

Community Property and Divorce

Retirement benefits, including DROP or IBO funds received or accumulated during marriage, are generally considered community property. Any contributions to a retirement plan made during the marriage will also be viewed as community property by a Louisiana court, and may be subject to division.

Louisiana is a community property state. All property and debts acquired during the marriage are typically split equally, unless the spouses have a legally binding agreement or are subject to a court ruling to the contrary. Retirement benefits, including DROP or IBO funds received or accumulated during marriage, are generally considered community property. Any contributions to a retirement plan made during the marriage will also be viewed as community property by a Louisiana court, and may be subject to division. Members should be aware that an ex-spouse might be entitled to a portion of your retirement benefit according to that spouse's community property interest.

LASERS requires that a legally acceptable court order be on file before any community assets are divided. This court order will dictate how your benefits will be divided between you and your

former spouse. If such an order is not presented to the system, the retiree, not LASERS, will be held responsible for the payment of funds which may have been due a former spouse.

Prenuptial Agreements

State law allows spouses to elect to continue under the separate property regime they had as unmarried persons under limited circumstances. If you and your spouse have an agreement known as a marriage contract, marital agreement, or prenuptial agreement, you must provide a certified copy to LASERS. You must also file a notarized affidavit, **Married Members with Separate Property Agreements**, affirming the continuing existence of this agreement. The affidavit is available on LASERS website and should be filed no sooner than 90 days prior to your retirement date.



(20) Photo by Robin Stevens (Please see pages 100-101)

Remarriage

If you have been married multiple times, your retirement benefits might be split with more than one of your former spouses. You should contact an attorney with any questions that you may have.

Common Law Marriages

Louisiana does not recognize common law marriages. A member is not required to split benefits unless they were legally married.

Spousal Consent

If you select an option that does not provide a monthly benefit of at least 50 percent for your spouse or you name a beneficiary who is not your spouse, your spouse must complete [Form 04-04: Spousal Consent](#), and submit the notarized form to LASERS.

Spousal Consent is not required when there is:

- An agreement or court judgment to maintain separate property,
- Judgment of Divorce,
- Interdiction or court order appointing a guardian for your spouse (in which case, the guardian or curator may sign), or
- If you were abandoned by your spouse you must submit:
 - A notarized affidavit attesting to the fact that you have been abandoned and have taken steps to locate your spouse. The methods used to locate your spouse should be detailed in the affidavit, and

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- A certificate from the local newspaper certifying that a legal notice has been run for three days requesting information on the whereabouts of your spouse; or
- A certified Court Order declaring that your spouse is an absentee or has abandoned you.

Garnishment of Pension ([La. R.S. 11:292](#) and [11:405](#))

Retirement benefits or refunds of accumulated contributions paid to a LASERS member, former member, or retiree are generally exempt from garnishment or court-ordered assignment except in the case of a felony conviction or to pay child support or to satisfy a court-ordered community property division ordering child support.