

1972 S.C. Op. Atty. Gen. 59 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3263, 1972 WL 20410

Office of the Attorney General

State of South Carolina

Opinion No. 3263

February 22, 1972

**\*1 A bank which has been named as a general trustee is not a ‘person’ that can be designated as a beneficiary under the South Carolina Retirement Act.**

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Your question as I understand it is whether a bank which has been named as a general trustee by a member of the South Carolina Retirement Act may be designated as a beneficiary to receive the member's accumulated contributions under Section 61–114 and 61–123 of the South Carolina Retirement Act.

Section 61–114 provides that if a member dies in service his ‘accumulated contributions shall be paid to his estate or to such *person* as he shall have nominated . . .’ (Emphasis added).

This language standing alone would seem to suggest that the term ‘person’ might include a legal entity other than a natural person. The South Carolina Retirement Act does not define the term.

‘Person’ is a generic word of a comprehensive nature, which includes human beings and is not a technical term or word of art, but has a simple, ordinary, common, popular meaning, unless inconsistent with the General Assembly's manifest intent or repugnant to the context of the statute in which it is used.’

‘The purpose, subject matter, context, legislative history, and executive interpretation of a statute are aids to construction which may indicate an intent . . .’ Words and Phrases, Vol. 32, *Person*, p. 287.

The Retirement Act has been amended many times. There is little in the way of legislative history to indicate a legislative intent regarding the meaning of this particular term. The context and executive interpretation are about the only reliable aids to interpretation available.

Section 61–114.1 provides that under certain circumstances the ‘beneficiary’ may receive in lieu of a lump sum payment ‘an allowance for life in the same amount as if the deceased member had retired at the time of his death and had named such person as beneficiary under an election of Opinion 2 of Section 61–111.’

Option 2 of Section 61–111 provides an annuity to the beneficiary ‘for the life of the beneficiary.’

The provisions for an option to convert a lump-sum refund into an annuity for the ‘life-time’ of the beneficiary would seem to require that the beneficiary must be a natural person.

The context, therefore, tends to support the executive interpretation referred to in your letter as stated by the Director, to the effect that the benefits may be paid only to the member's estate or to a natural person.

It may well be that had the legislature thought of the matters raised herein, it would have provided that a general trustee could be named as a beneficiary to receive at least a lump sum payment. However, it is the opinion of this office that the context of

the sections discussed above precludes such an interpretation as the law is now written, and the term 'person' as used in the Act is restricted to a natural person.

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