

## **Marriage Dissolution Qualified Domestic Relations Order (QDRO)**

TFFR is a qualified defined benefit public pension plan covered under Section 401(a) of the Internal Revenue Code (IRC). North Dakota Century Code (NDCC) Chapter 15-39.1 and Title 82 of the North Dakota Administrative Code contain the actual language governing the Fund. In simpler terms, your benefits are based on a formula that considers age, service credit and average salary. Your account balance has no bearing in determining your monthly retirement benefits. This is different from a defined contribution plan (like a 401K) which determines benefits based on a total account balance.

For purposes of TFFR, a QDRO is any judgment, decree, or order made in compliance with North Dakota Century Code Chapter 15-39.1-12.2 and North Dakota Administrative Code Article 82-08 relating to spousal support or marital rights affecting a TFFR member's retirement account. A qualified order must follow the model language outlined in Section 82-08-01-03 of the ND administrative code. The TFFR Board must approve the order before it is presented to the judge for signature. If we receive an order signed by the judge and changes are needed, then the parties must return to court to modify the order.

Your pension from TFFR is generally considered a marital asset and is subject to valuation and division in a divorce. TFFR can provide you with your account balance, estimated monthly benefits accrued as of the date of divorce, and a copy of the QDRO model. Since QDROs can become very costly, this information will allow all parties to be fully aware of the options and benefits available. TFFR will not calculate the present value of any future retirement benefit. If you require this computation, you should consult an actuary, accountant, or other financial professional.

Depending on your particular financial situation, you may be able to address the division of your retirement account in another way, such as calculating the present value of your benefits and then dividing other property so you retain sole ownership of your retirement account.

To protect your privacy, all records relating to your TFFR account are confidential and are not a public record. TFFR information may only be disclosed in writing to you, or to your spouse or your former spouse or legal representatives.

A court may order that your former spouse receive a portion of your retirement benefits. This can only be accomplished if the court order is filed and approved by the TFFR Board. This approved order is known as a Qualified Domestic Relations Order (QDRO) and your former spouse is called an alternate payee. Once approved, the order can only be modified by another court order.

(Over)

The court may order a certain percent or dollar amount of the accrued benefits as of the date of divorce be paid to the alternate payee. The actuarial value of the amount paid to an alternate payee will reduce your monthly benefit. An alternate payee may only receive a lump sum payment if you elect a refund of your account value when you terminate TFFR-covered employment. If you elect a monthly payment, the alternate payee would also receive a monthly payment.

The alternate payee will receive the monthly payment for life and elect a payment start date of one of the following:

- When the participating member reaches normal retirement (age 65 or, using only years of service prior to divorce, Rule of 85-Tier 1 member or Rule of 90-Tier 2 member)
- When the participating member reaches early retirement (age 55)
- When the alternate payee reaches a certain date (must be after the member reaches age 55)
- When the participating member retires
- If already retired, the benefits to the alternate payee would begin upon receipt of the order signed by the judge.

If the alternate payee passes away before beginning payment, the entire amount due the alternate payee would revert back to the member. If the death of the alternate payee occurs once benefits begin, payments would cease or continue to the alternate payee's beneficiary to complete a term certain option.

If the member passes away prior to retirement, the alternate payee would receive a percent of the survivor benefits as of the date of divorce unless the alternate payee was already in payment. The percent of survivor benefits is determined when the order is drafted.

If you have an approved QDRO on file and remarry, at your retirement you will still be allowed to use the joint and survivor or term certain options to provide continued benefits to your new spouse.

Any benefit enhancements provided by the North Dakota legislature would be applied to the alternate payee's portion of the benefit payment and would reduce the benefit improvement to you.

ND Retirement & Investment Office  
1930 Burnt Boat Drive  
PO Box 7100  
Bismarck ND 58507-7100  
701-328-9885 or 800-952-2970  
[www.nd.gov/rio](http://www.nd.gov/rio)

Fact Sheet  
July 1, 2009