Department of Legislative Services

Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 648 (Senator Klausmeier)
Finance

Insurance - Group Retirement Annuities - Protections

This bill generally protects any interest in or benefits payable to a participant or beneficiary under a group annuity contract from the claims of the participant's or beneficiary's creditors. Beginning January 1, 2020, a retirement annuity contract may not be transferred to or assumed by another insurer unless the transfer (1) is made to an insurer that has a rating equivalent of "A" or better from two or more nationally recognized rating agencies or (2) is made to another insurer that is authorized to issue annuity contracts in the State with the prior approval of the Insurance Commissioner. The Commissioner may impose existing penalties for a violation of this requirement, as specified.

Fiscal Summary

State Effect: Potential minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) in FY 2020 due to the $125 rate and form filing fee; MIA can review any filings using existing resources. The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: "Retirement annuity contract" means an allocated or unallocated group annuity contract that is issued or issued for delivery by an insurer to an employer or a pension plan, pension plan sponsor, or affiliate of the employer, pension plan, or pension plan sponsor, for the purpose of providing retirement benefits to employees or retirees of the employer under a defined benefit plan and that (1) is issued or issued for delivery in the State or (2) affects retired employees residing in the State, as specified.

Specific to retirement benefits under a defined benefit plan that meet specified criteria, the bill exempts from the claims of all creditors of the participant or beneficiary any interest in or amounts payable to a participant or beneficiary from any group annuity contract issued to an employer or a pension plan for the purpose of providing retirement benefits.

The exemption may not apply (1) for a claim under a qualified domestic relations order; (2) when an annuity contract was taken out, made, or assigned for the benefit of the creditor; or (3) when specified amounts of an annuity contract were paid out with the intent to defraud creditors. The exemption may not apply to any protected annuity contract issued or in effect during the six months preceding the date that the person claiming the exemption (1) files a voluntary petition in bankruptcy; (2) becomes the subject of an order for relief or is declared insolvent; or (3) files a petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief.

The bill's requirements do not apply to retirement annuity contracts of the State, any unit, institution, or political subdivision of the State, or any public body of the State.

Current Law/Background:

Group Annuities

Under an annuity contract designed to provide retirement benefits, an employee contributes to the annuity over time in exchange for future payments. Payments are often made to the employee once he or she retires or, if applicable, to the employee's surviving dependents or beneficiaries. A group annuity contract generally allows all of the employees of a company to pay into the annuity, which reduces risk compared to an individual annuity. Group annuities generally operate in a similar manner to pension benefits and require contributions from both the employer and employees while they are working at a company.

Group annuities are regulated under the federal Employee Retirement Income Security Act (ERISA). ERISA establishes minimum standards for most voluntarily established retirement and health plans in private industry with the goal of providing protections for individuals under those plans. Among other things, ERISA (1) requires plans to provide participants with plan information including important information about plan features and funding; (2) provides fiduciary responsibilities for those who manage and control plan assets; (3) requires plans to establish a grievance and appeals process for participants to get benefits from their plans; and (4) gives participants the right to sue for benefits and breaches of fiduciary duty.

Penalties for a Violation of the Insurance Article

Title 27 of the Insurance Article expressly prohibits certain insurer practices and activities as unfair trade practices. The Insurance Commissioner has general enforcement authority to issue a cease and desist order when a violation is discovered, and penalties are prescribed for different types of violations. Certain activities carry more severe penalties; for example, an insurer may be fined up to $125,000 for each violation when it fails to act in good faith when settling a first-party claim under a policy of property and casualty insurance.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Health; Maryland Insurance Administration; U.S. Department of Labor; Department of Legislative Services

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ns/jc

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