

20 NCAC 02C .0212 is proposed for adoption as follows:

**20 NCAC 02C .0212 LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM
OVERPAYMENT SAFE HARBOR**

(a) The following causes of overpayments are not entirely due to administrative error on the part of the Retirement Systems Division:

- (1) The beneficiary received, but did not repay to the Retirement System, a benefit from the Social Security Administration, the U.S. Department of Veterans Affairs, other federal agency payments, Workers' Compensation, or the State's military disability program under G.S. 127A-108, where such benefits are required by law to be offset from Retirement System benefits, or where repayment of such benefits was agreed upon as a condition of approval for benefits from the Retirement System.
- (2) The beneficiary, the beneficiary's employer, or the beneficiary's authorized agent submitted information on an official form to the Retirement Systems Division, either on paper or electronically, that differed from the information ultimately used to determine the eligibility for, or amount of, benefits due.
- (3) The Retirement Systems Division requested information necessary to initiate or continue the payment of benefits, by sending a letter to the mailing address that the beneficiary, the beneficiary's employer, or the beneficiary's authorized agent on file with the Retirement Systems Division, allowing at least three weeks between the date of the letter and the date for a response to be received, and the Retirement Systems Division did not receive a response by the time requested.
- (4) A State or local government agency reported information to the Retirement Systems Division, including employment status, dates of service, or amounts of compensation, which changed the eligibility for, or amount of, benefits due to the beneficiary.
- (5) The beneficiary experienced a forfeiture of creditable service for having been convicted of a felony under the provisions of G.S. 128-38.4 or G.S. 128-38.4A.

(b) The Retirement Systems Division may initiate a review of the facts and circumstances related to the origin of any overpayment from the Retirement System, with the purpose of determining if the overpayment was entirely due to administrative error on the part of the Retirement Systems Division and therefore eligible for the alternate repayment terms of G.S. 128-31(c1). Additionally, the Director of the Retirement Systems Division shall, upon receipt of a written request by a beneficiary, beneficiary's employer, or the beneficiary's authorized agent, initiate such a review. If the Director determines the overpayment is not entirely due to administrative error on the part of the Retirement Systems Division, the Retirement Systems Division shall issue a letter to the requestor setting forth the reason or reasons for the denial. The Director shall make determinations on such requests pursuant to the authority provided under 20 NCAC 02A .0103.

History Note: Authority G.S. 128-31(c1)