



# RETIREMENT FACT SHEET

## SAME SEX BENEFITS

### DEADLINE EXTENDED TO NAME YOUR PARTNER AS YOUR SPOUSE

If you were with your same sex partner but were unable to get a marriage license before your retirement, you may still be able to name your spouse as your pension plan beneficiary. In 2015 the ERF Board passed a resolution allowing couples the opportunity to add a spousal beneficiary if they submitted the paperwork by December 31, 2016. In order to better serve those who were impacted by recent changes in the law, that deadline has now been extended to December 31, 2017.

To retroactively name your spouse, you must file a Declaration and Registration of Informal Marriage with the County Clerk indicating the date on which you began living together as a married couple. You must then submit a copy of your Declaration and a Retirement Re-Application form to ERF. If you complete this process by December 31, 2017, ERF will recognize your pre-retirement marriage even if your Declaration was issued after retirement.

Beginning in 2018, your spouse will have the right to a monthly pension benefit only if your marriage license or declaration was issued before your retirement date. If you have any questions, call ERF at 214-580-7700.



### WHAT DOCUMENTATION WILL MY SPOUSE AND I NEED TO COMPLETE THE RE-APPLICATION?



If you would like the opportunity to adjust your retirement benefits, you will need to provide the following:

- The Re-Application for Retirement Pension Authorized by ERF Resolution 2016-1
- Marriage License or Registration of Informal Marriage
- Spouse's Proof of Birth (i.e. Birth Certificate, Passport, Certificate of Naturalization, etc.)
- Spouse's Social Security Card

### WHAT IS THE REPAYMENT PROCESS TO CHANGE THE BENEFITS?

If you elect the Joint & 100% option, your monthly pension amount will be reduced and you will owe an additional amount determined by the actuary. You may pay the amount in full or establish a repayment agreement with the Fund, permitting installments over a period not to exceed 60 months.

There is no upfront cost and no reduction to your monthly pension amount associated with the Joint 50% survivor option.

# Re-Application for Retirement Benefits

## RE-APPLICATION FOR RETIREMENT BENEFITS FROM THE EMPLOYEES' RETIREMENT FUND OF THE CITY OF DALLAS PURSUANT TO ERF RESOLUTION 2015-1

THE STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

WHEREAS, I, \_\_\_\_\_, am a retired member of the Employees' Retirement Fund of the City of Dallas (the "Fund"); and

WHEREAS, I did not receive a joint and last survivor annuity with my spouse at the time of my retirement, even though the marriage to my spouse was valid in the jurisdiction in which the marriage occurred, because the marriage was not recognized under Texas law; and

WHEREAS, I am still married to the same person to whom I was married at retirement, under the law of the jurisdiction in which the marriage occurred, and I now wish to re-apply for a joint and last survivor benefit pursuant to ERF Resolution 2015-1 which changes the definition of "Spouse" to mean the person to whom the member, inactive member or retiree is married, as evidenced by the last marriage certificate or declaration of common law marriage on file with the Fund and verified by the Fund to be valid in the jurisdiction in which the marriage was celebrated; and

WHEREAS, I understand that my monthly retirement pension will be reduced if I apply for a joint and one hundred percent survivor pension with my spouse and such application is granted by the Fund; and

WHEREAS, I further understand that, if the Texas ban on same-sex marriage is upheld by the United States Supreme Court, this Re-Application will be cancelled with any payments received hereunder by my spouse repayable to the Fund to the extent they exceed the payments I have made under this Re-Application; and, if applicable

WHEREAS, I have provided to the Fund:

- 1) Initialed copy of the computation of the change to my monthly pension and repayment obligation (if applicable);
- 2) Certified copy of my Marriage License or Declaration of Common Law Marriage;
- 3) Certified copy of my spouse's Birth Certificate or other proof of age; and
- 4) Certified copy of my spouse's Social Security Card.

NOW THEREFORE, my spouse and I request that the Fund approve this Re-Application for [check only one]:

- Joint and fifty percent (50%) survivor pension, which will result in no additional cost to me and will allow my spouse to receive a lifetime survivor pension if I predecease him/her equal to fifty percent of the pension I was receiving.

- Joint and one hundred percent (100%) survivor pension which will allow my spouse to receive a lifetime monthly survivor pension if I predecease him/her equal to the same monthly pension I was then receiving. This option will result in a reduction in my pension from the current \$\_\_\_\_\_ per month to \$\_\_\_\_\_ per month plus a total repayment obligation of \$\_\_\_\_\_, which I agree to repay in \_\_\_\_\_ monthly installments of \$\_\_\_\_\_ each.

Section 802.1024 of the Texas Government Code requires Texas public retirement systems, such as the Fund, to correct errors in the records of the system that have resulted in a person receiving more or less money than the person is entitled to receive.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Signature of Retiree (required)

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Signature of Spouse (required)

\_\_\_\_\_  
Social Security Number

THE STATE OF \_\_\_\_\_ §  
  §  
COUNTY OF \_\_\_\_\_ §

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ and \_\_\_\_\_, who, under oath stated that the above and foregoing Re-Application for Retirement Benefits, including the Indemnity Agreement, is given for the purpose and consideration stated therein; that it is in all respects true and correct, and that they make this Re-Application for Retirement Benefits and Indemnity Agreement with the knowledge that the Employees' Retirement Fund of the City of Dallas will rely thereon.

SUBSCRIBED AND SWORN TO BEFORE ME on this \_\_\_\_\_ day of \_\_\_\_\_, 2015 to certify which witness my hand and seal of office.

\_\_\_\_\_  
\_\_\_\_\_

Notary Public in and for the State of \_\_\_\_\_

Printed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



**RESOLUTION NO. 2016-1**

**TEMPORARY PROCEDURE REGARDING RECOGNITION OF MARRIAGES**

**BOARD OF TRUSTEES  
EMPLOYEES' RETIREMENT FUND OF THE CITY OF DALLAS**

**November 8, 2016**

WHEREAS, pursuant to Section 40A-4 of the Dallas City Code, the Board of Trustees (the "Board") has the power and duty to administer the Employees' Retirement Fund of the City of Dallas (the "Fund") in accordance with Dallas City Code Chapter 40A (Chapter 40A) and adopt rules and regulations not inconsistent with Chapter 40A and the Constitution and laws of the State of Texas and to the extent applicable of the United States; and

WHEREAS, the Texas Family Code prescribes procedures for entering into a ceremonial marriage, recognizes informal marriages (sometimes called common law marriages) and provides a procedure, at Section 2.402, for the declaration and registration of such informal marriages; and

WHEREAS, a surviving spouse of a retiree, and of certain active or inactive members of the Fund, becomes entitled to a life annuity unless the retiree, active member or inactive member has selected another eligible person to receive the life annuity and the spouse has consented to the selection; and

WHEREAS, if a retiree marries after retirement, the spouse of that marriage is not eligible for a survivor annuity, or for any other death benefit, except as the retiree's heir or designee; and

WHEREAS, effective April 1, 2015, the Fund adopted Rules of Procedure and Practice Regarding Determination of Marriage whereby the Fund will treat a person as a surviving spouse of a member, inactive member or retiree only if the Fund is provided with a valid copy of a Certificate of Marriage or a Declaration of Registration of Informal Marriage that was issued before the termination of employment of the member, inactive member or retiree. There must also be no evidence that such marriage had been annulled or ended by divorce; and

WHEREAS, the Supreme Court of the United States issued an opinion on June 26, 2015, in the case of Obergefell v. Hodges that requires all states to recognize otherwise valid marriages between persons of the same sex; thereby enabling some couples to marry or have their out-of-state marriages recognized in Texas; and

WHEREAS, the Board desires to afford an opportunity for all members, inactive members and retirees, including those who were prevented by Texas state law from entering into a ceremonial marriage, from having an out of state ceremonial marriage from being recognized in Texas or filing a Declaration and Registration of Informal Marriage before June 26, 2015, to obtain recognition of a marriage that occurred before that date;

WHEREAS, the Board previously afforded an opportunity for a person to be treated as a surviving spouse of a member, inactive member or retiree, if, on or before January 1, 2017, the Fund was provided a copy of either: (i) a Certificate of Marriage issued before the retirement of the member, inactive member or retiree that was valid when issued, or (ii) a Declaration and Registration of Informal Marriage whenever issued.

WHEREAS, the Board believes that there may be some additional persons who may still desire to apply or re-apply and believes it is prudent to extend by one year the original date by which the Fund would accept a Declaration of Common Law Marriage whenever issued if both parties to the marriage have asserted on the Declaration that the marriage occurred before the retirement of the member, inactive member or retiree.

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Trustees of the Employees' Retirement Fund of the City of Dallas adopts the following procedures regarding marriages:

The Board extends the previous date of January 1, 2017 to January 1, 2018, the Rules of Procedure and Practice Regarding the Determination of Marriage will be modified as follows: The Fund will treat a person as a surviving spouse of a member, inactive member or retiree if the Fund is provided with either:

1. A copy of a Certificate of Marriage of the couple that was issued before the retirement of the member, inactive member or retiree and was valid when issued in the state or country of issuance; or
2. A Declaration and Registration of Informal Marriage whenever issued if both parties to the marriage have asserted on the Declaration that the marriage occurred before the retirement of the member, inactive member or retiree.

On and after January 1, 2018, the Rules of Procedure and Practice Regarding the Determination of Marriage will be applied and the Fund will not treat a person as a surviving spouse of a member, inactive member or retiree unless the Fund is provided with a copy of a valid Certificate of Marriage or Declaration and Registration of Informal Marriage that was issued before the retirement of the member, inactive member or retiree.

The member or survivor shall be responsible for providing evidence to the Fund of the existence of a marriage; and

The Fund will maintain in its files copies of Marriage Certificates, Declaration and Registration of Informal Marriages, Divorce Decrees and other evidence of marriage and divorce of members, inactive members and retirees.


EMPLOYEES' RETIREMENT FUND OF THE CITY OF DALLAS

  
\_\_\_\_\_  
John Jenkins, Board Chair

ATTEST:

  
\_\_\_\_\_  
Cheryl D. Alston  
Executive Director

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Gary Lawson, Esq.  
Strasburger & Price, LLP