Department of Legislative Services

Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1192 (Delegate Bromwell, *et al.*)
Health and Government Operations Finance

Insurance - Individual Deferred Annuities - Minimum Nonforfeiture Amounts

This bill amends various provisions governing individual deferred annuities, including those governing minimum nonforfeiture amounts (amounts returned under an annuity contract before its reaches “annuitization” or maturity).

The bill takes effect June 1, 2005. The bill’s provisions may be applied, at the insurer’s option, to an annuity contract prior to June 1, 2007. On or after June 1, 2007, the bill’s provisions are mandatory for all annuity contracts.

Fiscal Summary

State Effect: Special fund revenues would increase in FY 2005, 2006, and 2007 to the extent additional annuity contract forms are filed with the Maryland Insurance Administration (MIA) because of the bill. Expenditures would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill authorizes, rather than requires, the annuity contract to state that the insurer reserves the right to defer payment of the cash surrender value for up to six months after the demand for payment with the surrender of the contract.

The bill requires an insurer seeking to defer payments of an annuity's cash surrender value to receive prior permission from the Maryland Insurance Commissioner. The bill specifies that an insurer is under no further obligation under a deferred annuity contract when the insurer terminates a contract by paying a single payment that is allowed when no payments have been received for two years and the annuity would have a small monthly value.

The bill repeals current provisions governing nonforfeiture amounts under a paid-up annuity, cash surrender, or death benefit under an annuity contract and replaces them with new provisions.

Under these new provisions, the minimum nonforfeiture amount under an annuity contract equals the remainder of the accumulation, of the net considerations paid prior to that time with interest as provided below, until the start of any annuity payments minus the sum of: (1) any withdrawal or partial surrender, with interest as provided below; (2) an annual contract charge, with interest as provided below; (3) premium tax actually paid for the contract, with interest as provided below; and (4) any indebtedness to the insurer on the contract, including interest due and accrued. The net payments for a given contract year used to calculate the minimum nonforfeiture amount are 87.5% of the gross payments credited to the contract during that year.

The interest rate used to determine the minimum nonforfeiture amount is the lesser of: (1) 3% per year; or (2) the five-year U.S. Treasury Constant Maturity Rate reported by the Federal Reserve Board of Governors as of a certain date, or an average over a period, rounded to the nearest one-twentieth of 1%, reduced by 125 basis points. If calculated under this latter manner, the interest rate may not fall below 1%. The interest rate applies to the initial contract period and may be redetermined for additional periods, under specified circumstances.

During the period when a contract provides for substantive participation in an equity index benefit, the insurer may increase the 125 basis points by up to an additional 100 basis points to reflect the value of the benefit. The present value of the additional reduction may not exceed the market value of the equity index benefit.

The bill provides that the Maryland Standard Nonforfeiture Law for Individual Annuities must be interpreted consistently with the model law published by the National Association of Insurance Commissioners (NAIC).

Current Law: Generally, an annuity contract must contain all provisions required by statute or regulation. An annuity contract must contain a provision that, when payment stops, the insurer will grant a paid-up annuity benefit on a plan stipulated in the contract in compliance with applicable law. The contract must provide for a lump-sum payment at maturity or before the start of annuity payments under specified conditions and must state that the insurer reserves the right to defer payments of the cash surrender value for up to six months after demand for payment and surrender of the contract. A contract may authorize the insurer to terminate it by making a single payment under a specified formula if: (1) no payments have been received for two years; and (2) the part of the paid-up benefit is available from the payments made before termination would be less than $20 per month.

The minimum nonforfeiture amount under an annuity contract that provides for flexible payments on or before the start of annuity payouts upon cancellation is the accumulated amount of the annuity until that time, at a 1.5% interest rate, of the percentages of net amount paid before that time and any existing additional amount credited by the insurer to the contract, less the sum of: (1) any withdrawal from or partial surrender of the contract accumulated at 1.5% interest; and (2) any indebtedness to the insurer on the contract, including interest due and accrued.

The net amounts paid for a given contract year used to calculate the minimum nonforfeiture amount equals the remainder of the corresponding gross amount credited to the account during the contract year, less the sum of a $30 annual contract charge and a $1.25 per payment collection charge. The net payments into the annuity for a given contract year may not be less than zero. The percentage of net payments into the annuity contract for the first year is 65%. Generally, the percentage is 87.5% in subsequent contract years.

Chapter 82 of 2003 established the 1.5% interest rates. Chapter 82 terminates May 31, 2005.

Background: NAIC recently adopted revisions to its Standard Nonforfeiture Law for Individual Deferred Annuities. The revisions include the interest rates that insurers must pay on the norforfeiture amounts. The bill's treatment of interest rates is consistent with NAIC's revisions.

State Fiscal Effect: Because the bill repeals the termination date of Chapter 82 effective June 1, 2005 and does not make its own terms mandatory for annuity contracts until June 1, 2007, insurers would have two years in which to change the terms of their annuity contracts. Each contract form filed would be subject to the $125 filing fee. The number of such filings cannot be accurately estimated but is assumed to be minimal.

Additional Information

Prior Introductions: None.

Cross File: SB 662 (Senator Astle) – Finance.

Information Source(s): Maryland Insurance Administration, Department of Legislative Services

Fiscal Note History:	First Reader - February 28, 2005
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