarially-determined reserves for the annuities and benefits herein prescribed.

(g) The employer shall contribute the amount of its employee's compensation as shall be determined by the Board of ~~Trustee[s]~~Trustees beginning with the first pay period thirty days after the enactment of this chapter.

(h) The employer and employee contributions must be paid into the system within ~~twenty-one~~ten days of each payroll period.

(i) The amounts contributed by the employer on behalf of an employee may not be considered as the employee's contributions for any purpose.

(j) The employer shall, in addition to any other contributions and payments to the system required by law, contribute to the system the sums as may be required to compensate the system for the costs of any special early retirement program. The system may refuse to pay any special early retirement entitlement claims if the employer fails to pay the contribution to the special early retirement program.

(k)

(l) The System shall not pay benefits to any member unless the employee's and the employer's contributions adequately finance benefits and related costs provided under this chapter. The system may not pay benefits to an employee unless his and the employer's contributions adequately financed benefits and related costs provided under this chapter.

767a. Retroactive contributions by certain persons eligible for early retirement

Any person eligible who elects to participate in the early retirement program shall contribute any additional amounts to the retirement system as required by rules and regulations adopted by the Board with respect to retroactive payments. The Board shall adopt rules and regulations regarding a schedule of additional contributions to be paid by such persons. The schedule may be established so as to take into consideration the reduced amounts of contributions actually made by the employee to the retirement system.

767b. Election available to eligible employees

Notwithstanding the provisions of this chapter, participation in any early retirement program shall be voluntary for eligible employees as defined in this chapter. Any person eligible for early retirement may elect within one (1) year of eligibility to participate in the regular retirement program with contributions as a percentage of compensation established by law or the Board. If the person eligible for early

retirement becomes a participant in the early retirement program, the person shall pay the difference in contributions retroactive to the original date of their commencement of employment, including interest. The member shall pay to the system the contributions and the interest on the unpaid balance if the member elects to deposit on an installment basis. If the member elects to pay on an installment basis, the member shall have the maximum of thirty-six (36) months before any retirement benefits are received to pay the contributions and the applicable interest.

~~Notwithstanding the provisions of this chapter, participation in any early retirement program shall be voluntary for eligible employees as defined in this chapter. Any person eligible for early retirement may elect to participate in the regular retirement program with contributions established at 8.5% of compensation. If the person eligible for early retirement becomes a participant in the early retirement program, the person shall pay the difference in contributions retroactive to the original date of their commencement of employment.~~

767c. Transfers of eligible employees

(a) A member who is participating in the early retirement program and subsequently transfers to a position that generally would not qualify him to participate in the early retirement program, he may, if he already has accrued ten years of credited service in the eligible position, continue to contribute at the rates charged to members working in eligible positions, and continued payment of the rates shall qualify him to receive any benefit provided in the early retirement program.

(b)

A member in a position that does not qualify him as a person eligible for early retirement who is transferred to a position so eligible may elect within one (1) year of eligibility to contribute at the additional rate of compensation. The employee shall be required at the time he becomes eligible for early retirement or at the time he elects to participate, pursuant to section 767(b) of this chapter, to pay retroactive contributions for credited service to the time he makes the election to pay for the difference between the rates for the time he seeks credit. The member shall pay to the system the contributions and the interest on the unpaid balance if the member elects to deposit on an installment basis. If the member elects to pay on an installment basis, the member shall have the maximum of thirty-six (36) months before any retirement benefits are received to pay the contributions and the applicable interest.

~~A member in a position that does not qualify him as a person eligible for early retirement who is transferred to a position so eligible may elect to contribute at the additional rate of compensation for which he shall receive full benefits after twenty years of credited service, if that the employee has been eligible and paying at the higher rate for a[t] least ten years. The employee shall be required at the time he becomes eligible for early retirement or at the time he elects to participate, pursuant to section 767(b) of this chapter, to pay retroactive contributions for credited service to the time he makes the election to pay for the difference between the rates for the time he seeks credit.~~

767d. Persons eligible for early retirement; definition

For the purposes of sections 767a through 767d of this chapter, persons eligible for early retirement means a police officer, firefighter, including a firefighter employed by the Virgin Islands Port Authority, marshals of the Superior Court [and Supreme Court](#), ~~and~~ correction officers, [eligible employees with the Virgin Islands Water and Power Authority, and eligible employees working with chlorine, sewage or carcinogens.](#)

~~Added Nov. 2, 2005, No. 6794, 29, Sess. L. 2005, p. 433.~~

768. [Reserved.]

769. [Reserved.]

770. [Reserved.]

770a. [Reserved.]

770b. Annuity and benefit payments

(a) The right of any member or other beneficiary to an annuity, benefit or refund accrues as of the date of enactment of this chapter.

(b) Except as otherwise provided, any annuity provided herein is payable for life in equal semi-monthly installments on the fifteenth and last day of each month from the beginning date fixed by the Administrator.

(c) An administrative fee may be charged for that portion of the month when the annuity or benefit payment begins after the first day of the month or ends before the last day of the month.

(d) No annuity or benefit may be increased, decreased, revoked or repealed, except for error, or where specifically otherwise provided by this chapter.

Added Nov. 2, 2005, No. 6794, 29, Sess. L. 2005, p. 433.

~~**770c. [Reserved.]**~~

770d. Exemption of rights from legal process; unassignability

(a) Except as specifically provided otherwise in this chapter and subject to subsection (b), the rights of a person to any annuity or benefit or right accrued or accruing to any person under the provision of this chapter and the various monies in the system created by this chapter, are hereby exempted from levy and sale, garnishment, attachment, or any other legal process whatsoever, and are unassignable.

(b) Notwithstanding subsection (a) of this section, the rights and benefits provided in this chapter are assignable only pursuant to actions for the support of a child, spouse, or other dependent, as ordered by any court of competent jurisdiction.

~~Added Nov. 2, 2005, No. 6794, 29, Sess. L. 2005, p. 433.~~

~~770e. [Reserved.]~~

~~770f. [Reserved.]~~

~~770g. [Reserved.]~~

~~770h. [Reserved.]~~

~~770i. [Reserved.]~~

770j. Accumulated sick leave

(a) Any member having accumulated unused sick leave at date of retirement is entitled to service credit towards the service retirement annuity to which the member may be entitled. The credit for accumulated unused sick leave is one month for any period of fourteen to twenty-six days inclusive of the leave and one-half month for any period of five to thirteen days inclusive; except that, the credit for accumulated and unused sick leave is one year for any period consisting of 2,080 hours. Less than five days of unused sick leave may not be considered for the credit.

(b) Any member seeking to convert his accumulated sick leave to credited service, pursuant to subsection (a) of this section, shall pay to the system the combined rate of contribution for the employer and employee in effect at the time he seeks to have the accumulated sick leave converted to credited service. The member also shall pay to the system interest, as determined by the Board of Trustees, based on information submitted by the system's actuarial consultant.

~~770k. [Reserved.]~~

770(l). Coverage for members of the Judiciary

(a) [Deleted.]

(b) Each person who becomes a member of the Judiciary after the date of enactment of this chapter, who is not a participant by previous appointment, shall automatically become a member of the system and be subject to compensation deductions hereunder, unless within 90 days from the date he becomes a member of the Judiciary, he files with the Administrator a written notice of election not to participate.

(c) Participation in the system on the part of any member of the Judiciary continues until the date he becomes an annuitant, dies, or accepts a refund of his contributions thereto.

(d) Notwithstanding the provisions of this chapter, proportionate contributions must be made by each member of the Judiciary who has completed six years of service, if the member elects to receive pension credit for any period for which the member was not covered by the system. However, the proportionate contributions must be made retroactively for the respective period of service, with the contributions being an amount that shall be determined by the Board of Trustees.

(e) The rate of contribution to the System on the part of a member of the Judiciary who becomes a member of the system shall be as follows:

Contribution rate for new judges to 17%.

Contribution rate for sitting judges to 15% at beginning of the next term.

Contribution rate for sitting judges to 16% at beginning of second year of new term.

Contribution rate for sitting judges to 17% at beginning of third year of new term.

Thereafter, the rates shall be established by the Board of Trustees.

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These rates apply to service rendered beginning from the first date of the member's term as a Judge of the Superior Court or Supreme Court of the Virgin Islands.

~~The rate of contribution to the system on the part of a member of the Judiciary who becomes a member of the system shall be determined by the Board of Trustees. This rate applies to service rendered beginning from the first date the member takes the oath of office as a member of the Superior Court of the Virgin Islands. For purposes of this chapter, service as a member of the Judiciary during any part of a calendar year is deemed to be a year of credited service; provided, that contributions are made for full calendar year.~~

(e) (1) In the computation of total credit for prior service or membership service, nine months or more of service shall constitute one year of service; six to eight months inclusive, shall constitute three-quarters (.75) of a year; three to five months inclusive, shall constitute one-half (.50) of a year; less than three months shall constitute one-quarter (.25) of a year not more than one year service credit shall be granted for all service rendered during a fiscal year. Fifteen days or more of service during any month shall constitute a month of service; five to fourteen days inclusive, shall constitute one-half (.50) of a month; less than five days, inclusive, shall constitute one-quarter (.25) of a month.

(f) Notwithstanding any other law, the conditions governing eligibility for service retirement for any member of the Judiciary and the amount of the annuity are as stated in this section as follows:

(1) Vesting in a service retirement annuity attaches upon completion of one term. Any member is eligible for a judicial annuity beginning at age 50, and age 55 for any new member

~~with less than ten (10 years of service as of October 1, 2012, service retirement beginning at age 50 on a judicial annuity~~ equal to rates to be determined by the Board of Trustees.

~~(2) A member of the Judiciary must receive credit at the rate of 5% for any fractional portion of any term that has not been completed. As it applies to this subsection, fraction portion means no less than one calendar year during any particular term.~~

(3) For the purposes of this subsection, the term compensation means the highest rate of compensation, received by that member of the Judiciary during his tenure and shall increase only as provided under this chapter.

(g) In the case of any member of the Judiciary who becomes separated from service before he completed an aggregate of one term as a member of the Judiciary, the total amount paid by the member, shall upon his application, be returned to him or the judicial service shall be credited to the member's service a[s] provided in the provisions of this chapter. No member of the Judiciary may thereafter receive credit for the service unless he again becomes a member of the Judiciary and pays back into the system the amount so returned. The member shall pay to the system the income the system would have earned had those contributions been paid to the system during the member's separation from service, to include any applicable interest.

(h) Nothing contained in this chapter may be construed to prevent any person eligible therefor from simultaneously receiving an annuity computed on the basis of years of service other than as a member of the Judiciary and an annuity computed in accordance with the section; nor may anything contained in this chapter be construed to prevent a member of the Judiciary from receiving, while serving in the Judiciary, an annuity for non judicial service.

(i) As used in this section, the term Judiciary means the Judges of the Superior and Supreme Court of the Virgin Islands, and the Magistrates of the Superior Court.

(j) In no case may service other than as a member of the Judiciary be considered service for the purposes of this section, nor may service as a member of the Judiciary be considered service for the purpose other than as specified in this section.

(k) [Deleted.]

(l) No credited service benefit may be paid to any member of the judiciary until the system has received retirement contributions payments from the employer and employee.