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By: **Senator Astle**

Introduced and read first time: February 4, 2005

Assigned to: Finance

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A BILL ENTITLED

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; repealing a certain termination provision; and generally  
20 relating to minimum nonforfeiture amounts for individual deferred annuity  
21 contracts.

22 BY repealing and reenacting, with amendments,  
23 Article - Insurance  
24 Section 16-503(b), (c), and (g) and 16-510  
25 Annotated Code of Maryland  
26 (2002 Replacement Volume and 2004 Supplement)

27 BY repealing  
28 Article - Insurance  
29 Section 16-504(b), (c), and (d)  
30 Annotated Code of Maryland  
31 (2002 Replacement Volume and 2004 Supplement)

1 BY adding to  
2 Article - Insurance  
3 Section 16-504(b), (c), (d), and (e) and 16-510  
4 Annotated Code of Maryland  
5 (2002 Replacement Volume and 2004 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Chapter 82 of the Acts of the General Assembly of 2003  
8 Section 2

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

11 **Article - Insurance**

12 16-503.

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

18 (c) (1) Each annuity contract shall contain a provision that if the annuity  
19 contract provides for a lump-sum settlement at maturity or at any other time, on  
20 surrender of the annuity contract on or before the start of annuity payments, the  
21 insurer will pay a cash surrender benefit in accordance with §§ 16-505, 16-506,  
22 16-508, and 16-509 of this subtitle instead of a paid-up annuity benefit.

23 (2) (I) The annuity contract shall state that the insurer shall reserve  
24 the right to defer the payment of the cash surrender value for up to 6 months after  
25 demand for payment with surrender of the annuity contract.

26 (II) 1. BEFORE MAKING A DEFERMENT UNDER SUBPARAGRAPH  
27 (I) OF THIS PARAGRAPH, THE INSURER SHALL MAKE A WRITTEN REQUEST TO THE  
28 COMMISSIONER TO DEFER THE PAYMENT OF THE CASH SURRENDER VALUE FOR UP  
29 TO 6 MONTHS AFTER A DEMAND FOR PAYMENT WITH SURRENDER OF THE ANNUITY  
30 CONTRACT.

31 2. THE REQUEST UNDER SUBSUBPARAGRAPH 1 OF THIS  
32 SUBPARAGRAPH, SHALL CONTAIN A STATEMENT AS TO THE NECESSITY OF THE  
33 DEFERRAL AND THE EFFECT THE DEFERRAL WILL HAVE ON THE EQUITABILITY TO  
34 ALL POLICYHOLDERS.

35 (III) AFTER RECEIVING WRITTEN APPROVAL FROM THE  
36 COMMISSIONER ON THE REQUEST MADE UNDER SUBPARAGRAPH (II)2 OF THIS  
37 PARAGRAPH, THE INSURER MAY RESERVE THE RIGHT TO DEFER THE PAYMENT OF

1 THE CASH SURRENDER VALUE FOR UP TO 6 MONTHS AFTER DEMAND FOR PAYMENT  
2 WITH SURRENDER OF THE ANNUITY CONTRACT.

3 (g) (1) Notwithstanding the requirements of this section, a deferred annuity  
4 contract may contain a provision that the insurer may terminate the contract by  
5 making a single payment calculated under paragraph (2) of this subsection if:

6 (i) no considerations have been received under the contract for 2  
7 years; and

8 (ii) the part of the paid-up annuity benefit at maturity under the  
9 contract that is available from the considerations paid before termination would be  
10 less than \$20 per month.

11 (2) The payment shall equal the present value of the part of the paid-up  
12 annuity benefit available under the contract, calculated as of the date of termination,  
13 based on any mortality table and interest rate specified in the contract for  
14 determining the paid-up annuity benefit.

15 (3) A PAYMENT BY AN INSURER UNDER THIS SECTION SHALL RELIEVE  
16 THE INSURER OF ANY FURTHER OBLIGATION UNDER THE DEFERRED ANNUITY  
17 CONTRACT.

18 16-504.

19 [(b) (1) The minimum nonforfeiture amount under an annuity contract that  
20 provides for flexible considerations at any time before or at the start of annuity  
21 payments shall equal the remainder of:

22 (i) the accumulation until that time, at an interest rate of 1.5% per  
23 year, of the percentages of the net considerations paid before that time, calculated  
24 under paragraph (2) of this subsection, and any existing additional amount credited  
25 by the insurer to the contract; less

26 (ii) the sum of:

27 1. any withdrawal from or partial surrender of the contract  
28 accumulated at an interest rate of 1.5% per year; and

29 2. any indebtedness to the insurer on the contract, including  
30 interest due and accrued.

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

34 (i) the corresponding gross considerations credited to the contract  
35 during that contract year; less

36 (ii) the sum of:

1. an annual contract charge of \$30; and
2. a collection charge of \$1.25 per consideration credited to the contract during that contract year.

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

(4) The percentages of net considerations are:

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

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

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

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

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

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

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

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

(ii) 22.5% of the remainder of:

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

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

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

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

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

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

2 (i) the gross consideration; less

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

4 (B) (1) AT ANY TIME BEFORE OR AT THE START OF AN ANNUITY PAYMENT,  
5 THE MINIMUM NONFORFEITURE AMOUNT UNDER AN ANNUITY CONTRACT SHALL  
6 EQUAL THE REMAINDER OF:

7 (I) THE ACCUMULATION UNTIL THAT TIME, AT AN INTEREST RATE  
8 DETERMINED UNDER SUBSECTION (C) OF THIS SECTION; LESS

9 (II) THE SUM OF:

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

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

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

19 4. ANY INDEBTEDNESS TO THE INSURER ON THE CONTRACT,  
20 INCLUDING INTEREST DUE AND ACCRUED.

21 (2) THE NET CONSIDERATIONS FOR A GIVEN CONTRACT YEAR USED TO  
22 CALCULATE THE MINIMUM NONFORFEITURE AMOUNT SHALL EQUAL 87.5% OF THE  
23 GROSS CONSIDERATIONS CREDITED TO THE CONTRACT DURING THAT CONTRACT  
24 YEAR.

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

28 (I) 3% PER YEAR; OR

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

34 (2) THE INTEREST RATE CALCULATED UNDER PARAGRAPH (1)(II) OF  
35 THIS SUBSECTION MAY NOT BE LESS THAN 1%.

1                   (3)   (I)    THE INTEREST RATE CALCULATED UNDER PARAGRAPH (1) OF  
2 THIS SUBSECTION:

3                                   1.       SHALL APPLY TO THE INITIAL CONTRACT PERIOD; AND

4                                   2.       MAY BE REDETERMINED FOR ADDITIONAL PERIODS.

5                   (II)   THE CONTRACT SHALL PROVIDE:

6                                   1.       THE INTEREST RATE AS REDETERMINED UNDER  
7 SUBPARAGRAPH (I) OF THIS PARAGRAPH;

8                                   2.       THE VALUE OF THE REDETERMINED INTEREST RATE, IF  
9 ANY;

10                                  3.       THE INTEREST RATE REDETERMINATION DATE, AND  
11 PERIOD, IF ANY; AND

12                                  4.       THE BASIS FOR THE DATE, OR THE AVERAGE OVER A  
13 PERIOD, THAT PRODUCED THE INTEREST RATE VALUE BASED ON THE 5-YEAR  
14 TREASURY CONSTANT MATURITY RATE.

15   (D)   (1)    DURING THE PERIOD THAT A CONTRACT PROVIDES FOR  
16 SUBSTANTIVE PARTICIPATION IN AN EQUITY INDEX BENEFIT, THE INSURER MAY  
17 INCREASE THE 125 BASIS POINTS UNDER SUBSECTION (C)(1)(II) OF THIS SECTION UP  
18 TO AN ADDITIONAL 100 BASIS POINTS TO REFLECT THE VALUE OF THE EQUITY INDEX  
19 BENEFIT.

20                   (2)    ON THE ISSUE DATE OF THE CONTRACT, OR AT EACH REDEMPTION  
21 DATE, THE PRESENT VALUE OF THE ADDITIONAL REDUCTION MAY NOT EXCEED THE  
22 MARKET VALUE OF THE EQUITY INDEX BENEFIT.

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

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

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

31                   (2)    THE REGULATIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION  
32 MAY PROVIDE FOR:

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

1 (II) ADJUSTMENTS FOR OTHER CONTRACTS AS DETERMINED BY  
2 THE COMMISSIONER.

3 16-510.

4 A CONTRACT UNDER THIS SUBTITLE THAT DOES NOT PROVIDE CASH  
5 SURRENDER BENEFITS OR DEATH BENEFITS AT LEAST EQUAL TO THE MINIMUM  
6 NONFORFEITURE AMOUNT BEFORE THE START OF AN ANNUITY PAYMENT SHALL  
7 INCLUDE A STATEMENT LOCATED IN A PROMINENT PLACE IN THE CONTRACT  
8 STATING THAT CASH SURRENDER OR DEATH BENEFITS ARE NOT PROVIDED UNDER  
9 THE CONTRACT.

10 [16-510.] 16-511.

11 This subtitle is the Maryland Standard Nonforfeiture Law for Individual  
12 Deferred Annuities.

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

15 **Chapter 82 of the Acts of 2003**

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

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

21 (1) before June 1, 2007, a company may elect to apply the provisions of §§  
22 16-503(b), (c), and (g), 16-504(b), (c), (d), and (e), and 16-510 of the Insurance Article,  
23 as enacted by Section 1 of this Act, on an annuity contract form by annuity contract  
24 form basis; and

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

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