
By: ~~Delegate Bromwell~~ Delegates Bromwell, Boteler, Boutin, Costa, Donoghue, Elliott, Frank, Hammen, Hubbard, Hurson, Kach, Kullen, McDonough, Murray, Oaks, V. Turner, and Weldon

Introduced and read first time: February 11, 2005

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2005

CHAPTER _____

1 AN ACT concerning

2 **Insurance - Individual Deferred Annuities - Minimum Nonforfeiture**
3 **Amounts**

4 FOR the purpose of repealing certain provisions of law relating to minimum
5 nonforfeiture amounts under certain annuity contracts; providing for the
6 calculation of the minimum nonforfeiture amount under an annuity contract;
7 providing for the calculation of and imposing certain conditions on the interest
8 rate used in determining the minimum nonforfeiture amount under an annuity
9 contract; requiring an insurer to provide certain information regarding the
10 redetermination of an interest rate in an annuity contract; providing for the
11 calculation of and imposing certain conditions on certain benefits for certain
12 annuity contracts; authorizing the Maryland Insurance Commissioner to adopt
13 certain regulations; altering a certain provision of law relating to a required
14 provision in an annuity contract; requiring an insurer to make a certain request
15 regarding a certain deferment and specifying the information to be included in
16 the request; authorizing an insurer to make a certain deferment after obtaining
17 a certain approval; providing that a certain payment relieves an insurer of a
18 certain obligation; ~~requiring an insurer to provide a certain statement in certain~~
19 ~~annuity contracts; requiring certain provisions of law to be interpreted in a~~
20 manner consistent with a certain model law; repealing a certain termination
21 provision; and generally relating to minimum nonforfeiture amounts for
22 individual deferred annuity contracts.

23 BY repealing and reenacting, with amendments,

24 Article - Insurance

25 Section 16-503(b), (c), and (g) and 16-510

1 Annotated Code of Maryland
2 (2002 Replacement Volume and 2004 Supplement)

3 BY repealing
4 Article - Insurance
5 Section 16-504(b), (c), and (d)
6 Annotated Code of Maryland
7 (2002 Replacement Volume and 2004 Supplement)

8 BY adding to
9 Article - Insurance
10 Section 16-504(b), (c), (d), and (e) ~~and 16-510~~
11 Annotated Code of Maryland
12 (2002 Replacement Volume and 2004 Supplement)

13 BY repealing and reenacting, with amendments,
14 Chapter 82 of the Acts of the General Assembly of 2003
15 Section 2

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Insurance**

19 16-503.

20 (b) Each annuity contract shall contain a provision that when payment of
21 considerations under the annuity contract stops OR ON THE WRITTEN REQUEST OF
22 THE CONTRACT OWNER, the insurer will grant a paid-up annuity benefit on a plan
23 stipulated in the annuity contract in compliance with §§ 16-505 through 16-509 of
24 this subtitle.

25 (c) (1) Each annuity contract shall contain a provision that if the annuity
26 contract provides for a lump-sum settlement at maturity or at any other time, on
27 surrender of the annuity contract on or before the start of annuity payments, the
28 insurer will pay a cash surrender benefit in accordance with §§ 16-505, 16-506,
29 16-508, and 16-509 of this subtitle instead of a paid-up annuity benefit.

30 (2) (I) The annuity contract ~~shall~~ MAY state that the insurer shall
31 reserve the right to defer the payment of the cash surrender value for up to 6 months
32 after demand for payment with surrender of the annuity contract.

33 (II) 1. BEFORE MAKING A DEFERMENT UNDER SUBPARAGRAPH
34 (I) OF THIS PARAGRAPH, THE INSURER SHALL MAKE A WRITTEN REQUEST TO THE
35 COMMISSIONER TO DEFER THE PAYMENT OF THE CASH SURRENDER VALUE FOR UP
36 TO 6 MONTHS AFTER A DEMAND FOR PAYMENT WITH SURRENDER OF THE ANNUITY
37 CONTRACT MAKE THE DEFERMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

1 (2) Subject to paragraph (3) of this subsection, the net considerations for
2 a given contract year used to calculate the minimum nonforfeiture amount shall equal
3 the remainder of:

4 (i) the corresponding gross considerations credited to the contract
5 during that contract year; less

6 (ii) the sum of:

7 1. an annual contract charge of \$30; and

8 2. a collection charge of \$1.25 per consideration credited to
9 the contract during that contract year.

10 (3) The net considerations for a given contract year may not be less than
11 zero.

12 (4) The percentages of net considerations are:

13 (i) for the first contract year, 65%; and

14 (ii) subject to paragraph (5) of this subsection, for the second and
15 subsequent contract years, 87.5%.

16 (5) The percentage of net considerations is 65% of the part of the total
17 net considerations for any renewal contract year that exceeds by not more than 2
18 times the sum of those parts of the net considerations in all prior contract years for
19 which the percentage was 65%.]

20 [(c) (1) The minimum nonforfeiture amount under an annuity contract that
21 provides for fixed scheduled considerations:

22 (i) shall be calculated on the assumption that considerations are
23 paid annually in advance; and

24 (ii) except as provided in paragraphs (2) and (3) of this subsection,
25 shall be calculated the same as for annuity contracts with flexible considerations that
26 are paid annually.

27 (2) The part of the net considerations for the first contract year to be
28 accumulated is the sum of:

29 (i) 65% of the net considerations for the first contract year; and

30 (ii) 22.5% of the remainder of:

31 1. the net considerations for the first contract year; less

32 2. the lesser of the net considerations for the second and
33 third contract years.

1 (3) The annual contract charge is the lesser of \$30 or 10% of the gross
2 annual considerations.]

3 [(d) The minimum nonforfeiture amount under an annuity contract that
4 provides for a single consideration shall be calculated the same as for an annuity
5 contract with flexible considerations except that:

6 (1) the percentage of net consideration shall be 90%; and

7 (2) the net consideration shall be the remainder of:

8 (i) the gross consideration; less

9 (ii) a contract charge of \$75.]

10 (B) (1) AT ANY TIME BEFORE OR AT THE START OF ~~AN~~ ANY ANNUITY
11 ~~PAYMENT~~ PAYMENTS, THE MINIMUM NONFORFEITURE AMOUNT UNDER AN
12 ANNUITY CONTRACT SHALL EQUAL THE REMAINDER OF:

13 (I) THE ACCUMULATION UNTIL THAT TIME, OF THE NET
14 CONSIDERATIONS PAID PRIOR TO THAT TIME, AT AN INTEREST RATE DETERMINED
15 UNDER SUBSECTION (C) OF THIS SECTION; LESS

16 (II) THE SUM OF:

17 1. ANY WITHDRAWAL FROM OR PARTIAL SURRENDER OF
18 THE CONTRACT ACCUMULATED AT THE INTEREST RATE DETERMINED UNDER
19 SUBSECTION (C) OF THIS SECTION;

20 2. AN ANNUAL CONTRACT CHARGE OF \$50 ACCUMULATED
21 AT THE INTEREST RATE DETERMINED UNDER SUBSECTION (C) OF THIS SECTION;

22 3. ANY PREMIUM TAX ACTUALLY PAID BY THE COMPANY
23 FOR THE CONTRACT, NOT TO INCLUDE A PREMIUM TAX CREDITED BACK TO THE
24 COMPANY, ACCUMULATED AT THE INTEREST RATE DETERMINED UNDER
25 SUBSECTION (C) OF THIS SECTION; AND

26 4. ANY INDEBTEDNESS TO THE INSURER ON THE CONTRACT,
27 INCLUDING INTEREST DUE AND ACCRUED.

28 (2) THE NET CONSIDERATIONS FOR A GIVEN CONTRACT YEAR USED TO
29 CALCULATE THE MINIMUM NONFORFEITURE AMOUNT SHALL EQUAL 87.5% OF THE
30 GROSS CONSIDERATIONS CREDITED TO THE CONTRACT DURING THAT CONTRACT
31 YEAR.

32 (C) (1) THE INTEREST RATE USED TO DETERMINE THE MINIMUM
33 NONFORFEITURE AMOUNTS UNDER SUBSECTION (B) OF THIS SECTION SHALL BE AN
34 ANNUAL RATE OF INTEREST THAT IS EQUAL TO THE LESSER OF:

35 (I) 3% PER YEAR; OR

1 (II) ~~NOT LONGER THAN 15 MONTHS BEFORE THE CONTRACT ISSUE~~
 2 ~~DATE OR THE REDETERMINATION DATE UNDER PARAGRAPH (3) OF THIS~~
 3 ~~SUBSECTION, THE 5-YEAR TREASURY CONSTANT MATURITY RATE REPORTED BY THE~~
 4 ~~FEDERAL RESERVE BOARD AS OF A CERTAIN DATE, OR AN AVERAGE OVER A PERIOD,~~
 5 ~~ROUNDED TO THE NEAREST ONE TWENTIETH OF 1%, REDUCED BY 125 BASIS POINTS~~
 6 ~~THE 5-YEAR CONSTANT MATURITY TREASURY RATE REPORTED BY THE FEDERAL~~
 7 ~~RESERVE BOARD.~~

8 (2) THE 5-YEAR CONSTANT MATURITY TREASURY RATE UNDER
 9 PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE:

10 (I) 1. AS OF A DATE NOT MORE THAN 15 MONTHS BEFORE
 11 EITHER THE CONTRACT ISSUE DATE OR REDETERMINATION DATE; OR

12 2. AVERAGED OVER A PERIOD OF NOT MORE THAN 15
 13 MONTHS BEFORE THE CONTRACT ISSUE DATE OR REDETERMINATION DATE; AND

14 (II) ROUNDED TO THE NEAREST ONE-TWENTIETH OF 1% AND THEN
 15 REDUCED BY 125 BASIS POINTS.

16 ~~(2)~~ (3) ~~THE INTEREST RATE CALCULATED UNDER PARAGRAPH (1)(II)~~
 17 ~~PARAGRAPHS (1) AND (2) OF THIS SUBSECTION MAY NOT BE LESS THAN 1%.~~

18 ~~(3)~~ (4) (I) ~~THE INTEREST RATE CALCULATED UNDER PARAGRAPH (1)~~
 19 ~~PARAGRAPHS (1) AND (2) OF THIS SUBSECTION:~~

20 1. ~~SHALL APPLY TO THE INITIAL CONTRACT PERIOD; AND~~

21 2. ~~MAY BE REDETERMINED FOR ADDITIONAL PERIODS.~~

22 (II) ~~THE CONTRACT SHALL PROVIDE STATE:~~

23 1. ~~THE INTEREST RATE AS REDETERMINED UNDER~~
 24 ~~SUBPARAGRAPH (I) OF THIS PARAGRAPH;~~

25 2. ~~THE VALUE OF THE REDETERMINED INTEREST RATE, IF~~
 26 ~~ANY;~~

27 3. WHETHER THE INTEREST RATE WILL BE REDETERMINED;
 28 AND

29 2. THE INTEREST RATE REDETERMINATION DATE, BASIS,
 30 AND PERIOD, IF ANY; AND

31 4. ~~THE BASIS FOR THE DATE, OR THE AVERAGE OVER A~~
 32 ~~PERIOD, THAT PRODUCED THE INTEREST RATE VALUE BASED ON THE 5-YEAR~~
 33 ~~TREASURY CONSTANT MATURITY RATE.~~

34 (D) (1) DURING THE PERIOD THAT A CONTRACT PROVIDES FOR
 35 SUBSTANTIVE PARTICIPATION IN AN EQUITY INDEX BENEFIT, THE INSURER MAY
 36 INCREASE THE 125 BASIS POINTS UNDER SUBSECTION ~~(C)(1)(II)~~ (C)(2)(II) OF THIS

1 SECTION UP TO AN ADDITIONAL 100 BASIS POINTS TO REFLECT THE VALUE OF THE
2 EQUITY INDEX BENEFIT.

3 (2) ON THE ISSUE DATE OF THE CONTRACT, ~~OR AT~~ AND ON EACH
4 ~~REDEMPTION REDETERMINATION DATE,~~ THE PRESENT VALUE OF THE ADDITIONAL
5 REDUCTION MAY NOT EXCEED THE MARKET VALUE OF THE EQUITY INDEX BENEFIT.

6 (3) (I) THE COMMISSIONER MAY REQUIRE THE INSURER TO
7 DEMONSTRATE THAT THE PRESENT VALUE OF THE ADDITIONAL REDUCTION DOES
8 NOT EXCEED THE MARKET VALUE OF THE EQUITY INDEX BENEFIT.

9 (II) IF THE COMMISSIONER FINDS THAT THE DEMONSTRATION
10 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS INADEQUATE, THE
11 COMMISSIONER MAY DISALLOW OR LIMIT THE ADDITIONAL REDUCTION.

12 (E) (1) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THE
13 PROVISIONS OF THIS SECTION.

14 (2) THE REGULATIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION
15 MAY PROVIDE FOR:

16 (I) ADJUSTMENTS TO THE CALCULATION OF THE MINIMUM
17 NONFORFEITURE AMOUNT FOR CONTRACTS THAT PROVIDE SUBSTANTIVE
18 PARTICIPATION IN AN EQUITY INDEX BENEFIT; AND

19 (II) ADJUSTMENTS FOR OTHER CONTRACTS AS DETERMINED BY
20 THE COMMISSIONER.

21 ~~16-510.~~

22 ~~A CONTRACT UNDER THIS SUBTITLE THAT DOES NOT PROVIDE CASH~~
23 ~~SURRENDER BENEFITS OR DEATH BENEFITS AT LEAST EQUAL TO THE MINIMUM~~
24 ~~NONFORFEITURE AMOUNT BEFORE THE START OF AN ANNUITY PAYMENT SHALL~~
25 ~~INCLUDE A STATEMENT LOCATED IN A PROMINENT PLACE IN THE CONTRACT~~
26 ~~STATING THAT CASH SURRENDER OR DEATH BENEFITS ARE NOT PROVIDED UNDER~~
27 ~~THE CONTRACT.~~

28 ~~{16-510.}16-511.~~

29 This subtitle is the Maryland Standard Nonforfeiture Law for Individual
30 Deferred Annuities AND SHALL BE INTERPRETED IN A MANNER CONSISTENT WITH
31 THE STANDARD NONFORFEITURE MODEL LAW FOR INDIVIDUAL DEFERRED
32 ANNUITIES PUBLISHED BY THE NATIONAL ASSOCIATION OF INSURANCE
33 COMMISSIONERS.

34 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
35 read as follows:

1

Chapter 82 of the Acts of 2003

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
3 effect June 1, 2003. [It shall remain effective for a period of 2 years and, at the end of
4 May 31, 2005, with no further action required by the General Assembly, this Act shall
5 be abrogated and of no further force and effect.]

6 SECTION 3. AND BE IT FURTHER ENACTED, That:

7 (1) before June 1, 2007, a company may elect to apply the provisions of §§
8 16-503(b), (c), and ~~(g)~~, (g) and 16-504(b), (c), ~~(d), and (e)~~, and ~~16-510~~ and (d) of the
9 Insurance Article, as enacted by Section 1 of this Act, on an annuity contract form by
10 annuity contract form basis; and

11 (2) on or after June 1, 2007, a company shall apply provisions of the Insurance
12 Article, §§ 16-503(b), (c), and ~~(g)~~, (g) and 16-504(b), (c), ~~(d), and (e)~~, and ~~16-510~~ and (d)
13 of the Insurance Article, as enacted by Section 1 of this Act, to all annuity
14 contracts.

15 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect June 1, 2005.