

SENATE BILL 648

C4, K3

9lr2437

By: **Senator Klausmeier**

Introduced and read first time: February 4, 2019

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Group Retirement Annuities – Protections**

3 FOR the purpose of providing that certain money and assets of certain participants and
4 beneficiaries in certain retirement plans are exempt from certain claims in a certain
5 manner; prohibiting the transfer or assumption of certain retirement annuity
6 contracts between certain insurers except under certain circumstances; requiring the
7 prior approval of the Maryland Insurance Commissioner before transferring a
8 certain annuity contract to a certain assuming insurer; authorizing the
9 Commissioner to impose certain penalties for certain violations; exempting certain
10 interests in and amounts payable from certain group annuity contracts from the
11 claims of certain creditors of certain participants or beneficiaries; limiting the
12 application of the exemption with respect to certain claims; providing that certain
13 premiums and amounts paid for certain annuity contracts with the intent to defraud
14 creditors shall inure to the benefit of the creditors; limiting the application of a
15 certain exemption; providing for the construction of this Act; defining certain terms;
16 and generally relating to annuities and retirement benefits.

17 BY repealing and reenacting, with amendments,
18 Article – Courts and Judicial Proceedings
19 Section 11–504(h)
20 Annotated Code of Maryland
21 (2013 Replacement Volume and 2018 Supplement)

22 BY adding to
23 Article – Insurance
24 Section 16–410 and 16–411
25 Annotated Code of Maryland
26 (2017 Replacement Volume and 2018 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 16-410.

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) (I) "EMPLOYER" MEANS A PERSON DOING BUSINESS OR
5 OPERATING IN THE STATE WHO EMPLOYS A RESIDENT OF THE STATE TO WORK FOR
6 WAGES OR A SALARY OR ON COMMISSION.

7 (II) "EMPLOYER" INCLUDES ANY SIMILAR ENTITY ACTING
8 DIRECTLY OR INDIRECTLY IN THE INTEREST OF AN EMPLOYER IN RELATION TO AN
9 EMPLOYEE.

10 (III) "EMPLOYER" DOES NOT INCLUDE THE STATE, ANY UNIT,
11 INSTITUTION, OR POLITICAL SUBDIVISION OF THE STATE, OR ANY PUBLIC BODY OF
12 THE STATE.

13 (3) "PENSION PLAN" HAS THE MEANING STATED IN § 3(2) OF THE
14 FEDERAL EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

15 (4) "RETIREMENT ANNUITY CONTRACT" MEANS AN ALLOCATED OR
16 UNALLOCATED GROUP ANNUITY CONTRACT THAT IS ISSUED OR ISSUED FOR
17 DELIVERY BY AN INSURER TO AN EMPLOYER OR A PENSION PLAN, PENSION PLAN
18 SPONSOR, OR AFFILIATE OF THE EMPLOYER, PENSION PLAN, OR PENSION PLAN
19 SPONSOR, FOR THE PURPOSE OF PROVIDING RETIREMENT BENEFITS TO
20 EMPLOYEES OR RETIREES OF THE EMPLOYER UNDER A DEFINED BENEFIT PLAN AND
21 THAT:

22 (I) IS ISSUED OR ISSUED FOR DELIVERY IN THE STATE; OR

23 (II) AFFECTS RETIRED EMPLOYEES RESIDING IN THE STATE
24 WHO ARE CERTIFICATE HOLDERS OR BENEFICIARIES OF A CONTRACT IF THE
25 ADMINISTRATION HAS JURISDICTION OVER THE INSURER THAT ISSUES THE
26 CONTRACT.

27 (B) ON OR AFTER JANUARY 1, 2020, A RETIREMENT ANNUITY CONTRACT
28 MAY NOT BE TRANSFERRED TO OR ASSUMED BY ANOTHER INSURER UNLESS THE
29 TRANSFER:

30 (1) IS MADE TO AN ASSUMING INSURER THAT HAS A RATING
31 EQUIVALENT OF A OR BETTER FROM TWO OR MORE NATIONALLY RECOGNIZED
32 RATING AGENCIES; OR

1 **(2) WITH THE PRIOR APPROVAL OF THE COMMISSIONER, IS MADE TO**
2 **ANOTHER ASSUMING INSURER THAT THE COMMISSIONER HAS AUTHORIZED TO**
3 **ISSUE ANNUITY CONTRACTS IN THE STATE.**

4 **(C) IF THE COMMISSIONER DETERMINES THAT AN INSURER HAS VIOLATED**
5 **THIS SECTION OR ANY ORDER OR REGULATION ADOPTED UNDER THIS SECTION, THE**
6 **COMMISSIONER, AFTER NOTICE AND OPPORTUNITY TO BE HEARD, MAY IMPOSE A**
7 **PENALTY IN ACCORDANCE WITH TITLES 2 AND 27 OF THIS ARTICLE.**

8 **(D) (1) THE PURPOSE OF THIS SECTION IS TO CONFER ADDITIONAL**
9 **RIGHTS, PRIVILEGES, AND BENEFITS ON BENEFICIARIES AND ASSIGNEES OF**
10 **POLICIES.**

11 **(2) ANY BENEFICIARY OR ASSIGNEE MAY NOT, BY REASON OF THIS**
12 **SECTION, BE DIVESTED OR DEPRIVED OF OR PROHIBITED FROM EXERCISING OR**
13 **ENJOYING ANY RIGHT, PRIVILEGE, OR BENEFIT THE BENEFICIARY OR ASSIGNEE**
14 **MAY HAVE.**

15 **16-411.**

16 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
17 **INDICATED.**

18 **(2) "EMPLOYER" HAS THE MEANING STATED IN § 16-410 OF THIS**
19 **SUBTITLE.**

20 **(3) "PENSION PLAN" HAS THE MEANING STATED IN § 3(2) OF THE**
21 **FEDERAL EMPLOYEE RETIREMENT INCOME § 16-411 OF THIS SECURITY ACT OF**
22 **1974.**

23 **(4) "RETIREMENT ANNUITY CONTRACT" HAS THE MEANING STATED**
24 **IN § 16-410 OF THIS SUBTITLE.**

25 **(B) THIS SECTION APPLIES TO RETIREMENT BENEFITS UNDER A DEFINED**
26 **BENEFIT PLAN THAT:**

27 **(1) WERE PROTECTED UNDER THE FEDERAL EMPLOYEE**
28 **RETIREMENT INCOME SECURITY ACT OF 1974 OR THE FEDERAL PENSION BENEFIT**
29 **GUARANTY CORPORATION PRIOR TO THE EFFECTIVE DATE OF A GROUP ANNUITY**
30 **CONTRACT; AND**

31 **(2) WILL NOT BE PROTECTED UNDER THE FEDERAL EMPLOYEE**
32 **RETIREMENT INCOME SECURITY ACT OF 1974 OR THE FEDERAL PENSION BENEFIT**

1 GUARANTY CORPORATION ON AND AFTER THE EFFECTIVE DATE OF THE GROUP
2 ANNUITY CONTRACT.

3 (C) ANY INTEREST IN OR AMOUNTS PAYABLE TO A PARTICIPANT OR
4 BENEFICIARY FROM ANY ALLOCATED OR UNALLOCATED GROUP ANNUITY
5 CONTRACT ISSUED OR ISSUED FOR DELIVERY IN THE STATE TO AN EMPLOYER OR A
6 PENSION PLAN FOR THE PURPOSE OF PROVIDING RETIREMENT BENEFITS TO
7 EMPLOYEES OR RETIREES OF THE EMPLOYER UNDER A DEFINED BENEFIT PLAN
8 SHALL BE EXEMPT FROM THE CLAIMS OF ALL CREDITORS OF THE PARTICIPANT OR
9 BENEFICIARY.

10 (D) THE EXEMPTION FROM THE CLAIMS OF CREDITORS PROVIDED UNDER
11 SUBSECTION (C) OF THIS SECTION MAY NOT APPLY TO ANY CLAIM:

12 (1) ARISING UNDER A QUALIFIED DOMESTIC RELATIONS ORDER; OR

13 (2) BY A CREDITOR WITH RESPECT TO AN ANNUITY CONTRACT THAT
14 WAS TAKEN OUT, MADE, OR ASSIGNED IN WRITING FOR THE BENEFIT OF THE
15 CREDITOR.

16 (E) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION AND SUBJECT TO
17 THE APPLICABLE STATUTE OF LIMITATIONS, THE AMOUNT OF ANY PREMIUMS OR
18 OTHER AMOUNTS PAID FOR THE RELATED ANNUITY CONTRACT THAT WERE PAID
19 WITH THE INTENT TO DEFRAUD CREDITORS, WITH THE INTEREST ON THOSE
20 PAYMENTS, SHALL INURE TO THE BENEFIT OF THE CREDITORS FROM THE
21 PROCEEDS OF THE POLICY, CONTRACT, OR DEPOSIT.

22 (F) THE EXEMPTION PROVIDED BY THIS SECTION MAY NOT APPLY TO ANY
23 PROTECTED ANNUITY CONTRACT ISSUED OR IN EFFECT DURING THE 6 MONTHS
24 PRECEDING THE DATE THAT THE PERSON CLAIMING THE EXEMPTION:

25 (1) FILES A VOLUNTARY PETITION IN BANKRUPTCY;

26 (2) BECOMES THE SUBJECT OF AN ORDER FOR RELIEF OR IS
27 DECLARED INSOLVENT IN ANY FEDERAL OR STATE BANKRUPTCY OR INSOLVENCY
28 PROCEEDING; OR

29 (3) FILES A PETITION OR ANSWER SEEKING ANY REORGANIZATION,
30 ARRANGEMENT, COMPOSITION, READJUSTMENT, LIQUIDATION, DISSOLUTION, OR
31 SIMILAR RELIEF FOR THE PERSON UNDER ANY LAW OR REGULATION.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2019.