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P.L. 2003, CHAPTER 152, *approved August 15, 2003*
Assembly Bill No. 3191 (*Second Reprint*)

1 **AN ACT** concerning the standard nonforfeiture rate for individual
2 deferred annuities and amending P.L.1981, c.285.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 5 of P.L.1981, c.285 (C.17B:25-20) is amended to read
8 as follows:

9 5. This section shall be known as the standard nonforfeiture law for
10 individual deferred annuities.

11 a. No contract of annuity or pure endowment, except as stated in
12 subsection p., shall be issued or delivered in this State on or after
13 January 1, 1972 and before the operative date of this section as
14 defined in subsection o., unless it shall contain in substance the
15 following provisions, or corresponding provisions which in the opinion
16 of the commissioner are at least as favorable to the defaulting or
17 surrendering contract holder:

18 (1) That, in the event of default in any stipulated payment, the
19 insurer will grant a paid-up nonforfeiture benefit on a plan stipulated
20 in the contract, effective as of such due date, of such value as may be
21 hereinafter specified.

22 (2) A statement of the mortality tables, if any, and interest rates
23 used in calculating the paid-up nonforfeiture benefits available under
24 the contract, together with a table showing either the cash surrender
25 value, if any, or the paid-up nonforfeiture benefit, if any, available on
26 each anniversary of the contract either during the first 20 contract
27 years or during the term of stipulated payments, whichever is shorter,
28 such benefits to be calculated upon the assumption that there are no
29 dividends or paid-up additions credited to the contract and that there
30 is no indebtedness to the insurer on the contract.

31 (3) A statement that the paid-up nonforfeiture benefits available
32 under the contract are not less than the minimum benefits required by
33 or pursuant to the insurance law of the state in which the contract is
34 delivered; an explanation of the manner in which the paid-up
35 nonforfeiture benefits are altered by the existence of any paid-up
36 additions credited to the contract or any indebtedness to the insurer on
37 the contract; if a detailed statement of the method of computation of
38 the paid-up nonforfeiture benefits shown in the contract is not stated
39 therein, a statement that such method of computation has been filed

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ACE committee amendments adopted February 27, 2003.

² Senate SCM committee amendments adopted May 15, 2003.

1 with the insurance supervisory official of the state in which the
2 contract is delivered; and a statement of the method to be used in
3 calculating the paid-up nonforfeiture benefit available under the
4 contract on any contract anniversary beyond the last anniversary for
5 which such benefits are consecutively shown in the contract.

6 If an insurer shall provide for the payment of a cash surrender
7 value, it shall reserve the right to defer the payment of such value for
8 a period of 6 months after demand therefor with surrender of the
9 contract.

10 Notwithstanding the requirements of this subsection, any deferred
11 annuity contract may provide that if the annuity allowed under any
12 paid-up nonforfeiture benefit would be less than \$120.00 annually, the
13 insurer may at its option grant a cash surrender value in lieu of such
14 paid-up nonforfeiture benefit of such amount as may be required by
15 subsection c.

16 b. Any paid-up nonforfeiture benefit available under any annuity or
17 pure endowment contract referred to in subsection a. in the event of
18 default in a stipulated payment due on any contract anniversary, shall
19 be such that its present value as of such anniversary shall be an amount
20 not less than the excess, if any, of the present value, on such
21 anniversary, of the future guaranteed benefits which would have been
22 provided for by the contract, including any existing paid-up additions,
23 if there had been no default, over the sum of (1) the then present value
24 of the adjusted stipulated payments as defined in subsection d.
25 corresponding to stipulated payments which would have fallen due on
26 and after such anniversary, and (2) the amount of any indebtedness to
27 the insurer on the contract. In determining the benefits referred to in
28 this subsection and in calculating the adjusted stipulated payments
29 referred to in subsection d. in the case of annuity contracts under
30 which an election may be made to have annuity payments commence
31 at optional dates, the annuity payments shall be deemed to commence
32 at a date which shall be the latest permitted by the contract for the
33 commencement of such payments but not later than the contract
34 anniversary nearest the annuitant's seventieth birthday or the tenth
35 anniversary of the contract, whichever is later; and the stipulated
36 payments shall be deemed to be payable for the longest period during
37 which they would be payable if election were made to have the annuity
38 payments commence at such date.

39 c. Any cash surrender value allowed by any annuity or pure
40 endowment contract referred to in subsection a. and the present value
41 under any optional provision, of future benefits commencing on the
42 due date of the stipulated payment in default shall each be at least
43 equal to the then present value of the minimum paid-up nonforfeiture
44 benefit required by subsection b.

45 d. The adjusted stipulated payments for any annuity or pure
46 endowment contract referred to in subsection a. shall be calculated on

1 an annual basis and shall be such uniform percentage of the respective
2 stipulated payments specified in the contract for each contract year
3 that the present value, at the date of issue of the contract, of all such
4 adjusted stipulated payments shall be equal to the sum of (1) the then
5 present value of the future guaranteed benefits provided for by the
6 contract; (2) 20% of the adjusted stipulated payment for the first
7 contract year; and (3) 2% of the adjusted stipulated payment for the
8 first contract year for each year not exceeding 20 during which
9 stipulated payments are payable.

10 All adjusted stipulated payments and present values referred to in
11 this section shall for annuity and pure endowment contracts be
12 calculated on the basis of (1) the applicable rates of interest, not
13 exceeding 3 1/2% per annum, specified in the contract for calculating
14 cash surrender values, if any, and paid-up nonforfeiture benefits; and
15 (2) the 1937 Standard Annuity Mortality Table, or the Annuity
16 Mortality Table for 1949, Ultimate, or any modification of either of
17 these tables approved by the commissioner or any other table approved
18 by the commissioner; provided that, in the case of annuity or pure
19 endowment contracts issued after the operative date for the insurer of
20 paragraph (ix) of subsection a. of the standard valuation law,
21 [section] N.J.S.17B:19-8, the 3 1/2% maximum interest rate specified
22 in item (1) of this paragraph shall be increased to 4 1/2%, and, if the
23 applicable rates of interest specified in the contract for calculating
24 cash surrender values, if any, and paid-up nonforfeiture benefits
25 exceed 3 1/2%, there shall be substituted for the mortality tables
26 specified in item (2) the 1971 Individual Annuity Mortality Table, or
27 any modification of this table approved by the commissioner or any
28 other table approved by the commissioner.

29 e. Any cash surrender value and any paid-up nonforfeiture benefit,
30 available under any contract referred to in subsection a. in the event of
31 default in the payment of a stipulated payment due at any time other
32 than on the contract anniversary, shall be calculated with allowance for
33 the lapse of time and the payment of fractional stipulated payments
34 beyond the last preceding contract anniversary. All values referred to
35 in subsections b. to d. inclusive, may be calculated upon the
36 assumption that any death benefit is payable at the end of the contract
37 year of death. The net value of any paid-up additions shall be not less
38 than the dividends used to provide such additions. Notwithstanding
39 the provisions of subsection b., additional benefits payable (1) in the
40 event of total and permanent disability, (2) as reversionary annuity or
41 deferred reversionary annuity benefits, and (3) as other policy benefits
42 additional to pure endowment, and annuity benefits, and premiums for
43 all such additional benefits, shall be disregarded in ascertaining cash
44 surrender values and nonforfeiture benefits required by this section,
45 and no such additional benefits shall be required to be included in any
46 paid-up nonforfeiture benefits. Notwithstanding the provisions of

1 subsection b., additional benefits providing the privilege to purchase
2 additional annuity benefits at some future time without furnishing
3 evidence of insurability, and stipulated payments therefor, may, with
4 the consent of the commissioner, be disregarded in ascertaining cash
5 surrender values and nonforfeiture benefits required by this section,
6 and no such additional benefits shall be required to be included in any
7 paid-up nonforfeiture benefits.

8 f. In the case of contracts issued on or after the operative date of
9 this section as defined in subsection o., no contract of annuity, except
10 as stated in subsection p., shall be delivered or issued for delivery in
11 this State unless it contains in substance the following provisions, or
12 corresponding provisions which in the opinion of the commissioner are
13 at least as favorable to the contract holder, upon cessation of payment
14 of considerations under the contract:

15 (1) That upon cessation of payment of considerations under a
16 contract, the insurer will grant a paid-up annuity benefit on a plan
17 stipulated in the contract of such value as is specified in subsections h.,
18 i., j., k. and m.

19 (2) If a contract provides for a lump sum settlement at maturity, or
20 at any other time, that upon surrender of the contract at or prior to the
21 commencement of any annuity payments, the insurer will pay in lieu of
22 any paid-up annuity benefit a cash surrender benefit of such amount as
23 is specified in subsections h., i., k. and m. The insurer shall reserve the
24 right to defer the payment of such cash surrender benefit for a period
25 of 6 months after demand therefor with surrender of the contract.

26 (3) A statement of the mortality table, if any, and interest rates
27 used in calculating any minimum paid-up annuity, cash surrender or
28 death benefits that are guaranteed under the contract, together with
29 sufficient information to determine the amounts of such benefits.

30 (4) A statement that any paid-up annuity, cash surrender or death
31 benefits that may be available under the contract are not less than the
32 minimum benefits required by any statute of the state in which the
33 contract is delivered and an explanation of the manner in which such
34 benefits are altered by the existence of any additional amounts credited
35 by the insurer to the contract, any indebtedness to the insurer on the
36 contract or any prior withdrawals from or partial surrenders of the
37 contract.

38 Notwithstanding the requirements of this subsection, any deferred
39 annuity contract may provide that if no considerations have been
40 received under a contract for a period of 2 years and the portion of the
41 paid-up annuity benefit at maturity on the plan stipulated in the
42 contract arising from considerations paid prior to such period would
43 be less than \$20.00 monthly, the insurer may at its option terminate
44 such contract by payment in cash of the then present value of such
45 portion of the paid-up annuity benefit, calculated on the basis of the
46 mortality table, if any, and interest rate specified in the contract for

1 determining the paid-up annuity benefit, and by such payment shall be
2 relieved of any further obligation under such contract.

3 g. The minimum values as specified in subsections h., i., j., k. and
4 m. of any paid-up annuity, cash surrender or death benefits available
5 under an annuity contract referred to in subsection f., shall be based
6 upon minimum nonforfeiture amounts as defined in this subsection:

7 (1) With respect to contracts providing for flexible considerations,
8 the minimum nonforfeiture amount at any time at or prior to the
9 commencement of any annuity payments shall be equal to an
10 accumulation up to that time at a rate of interest of 3% per annum of
11 percentages of the net considerations (as hereinafter defined) paid
12 prior to such time; decreased by the sum of any prior withdrawals from
13 or partial surrenders of the contract accumulated at a rate of interest
14 of 3% per annum and the amount of any indebtedness to the insurer on
15 the contract, including interest due and accrued; and increased by any
16 existing additional amounts credited by the insurer to the contract.
17 The net considerations for a given contract year used to define the
18 minimum nonforfeiture amount shall be an amount not less than zero
19 and shall be equal to the corresponding gross considerations credited
20 to the contract during that contract year less an annual contract charge
21 of \$30.00 and less a collection charge of \$1.25 per consideration
22 credited to the contract during that contract year. The percentages of
23 net considerations shall be 65% of the net consideration for the first
24 contract year and 87 1/2% of the net considerations for the second and
25 later contract years. Notwithstanding the provisions of the preceding
26 sentence, the percentage shall be 65% of the portion of the total net
27 consideration for any renewal contract year which exceeds by not
28 more than two times the sum of those portions of the net
29 considerations in all prior contract years for which the percentage was
30 65%.

31 (2) With respect to contracts providing for fixed scheduled
32 considerations, minimum nonforfeiture amounts shall be calculated on
33 the assumption that considerations are paid annually in advance and
34 shall be defined as for contracts with flexible considerations which are
35 paid annually with two exceptions:

36 (a) The portion of the net consideration for the first contract year
37 to be accumulated shall be the sum of 65% of the net consideration for
38 the first contract year plus 22 1/2% of the excess of the net
39 consideration for the first contract year over the lesser of the net
40 considerations for the second and third contract years.

41 (b) The annual contract charge shall be the lesser of (i) \$30.00 or
42 (ii) 10% of the gross annual consideration.

43 (3) With respect to contracts providing for a single consideration,
44 minimum nonforfeiture amounts shall be defined as for contracts with
45 flexible considerations except that the percentage of net consideration
46 used to determine the minimum nonforfeiture amount shall be equal to

1 90% and the net consideration shall be the gross consideration less a
2 contract charge of \$75.00.

3 (4) Notwithstanding any other provision of this subsection to the
4 contrary, for any contract issued on or after the effective date of
5 P.L. , c. (now before the Legislature as this bill) and before the
6 ²[1095th] 730th² day after that effective date, the interest rate at
7 which net consideration¹ [, prior to withdrawals and partial
8 surrenders.]¹ shall be accumulated for purposes of determining
9 minimum nonforfeiture amounts shall be 1 1/2% per annum.

10 h. Any paid-up annuity benefit available under a contract referred
11 to in subsection f. shall have a present value on the date annuity
12 payments are to commence at least equal to the minimum nonforfeiture
13 amount on that date. Such present value shall be computed using the
14 mortality table, if any, and the interest rate specified in the contract
15 for determining the minimum paid-up annuity benefits guaranteed in
16 the contract.

17 i. For contracts referred to in subsection f. which provide cash
18 surrender benefits, such cash surrender benefits available prior to
19 maturity shall not be less than the present value as of the date of
20 surrender of that portion of the maturity value of the paid-up annuity
21 benefit which would be provided under the contract at maturity arising
22 from considerations paid prior to the time of cash surrender reduced
23 by the amount appropriate to reflect any prior withdrawals from or
24 partial surrenders of the contract, such present value being calculated
25 on the basis of an interest rate not more than 1% higher than the
26 interest rate specified in the contract for accumulating the net
27 considerations to determine such maturity value; decreased by the
28 amount of any indebtedness to the insurer on the contract, including
29 interest due and accrued; and increased by any existing additional
30 amounts credited by the insurer to the contract. In no event shall any
31 cash surrender benefit be less than the minimum nonforfeiture amount
32 at that time. The death benefit under such contracts shall be at least
33 equal to the cash surrender benefit.

34 j. For contracts referred to in subsection f. which do not provide
35 cash surrender benefits, the present value of any paid-up annuity
36 benefit available as a nonforfeiture option at any time prior to maturity
37 shall not be less than the present value of that portion of the maturity
38 value of the paid-up annuity benefit provided under the contract
39 arising from considerations paid prior to the time the contract is
40 surrendered in exchange for, or changed to, a deferred paid-up
41 annuity, such present value being calculated for the period prior to the
42 maturity date on the basis of the interest rate specified in the contract
43 for accumulating the net considerations to determine such maturity
44 value, and increased by any existing additional amounts credited by the
45 insurer to the contract. For contracts referred to in subsection f.
46 which do not provide any death benefits prior to the commencement

1 of any annuity payments, such present values shall be calculated on the
2 basis of such interest rate and the mortality table specified in the
3 contract for determining the maturity value of the paid-up annuity
4 benefit. However, in no event shall the present value of a paid-up
5 annuity benefit be less than the minimum nonforfeiture amount at that
6 time.

7 k. For the purpose of determining the benefits calculated under
8 subsections i. and j., in the case of annuity contracts under which an
9 election may be made to have annuity payments commence at optional
10 maturity dates, the maturity date shall be deemed to be the latest date
11 for which election shall be permitted by the contract, but shall not be
12 deemed to be later than the anniversary of the contract next following
13 the annuitant's seventieth birthday or the tenth anniversary of the
14 contract, whichever is later.

15 l. Any contract referred to in subsection f. which does not provide
16 cash surrender benefits or does not provide death benefits at least
17 equal to the minimum nonforfeiture amount prior to the
18 commencement of any annuity payments shall include a statement in
19 a prominent place in the contract that such benefits are not provided.

20 m. Any paid-up annuity, cash surrender or death benefits available
21 at any time, other than on the contract anniversary under any contract
22 with fixed scheduled considerations referred to in subsection f. shall
23 be calculated with allowance for the lapse of time and the payment of
24 any scheduled considerations beyond the beginning of the contract
25 year in which cessation of payment of considerations under the
26 contract occurs.

27 n. For any contract referred to in subsection f. which provides,
28 within the same contract by rider or supplemental contract provision,
29 both annuity benefits and life insurance benefits that are in excess of
30 the greater of cash surrender benefits or a return of the gross
31 considerations with interest, the minimum nonforfeiture benefits shall
32 be equal to the sum of the minimum nonforfeiture benefits for the
33 annuity portion and the minimum nonforfeiture benefits, if any, for the
34 life insurance portion computed as if each portion were a separate
35 contract. Notwithstanding the provisions of subsections h., i., j., k.
36 and m., additional benefits payable (1) in the event of total and
37 permanent disability, (2) as reversionary annuity or deferred
38 reversionary annuity benefits, or (3) as other policy benefits additional
39 to life insurance, endowment, and annuity benefits, and considerations
40 for all such additional benefits, shall be disregarded in ascertaining the
41 minimum nonforfeiture amounts, paid-up annuity, cash surrender and
42 death benefits that may be required by this section. The inclusion of
43 such additional benefits shall not be required in any paid-up benefits,
44 unless such additional benefits separately would require minimum
45 nonforfeiture amounts, paid-up annuity, cash surrender and death
46 benefits.

1 o. After January 1, 1981, any insurer may file with the
2 commissioner a written notice of its election to comply with the
3 provisions of this section after a specified date before January 1, 1983.
4 After the filing of such notice, then upon such specified date, which
5 shall be the operative date of this section for such insurer, the
6 provisions of subsections f. through n. shall become operative with
7 respect to annuity contracts thereafter issued by such insurer. If an
8 insurer makes no such election, the operative date of this section for
9 such insurer shall be January 1, 1983.

10 p. This section shall not apply to any reinsurance, group annuity
11 purchased in connection with one or more retirement plans or plans of
12 deferred compensation established or maintained by or for one or more
13 employers (including partnerships or sole proprietorships), employee
14 organizations, or any combination thereof, other than plans providing
15 individual retirement accounts or individual retirement annuities under
16 Section 408 of the federal Internal Revenue Code of 1986
17 (26 U.S.C. s.408), as amended, nor to any premium deposit fund,
18 variable annuity, investment annuity, immediate annuity, any deferred
19 annuity contract after annuity payments have commenced, or
20 reversionary annuity, nor to any contract which shall be delivered
21 outside this State through an agent or other representative of the
22 insurer issuing the contract. The requirements of subsections a. to e.
23 of this section shall not apply to any group annuity, single premium
24 pure endowment, or single stipulated payment annuity.

25 (cf: P.L.1981, c.285, s.5)

26

27 2. This act shall take effect on the 90th day following enactment.

28

29

30

31

32 _____
33 Reduces standard nonforfeiture rate for certain individual deferred
annuities.

ASSEMBLY, No. 3191

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JANUARY 23, 2003

Sponsored by:

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

SYNOPSIS

Reduces standard nonforfeiture rate for certain individual deferred annuities.

CURRENT VERSION OF TEXT

As introduced.



A3191 IMPREVEDUTO, BATEMAN

2

1 AN ACT concerning the standard nonforfeiture rate for individual
2 deferred annuities and amending P.L.1981, c.285.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 5 of P.L.1981, c.285 (C.17B:25-20) is amended to read
8 as follows:

9 5. This section shall be known as the standard nonforfeiture law for
10 individual deferred annuities.

11 a. No contract of annuity or pure endowment, except as stated in
12 subsection p., shall be issued or delivered in this State on or after
13 January 1, 1972 and before the operative date of this section as
14 defined in subsection o., unless it shall contain in substance the
15 following provisions, or corresponding provisions which in the opinion
16 of the commissioner are at least as favorable to the defaulting or
17 surrendering contract holder:

18 (1) That, in the event of default in any stipulated payment, the
19 insurer will grant a paid-up nonforfeiture benefit on a plan stipulated
20 in the contract, effective as of such due date, of such value as may be
21 hereinafter specified.

22 (2) A statement of the mortality tables, if any, and interest rates
23 used in calculating the paid-up nonforfeiture benefits available under
24 the contract, together with a table showing either the cash surrender
25 value, if any, or the paid-up nonforfeiture benefit, if any, available on
26 each anniversary of the contract either during the first 20 contract
27 years or during the term of stipulated payments, whichever is shorter,
28 such benefits to be calculated upon the assumption that there are no
29 dividends or paid-up additions credited to the contract and that there
30 is no indebtedness to the insurer on the contract.

31 (3) A statement that the paid-up nonforfeiture benefits available
32 under the contract are not less than the minimum benefits required by
33 or pursuant to the insurance law of the state in which the contract is
34 delivered; an explanation of the manner in which the paid-up
35 nonforfeiture benefits are altered by the existence of any paid-up
36 additions credited to the contract or any indebtedness to the insurer
37 on the contract; if a detailed statement of the method of computation
38 of the paid-up nonforfeiture benefits shown in the contract is not
39 stated therein, a statement that such method of computation has been
40 filed with the insurance supervisory official of the state in which the
41 contract is delivered; and a statement of the method to be used in
42 calculating the paid-up nonforfeiture benefit available under the
43 contract on any contract anniversary beyond the last anniversary for

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 which such benefits are consecutively shown in the contract.

2 If an insurer shall provide for the payment of a cash surrender
3 value, it shall reserve the right to defer the payment of such value for
4 a period of 6 months after demand therefor with surrender of the
5 contract.

6 Notwithstanding the requirements of this subsection, any deferred
7 annuity contract may provide that if the annuity allowed under any
8 paid-up nonforfeiture benefit would be less than \$120.00 annually, the
9 insurer may at its option grant a cash surrender value in lieu of such
10 paid-up nonforfeiture benefit of such amount as may be required by
11 subsection c.

12 b. Any paid-up nonforfeiture benefit available under any annuity or
13 pure endowment contract referred to in subsection a. in the event of
14 default in a stipulated payment due on any contract anniversary, shall
15 be such that its present value as of such anniversary shall be an amount
16 not less than the excess, if any, of the present value, on such
17 anniversary, of the future guaranteed benefits which would have been
18 provided for by the contract, including any existing paid-up additions,
19 if there had been no default, over the sum of (1) the then present value
20 of the adjusted stipulated payments as defined in subsection d.
21 corresponding to stipulated payments which would have fallen due on
22 and after such anniversary, and (2) the amount of any indebtedness to
23 the insurer on the contract. In determining the benefits referred to in
24 this subsection and in calculating the adjusted stipulated payments
25 referred to in subsection d. in the case of annuity contracts under
26 which an election may be made to have annuity payments commence
27 at optional dates, the annuity payments shall be deemed to commence
28 at a date which shall be the latest permitted by the contract for the
29 commencement of such payments but not later than the contract
30 anniversary nearest the annuitant's seventieth birthday or the tenth
31 anniversary of the contract, whichever is later; and the stipulated
32 payments shall be deemed to be payable for the longest period during
33 which they would be payable if election were made to have the annuity
34 payments commence at such date.

35 c. Any cash surrender value allowed by any annuity or pure
36 endowment contract referred to in subsection a. and the present value
37 under any optional provision, of future benefits commencing on the
38 due date of the stipulated payment in default shall each be at least
39 equal to the then present value of the minimum paid-up nonforfeiture
40 benefit required by subsection b.

41 d. The adjusted stipulated payments for any annuity or pure
42 endowment contract referred to in subsection a. shall be calculated on
43 an annual basis and shall be such uniform percentage of the respective
44 stipulated payments specified in the contract for each contract year
45 that the present value, at the date of issue of the contract, of all such
46 adjusted stipulated payments shall be equal to the sum of (1) the then

1 present value of the future guaranteed benefits provided for by the
2 contract; (2) 20% of the adjusted stipulated payment for the first
3 contract year; and (3) 2% of the adjusted stipulated payment for the
4 first contract year for each year not exceeding 20 during which
5 stipulated payments are payable.

6 All adjusted stipulated payments and present values referred to in
7 this section shall for annuity and pure endowment contracts be
8 calculated on the basis of (1) the applicable rates of interest, not
9 exceeding 3 1/2% per annum, specified in the contract for calculating
10 cash surrender values, if any, and paid-up nonforfeiture benefits; and
11 (2) the 1937 Standard Annuity Mortality Table, or the Annuity
12 Mortality Table for 1949, Ultimate, or any modification of either of
13 these tables approved by the commissioner or any other table approved
14 by the commissioner; provided that, in the case of annuity or pure
15 endowment contracts issued after the operative date for the insurer of
16 paragraph (ix) of subsection a. of the standard valuation law,
17 [section] N.J.S.17B:19-8, the 3 1/2% maximum interest rate specified
18 in item (1) of this paragraph shall be increased to 4 1/2%, and, if the
19 applicable rates of interest specified in the contract for calculating
20 cash surrender values, if any, and paid-up nonforfeiture benefits
21 exceed 3 1/2%, there shall be substituted for the mortality tables
22 specified in item (2) the 1971 Individual Annuity Mortality Table, or
23 any modification of this table approved by the commissioner or any
24 other table approved by the commissioner.

25 e. Any cash surrender value and any paid-up nonforfeiture benefit,
26 available under any contract referred to in subsection a. in the event of
27 default in the payment of a stipulated payment due at any time other
28 than on the contract anniversary, shall be calculated with allowance for
29 the lapse of time and the payment of fractional stipulated payments
30 beyond the last preceding contract anniversary. All values referred to
31 in subsections b. to d. inclusive, may be calculated upon the
32 assumption that any death benefit is payable at the end of the contract
33 year of death. The net value of any paid-up additions shall be not less
34 than the dividends used to provide such additions. Notwithstanding
35 the provisions of subsection b., additional benefits payable (1) in the
36 event of total and permanent disability, (2) as reversionary annuity or
37 deferred reversionary annuity benefits, and (3) as other policy benefits
38 additional to pure endowment, and annuity benefits, and premiums for
39 all such additional benefits, shall be disregarded in ascertaining cash
40 surrender values and nonforfeiture benefits required by this section,
41 and no such additional benefits shall be required to be included in any
42 paid-up nonforfeiture benefits. Notwithstanding the provisions of
43 subsection b., additional benefits providing the privilege to purchase
44 additional annuity benefits at some future time without furnishing
45 evidence of insurability, and stipulated payments therefor, may, with
46 the consent of the commissioner, be disregarded in ascertaining cash

1 surrender values and nonforfeiture benefits required by this section,
2 and no such additional benefits shall be required to be included in any
3 paid-up nonforfeiture benefits.

4 f. In the case of contracts issued on or after the operative date of
5 this section as defined in subsection o., no contract of annuity, except
6 as stated in subsection p., shall be delivered or issued for delivery in
7 this State unless it contains in substance the following provisions, or
8 corresponding provisions which in the opinion of the commissioner are
9 at least as favorable to the contract holder, upon cessation of payment
10 of considerations under the contract:

11 (1) That upon cessation of payment of considerations under a
12 contract, the insurer will grant a paid-up annuity benefit on a plan
13 stipulated in the contract of such value as is specified in subsections h.,
14 i., j., k. and m.

15 (2) If a contract provides for a lump sum settlement at maturity, or
16 at any other time, that upon surrender of the contract at or prior to the
17 commencement of any annuity payments, the insurer will pay in lieu of
18 any paid-up annuity benefit a cash surrender benefit of such amount
19 as is specified in subsections h., i., k. and m. The insurer shall reserve
20 the right to defer the payment of such cash surrender benefit for a
21 period of 6 months after demand therefor with surrender of the
22 contract.

23 (3) A statement of the mortality table, if any, and interest rates
24 used in calculating any minimum paid-up annuity, cash surrender or
25 death benefits that are guaranteed under the contract, together with
26 sufficient information to determine the amounts of such benefits.

27 (4) A statement that any paid-up annuity, cash surrender or death
28 benefits that may be available under the contract are not less than the
29 minimum benefits required by any statute of the state in which the
30 contract is delivered and an explanation of the manner in which such
31 benefits are altered by the existence of any additional amounts credited
32 by the insurer to the contract, any indebtedness to the insurer on the
33 contract or any prior withdrawals from or partial surrenders of the
34 contract.

35 Notwithstanding the requirements of this subsection, any deferred
36 annuity contract may provide that if no considerations have been
37 received under a contract for a period of 2 years and the portion of the
38 paid-up annuity benefit at maturity on the plan stipulated in the
39 contract arising from considerations paid prior to such period would
40 be less than \$20.00 monthly, the insurer may at its option terminate
41 such contract by payment in cash of the then present value of such
42 portion of the paid-up annuity benefit, calculated on the basis of the
43 mortality table, if any, and interest rate specified in the contract for
44 determining the paid-up annuity benefit, and by such payment shall be
45 relieved of any further obligation under such contract.

1 g. The minimum values as specified in subsections h., i., j., k. and
2 m. of any paid-up annuity, cash surrender or death benefits available
3 under an annuity contract referred to in subsection f., shall be based
4 upon minimum nonforfeiture amounts as defined in this subsection:

5 (1) With respect to contracts providing for flexible considerations,
6 the minimum nonforfeiture amount at any time at or prior to the
7 commencement of any annuity payments shall be equal to an
8 accumulation up to that time at a rate of interest of 3% per annum of
9 percentages of the net considerations (as hereinafter defined) paid
10 prior to such time; decreased by the sum of any prior withdrawals from
11 or partial surrenders of the contract accumulated at a rate of interest
12 of 3% per annum and the amount of any indebtedness to the insurer on
13 the contract, including interest due and accrued; and increased by any
14 existing additional amounts credited by the insurer to the contract.
15 The net considerations for a given contract year used to define the
16 minimum nonforfeiture amount shall be an amount not less than zero
17 and shall be equal to the corresponding gross considerations credited
18 to the contract during that contract year less an annual contract charge
19 of \$30.00 and less a collection charge of \$1.25 per consideration
20 credited to the contract during that contract year. The percentages of
21 net considerations shall be 65% of the net consideration for the first
22 contract year and 87 1/2% of the net considerations for the second and
23 later contract years. Notwithstanding the provisions of the preceding
24 sentence, the percentage shall be 65% of the portion of the total net
25 consideration for any renewal contract year which exceeds by not
26 more than two times the sum of those portions of the net
27 considerations in all prior contract years for which the percentage was
28 65%.

29 (2) With respect to contracts providing for fixed scheduled
30 considerations, minimum nonforfeiture amounts shall be calculated on
31 the assumption that considerations are paid annually in advance and
32 shall be defined as for contracts with flexible considerations which are
33 paid annually with two exceptions:

34 (a) The portion of the net consideration for the first contract year
35 to be accumulated shall be the sum of 65% of the net consideration for
36 the first contract year plus 22 1/2% of the excess of the net
37 consideration for the first contract year over the lesser of the net
38 considerations for the second and third contract years.

39 (b) The annual contract charge shall be the lesser of (i) \$30.00 or
40 (ii) 10% of the gross annual consideration.

41 (3) With respect to contracts providing for a single consideration,
42 minimum nonforfeiture amounts shall be defined as for contracts with
43 flexible considerations except that the percentage of net consideration
44 used to determine the minimum nonforfeiture amount shall be equal to
45 90% and the net consideration shall be the gross consideration less a
46 contract charge of \$75.00.

1 (4) Notwithstanding any other provision of this subsection to the
2 contrary, for any contract issued on or after the effective date of
3 P.L. _____, c. _____ (now before the Legislature as this bill) and before the
4 1095th day after that effective date, the interest rate at which net
5 consideration, prior to withdrawals and partial surrenders, shall be
6 accumulated for purposes of determining minimum nonforfeiture
7 amounts shall be 1 1/2% per annum.

8 h. Any paid-up annuity benefit available under a contract referred
9 to in subsection f. shall have a present value on the date annuity
10 payments are to commence at least equal to the minimum nonforfeiture
11 amount on that date. Such present value shall be computed using the
12 mortality table, if any, and the interest rate specified in the contract
13 for determining the minimum paid-up annuity benefits guaranteed in
14 the contract.

15 i. For contracts referred to in subsection f. which provide cash
16 surrender benefits, such cash surrender benefits available prior to
17 maturity shall not be less than the present value as of the date of
18 surrender of that portion of the maturity value of the paid-up annuity
19 benefit which would be provided under the contract at maturity arising
20 from considerations paid prior to the time of cash surrender reduced
21 by the amount appropriate to reflect any prior withdrawals from or
22 partial surrenders of the contract, such present value being calculated
23 on the basis of an interest rate not more than 1% higher than the
24 interest rate specified in the contract for accumulating the net
25 considerations to determine such maturity value; decreased by the
26 amount of any indebtedness to the insurer on the contract, including
27 interest due and accrued; and increased by any existing additional
28 amounts credited by the insurer to the contract. In no event shall any
29 cash surrender benefit be less than the minimum nonforfeiture amount
30 at that time. The death benefit under such contracts shall be at least
31 equal to the cash surrender benefit.

32 j. For contracts referred to in subsection f. which do not provide
33 cash surrender benefits, the present value of any paid-up annuity
34 benefit available as a nonforfeiture option at any time prior to maturity
35 shall not be less than the present value of that portion of the maturity
36 value of the paid-up annuity benefit provided under the contract
37 arising from considerations paid prior to the time the contract is
38 surrendered in exchange for, or changed to, a deferred paid-up
39 annuity, such present value being calculated for the period prior to the
40 maturity date on the basis of the interest rate specified in the contract
41 for accumulating the net considerations to determine such maturity
42 value, and increased by any existing additional amounts credited by the
43 insurer to the contract. For contracts referred to in subsection f.
44 which do not provide any death benefits prior to the commencement
45 of any annuity payments, such present values shall be calculated on the
46 basis of such interest rate and the mortality table specified in the

1 contract for determining the maturity value of the paid-up annuity
2 benefit. However, in no event shall the present value of a paid-up
3 annuity benefit be less than the minimum nonforfeiture amount at that
4 time.

5 k. For the purpose of determining the benefits calculated under
6 subsections i. and j., in the case of annuity contracts under which an
7 election may be made to have annuity payments commence at optional
8 maturity dates, the maturity date shall be deemed to be the latest date
9 for which election shall be permitted by the contract, but shall not be
10 deemed to be later than the anniversary of the contract next following
11 the annuitant's seventieth birthday or the tenth anniversary of the
12 contract, whichever is later.

13 l. Any contract referred to in subsection f. which does not provide
14 cash surrender benefits or does not provide death benefits at least
15 equal to the minimum nonforfeiture amount prior to the
16 commencement of any annuity payments shall include a statement in
17 a prominent place in the contract that such benefits are not provided.

18 m. Any paid-up annuity, cash surrender or death benefits available
19 at any time, other than on the contract anniversary under any contract
20 with fixed scheduled considerations referred to in subsection f. shall
21 be calculated with allowance for the lapse of time and the payment of
22 any scheduled considerations beyond the beginning of the contract
23 year in which cessation of payment of considerations under the
24 contract occurs.

25 n. For any contract referred to in subsection f. which provides,
26 within the same contract by rider or supplemental contract provision,
27 both annuity benefits and life insurance benefits that are in excess of
28 the greater of cash surrender benefits or a return of the gross
29 considerations with interest, the minimum nonforfeiture benefits shall
30 be equal to the sum of the minimum nonforfeiture benefits for the
31 annuity portion and the minimum nonforfeiture benefits, if any, for the
32 life insurance portion computed as if each portion were a separate
33 contract. Notwithstanding the provisions of subsections h., i., j., k.
34 and m., additional benefits payable (1) in the event of total and
35 permanent disability, (2) as reversionary annuity or deferred
36 reversionary annuity benefits, or (3) as other policy benefits additional
37 to life insurance, endowment, and annuity benefits, and considerations
38 for all such additional benefits, shall be disregarded in ascertaining the
39 minimum nonforfeiture amounts, paid-up annuity, cash surrender and
40 death benefits that may be required by this section. The inclusion of
41 such additional benefits shall not be required in any paid-up benefits,
42 unless such additional benefits separately would require minimum
43 nonforfeiture amounts, paid-up annuity, cash surrender and death
44 benefits.

45 o. After January 1, 1981, any insurer may file with the
46 commissioner a written notice of its election to comply with the

1 provisions of this section after a specified date before January 1, 1983.
2 After the filing of such notice, then upon such specified date, which
3 shall be the operative date of this section for such insurer, the
4 provisions of subsections f. through n. shall become operative with
5 respect to annuity contracts thereafter issued by such insurer. If an
6 insurer makes no such election, the operative date of this section for
7 such insurer shall be January 1, 1983.

8 p. This section shall not apply to any reinsurance, group annuity
9 purchased in connection with one or more retirement plans or plans of
10 deferred compensation established or maintained by or for one or more
11 employers (including partnerships or sole proprietorships), employee
12 organizations, or any combination thereof, other than plans providing
13 individual retirement accounts or individual retirement annuities under
14 Section 408 of the federal Internal Revenue Code of 1986
15 (26 U.S.C. s.408), as amended, nor to any premium deposit fund,
16 variable annuity, investment annuity, immediate annuity, any deferred
17 annuity contract after annuity payments have commenced, or
18 reversionary annuity, nor to any contract which shall be delivered
19 outside this State through an agent or other representative of the
20 insurer issuing the contract. The requirements of subsections a. to e.
21 of this section shall not apply to any group annuity, single premium
22 pure endowment, or single stipulated payment annuity.
23 (cf: P.L.1981, c.285, s.5)

24

25 2. This act shall take effect on the 90th day following enactment.

26

27

28

STATEMENT

29

30 This bill reduces the minimum nonforfeiture rate from 3% to 1.5%
31 for individual annuity contracts issued during the three-year period
32 following the effective date of the bill.

33 The minimum nonforfeiture rate is the minimum interest rate
34 guarantee that can be used by an insurer in an individual annuity
35 contract to determine its cash value. The current 3% minimum rate is
36 incompatible with the low interest rate of the current market.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3191

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 27, 2003

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Assembly Bill No. 3191.

Assembly Bill No. 3191, as amended by the committee, reduces the minimum nonforfeiture rate from 3% to 1.5% for individual annuity contracts issued during the three-year period following the effective date of the bill.

The minimum nonforfeiture rate is the minimum interest rate guarantee that can be used by an insurer in an individual annuity contract to determine its cash value. The current 3% minimum rate is incompatible with the low interest rate of the current market.

COMMITTEE AMENDMENTS:

The committee amended the bill to delete the deduction of withdrawals and partial surrenders in the calculation of the net consideration for the purposes of determining minimum nonforfeiture amounts.

SENATE COMMERCE COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3191

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 15, 2003

The Senate Commerce Committee reports favorably and with committee amendments Assembly Bill No. 3191 (1R).

This bill, as amended by the committee, reduces the minimum nonforfeiture rate from 3% to 1.5% for individual annuity contracts issued during the two-year period following the effective date of the bill.

The minimum nonforfeiture rate is the minimum interest rate guarantee that can be used by an insurer in an individual annuity contract to determine its cash value. The current 3% minimum rate is incompatible with the low interest rate of the current market.

The committee amended the bill to change the application of the new minimum rate to individual annuity contracts issued during the two year period after its effective date, rather than three years.

As reported, this bill is identical to Senate Bill No. 2050 (1R) also reported by the committee today.

SENATE, No. 2050

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED NOVEMBER 14, 2002

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen)

Co-Sponsored by:

Senator Lesniak

SYNOPSIS

Reduces standard nonforfeiture rate for certain individual deferred annuities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/5/2003)

S2050 CARDINALE

2

1 AN ACT concerning the standard nonforfeiture rate for individual
2 deferred annuities and amending P.L.1981, c.285.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 5 of P.L.1981, c.285 (C.17B:25-20) is amended to read
8 as follows:

9 5. This section shall be known as the standard nonforfeiture law for
10 individual deferred annuities.

11 a. No contract of annuity or pure endowment, except as stated in
12 subsection p., shall be issued or delivered in this State on or after
13 January 1, 1972 and before the operative date of this section as
14 defined in subsection o., unless it shall contain in substance the
15 following provisions, or corresponding provisions which in the opinion
16 of the commissioner are at least as favorable to the defaulting or
17 surrendering contract holder:

18 (1) That, in the event of default in any stipulated payment, the
19 insurer will grant a paid-up nonforfeiture benefit on a plan stipulated
20 in the contract, effective as of such due date, of such value as may be
21 hereinafter specified.

22 (2) A statement of the mortality tables, if any, and interest rates
23 used in calculating the paid-up nonforfeiture benefits available under
24 the contract, together with a table showing either the cash surrender
25 value, if any, or the paid-up nonforfeiture benefit, if any, available on
26 each anniversary of the contract either during the first 20 contract
27 years or during the term of stipulated payments, whichever is shorter,
28 such benefits to be calculated upon the assumption that there are no
29 dividends or paid-up additions credited to the contract and that there
30 is no indebtedness to the insurer on the contract.

31 (3) A statement that the paid-up nonforfeiture benefits available
32 under the contract are not less than the minimum benefits required by
33 or pursuant to the insurance law of the state in which the contract is
34 delivered; an explanation of the manner in which the paid-up
35 nonforfeiture benefits are altered by the existence of any paid-up
36 additions credited to the contract or any indebtedness to the insurer
37 on the contract; if a detailed statement of the method of computation
38 of the paid-up nonforfeiture benefits shown in the contract is not
39 stated therein, a statement that such method of computation has been
40 filed with the insurance supervisory official of the state in which the
41 contract is delivered; and a statement of the method to be used in
42 calculating the paid-up nonforfeiture benefit available under the
43 contract on any contract anniversary beyond the last anniversary for

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

S2050 CARDINALE

1 which such benefits are consecutively shown in the contract.

2 If an insurer shall provide for the payment of a cash surrender
3 value, it shall reserve the right to defer the payment of such value for
4 a period of 6 months after demand therefor with surrender of the
5 contract.

6 Notwithstanding the requirements of this subsection, any deferred
7 annuity contract may provide that if the annuity allowed under any
8 paid-up nonforfeiture benefit would be less than \$120.00 annually, the
9 insurer may at its option grant a cash surrender value in lieu of such
10 paid-up nonforfeiture benefit of such amount as may be required by
11 subsection c.

12 b. Any paid-up nonforfeiture benefit available under any annuity or
13 pure endowment contract referred to in subsection a. in the event of
14 default in a stipulated payment due on any contract anniversary, shall
15 be such that its present value as of such anniversary shall be an amount
16 not less than the excess, if any, of the present value, on such
17 anniversary, of the future guaranteed benefits which would have been
18 provided for by the contract, including any existing paid-up additions,
19 if there had been no default, over the sum of (1) the then present value
20 of the adjusted stipulated payments as defined in subsection d.
21 corresponding to stipulated payments which would have fallen due on
22 and after such anniversary, and (2) the amount of any indebtedness to
23 the insurer on the contract. In determining the benefits referred to in
24 this subsection and in calculating the adjusted stipulated payments
25 referred to in subsection d. in the case of annuity contracts under
26 which an election may be made to have annuity payments commence
27 at optional dates, the annuity payments shall be deemed to commence
28 at a date which shall be the latest permitted by the contract for the
29 commencement of such payments but not later than the contract
30 anniversary nearest the annuitant's seventieth birthday or the tenth
31 anniversary of the contract, whichever is later; and the stipulated
32 payments shall be deemed to be payable for the longest period during
33 which they would be payable if election were made to have the annuity
34 payments commence at such date.

35 c. Any cash surrender value allowed by any annuity or pure
36 endowment contract referred to in subsection a. and the present value
37 under any optional provision, of future benefits commencing on the
38 due date of the stipulated payment in default shall each be at least
39 equal to the then present value of the minimum paid-up nonforfeiture
40 benefit required by subsection b.

41 d. The adjusted stipulated payments for any annuity or pure
42 endowment contract referred to in subsection a. shall be calculated on
43 an annual basis and shall be such uniform percentage of the respective
44 stipulated payments specified in the contract for each contract year
45 that the present value, at the date of issue of the contract, of all such
46 adjusted stipulated payments shall be equal to the sum of (1) the then

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1 present value of the future guaranteed benefits provided for by the
2 contract; (2) 20% of the adjusted stipulated payment for the first
3 contract year; and (3) 2% of the adjusted stipulated payment for the
4 first contract year for each year not exceeding 20 during which
5 stipulated payments are payable.

6 All adjusted stipulated payments and present values referred to in
7 this section shall for annuity and pure endowment contracts be
8 calculated on the basis of (1) the applicable rates of interest, not
9 exceeding 3 1/2% per annum, specified in the contract for calculating
10 cash surrender values, if any, and paid-up nonforfeiture benefits; and
11 (2) the 1937 Standard Annuity Mortality Table, or the Annuity
12 Mortality Table for 1949, Ultimate, or any modification of either of
13 these tables approved by the commissioner or any other table approved
14 by the commissioner; provided that, in the case of annuity or pure
15 endowment contracts issued after the operative date for the insurer of
16 paragraph (ix) of subsection a. of the standard valuation law,
17 [section] N.J.S.17B:19-8, the 3 1/2% maximum interest rate specified
18 in item (1) of this paragraph shall be increased to 4 1/2%, and, if the
19 applicable rates of interest specified in the contract for calculating
20 cash surrender values, if any, and paid-up nonforfeiture benefits
21 exceed 3 1/2%, there shall be substituted for the mortality tables
22 specified in item (2) the 1971 Individual Annuity Mortality Table, or
23 any modification of this table approved by the commissioner or any
24 other table approved by the commissioner.

25 e. Any cash surrender value and any paid-up nonforfeiture benefit,
26 available under any contract referred to in subsection a. in the event of
27 default in the payment of a stipulated payment due at any time other
28 than on the contract anniversary, shall be calculated with allowance for
29 the lapse of time and the payment of fractional stipulated payments
30 beyond the last preceding contract anniversary. All values referred to
31 in subsections b. to d. inclusive, may be calculated upon the
32 assumption that any death benefit is payable at the end of the contract
33 year of death. The net value of any paid-up additions shall be not less
34 than the dividends used to provide such additions. Notwithstanding
35 the provisions of subsection b., additional benefits payable (1) in the
36 event of total and permanent disability, (2) as reversionary annuity or
37 deferred reversionary annuity benefits, and (3) as other policy benefits
38 additional to pure endowment, and annuity benefits, and premiums for
39 all such additional benefits, shall be disregarded in ascertaining cash
40 surrender values and nonforfeiture benefits required by this section,
41 and no such additional benefits shall be required to be included in any
42 paid-up nonforfeiture benefits. Notwithstanding the provisions of
43 subsection b., additional benefits providing the privilege to purchase
44 additional annuity benefits at some future time without furnishing
45 evidence of insurability, and stipulated payments therefor, may, with
46 the consent of the commissioner, be disregarded in ascertaining cash

1 surrender values and nonforfeiture benefits required by this section,
2 and no such additional benefits shall be required to be included in any
3 paid-up nonforfeiture benefits.

4 f. In the case of contracts issued on or after the operative date of
5 this section as defined in subsection o., no contract of annuity, except
6 as stated in subsection p., shall be delivered or issued for delivery in
7 this State unless it contains in substance the following provisions, or
8 corresponding provisions which in the opinion of the commissioner are
9 at least as favorable to the contract holder, upon cessation of payment
10 of considerations under the contract:

11 (1) That upon cessation of payment of considerations under a
12 contract, the insurer will grant a paid-up annuity benefit on a plan
13 stipulated in the contract of such value as is specified in subsections h.,
14 i., j., k. and m.

15 (2) If a contract provides for a lump sum settlement at maturity, or
16 at any other time, that upon surrender of the contract at or prior to the
17 commencement of any annuity payments, the insurer will pay in lieu of
18 any paid-up annuity benefit a cash surrender benefit of such amount
19 as is specified in subsections h., i., k. and m. The insurer shall reserve
20 the right to defer the payment of such cash surrender benefit for a
21 period of 6 months after demand therefor with surrender of the
22 contract.

23 (3) A statement of the mortality table, if any, and interest rates
24 used in calculating any minimum paid-up annuity, cash surrender or
25 death benefits that are guaranteed under the contract, together with
26 sufficient information to determine the amounts of such benefits.

27 (4) A statement that any paid-up annuity, cash surrender or death
28 benefits that may be available under the contract are not less than the
29 minimum benefits required by any statute of the state in which the
30 contract is delivered and an explanation of the manner in which such
31 benefits are altered by the existence of any additional amounts credited
32 by the insurer to the contract, any indebtedness to the insurer on the
33 contract or any prior withdrawals from or partial surrenders of the
34 contract.

35 Notwithstanding the requirements of this subsection, any deferred
36 annuity contract may provide that if no considerations have been
37 received under a contract for a period of 2 years and the portion of the
38 paid-up annuity benefit at maturity on the plan stipulated in the
39 contract arising from considerations paid prior to such period would
40 be less than \$20.00 monthly, the insurer may at its option terminate
41 such contract by payment in cash of the then present value of such
42 portion of the paid-up annuity benefit, calculated on the basis of the
43 mortality table, if any, and interest rate specified in the contract for
44 determining the paid-up annuity benefit, and by such payment shall be
45 relieved of any further obligation under such contract.

1 g. The minimum values as specified in subsections h., i., j., k. and
2 m. of any paid-up annuity, cash surrender or death benefits available
3 under an annuity contract referred to in subsection f., shall be based
4 upon minimum nonforfeiture amounts as defined in this subsection:

5 (1) With respect to contracts providing for flexible considerations,
6 the minimum nonforfeiture amount at any time at or prior to the
7 commencement of any annuity payments shall be equal to an
8 accumulation up to that time at a rate of interest of 3% per annum of
9 percentages of the net considerations (as hereinafter defined) paid
10 prior to such time; decreased by the sum of any prior withdrawals from
11 or partial surrenders of the contract accumulated at a rate of interest
12 of 3% per annum and the amount of any indebtedness to the insurer on
13 the contract, including interest due and accrued; and increased by any
14 existing additional amounts credited by the insurer to the contract.
15 The net considerations for a given contract year used to define the
16 minimum nonforfeiture amount shall be an amount not less than zero
17 and shall be equal to the corresponding gross considerations credited
18 to the contract during that contract year less an annual contract charge
19 of \$30.00 and less a collection charge of \$1.25 per consideration
20 credited to the contract during that contract year. The percentages of
21 net considerations shall be 65% of the net consideration for the first
22 contract year and 87 1/2% of the net considerations for the second and
23 later contract years. Notwithstanding the provisions of the preceding
24 sentence, the percentage shall be 65% of the portion of the total net
25 consideration for any renewal contract year which exceeds by not
26 more than two times the sum of those portions of the net
27 considerations in all prior contract years for which the percentage was
28 65%.

29 (2) With respect to contracts providing for fixed scheduled
30 considerations, minimum nonforfeiture amounts shall be calculated on
31 the assumption that considerations are paid annually in advance and
32 shall be defined as for contracts with flexible considerations which are
33 paid annually with two exceptions:

34 (a) The portion of the net consideration for the first contract year
35 to be accumulated shall be the sum of 65% of the net consideration for
36 the first contract year plus 22 1/2% of the excess of the net
37 consideration for the first contract year over the lesser of the net
38 considerations for the second and third contract years.

39 (b) The annual contract charge shall be the lesser of (i) \$30.00 or
40 (ii) 10% of the gross annual consideration.

41 (3) With respect to contracts providing for a single consideration,
42 minimum nonforfeiture amounts shall be defined as for contracts with
43 flexible considerations except that the percentage of net consideration
44 used to determine the minimum nonforfeiture amount shall be equal to
45 90% and the net consideration shall be the gross consideration less a
46 contract charge of \$75.00.

1 (4) Notwithstanding any other provision of this subsection to the
2 contrary, for any contract issued on or after the effective date of
3 P.L. _____, c. _____ (now before the Legislature as this bill) and before the
4 1095th day after that effective date, the interest rate at which net
5 consideration, prior to withdrawals and partial surrenders, shall be
6 accumulated for purposes of determining minimum nonforfeiture
7 amounts shall be 1 1/2% per annum.

8 h. Any paid-up annuity benefit available under a contract referred
9 to in subsection f. shall have a present value on the date annuity
10 payments are to commence at least equal to the minimum nonforfeiture
11 amount on that date. Such present value shall be computed using the
12 mortality table, if any, and the interest rate specified in the contract
13 for determining the minimum paid-up annuity benefits guaranteed in
14 the contract.

15 i. For contracts referred to in subsection f. which provide cash
16 surrender benefits, such cash surrender benefits available prior to
17 maturity shall not be less than the present value as of the date of
18 surrender of that portion of the maturity value of the paid-up annuity
19 benefit which would be provided under the contract at maturity arising
20 from considerations paid prior to the time of cash surrender reduced
21 by the amount appropriate to reflect any prior withdrawals from or
22 partial surrenders of the contract, such present value being calculated
23 on the basis of an interest rate not more than 1% higher than the
24 interest rate specified in the contract for accumulating the net
25 considerations to determine such maturity value; decreased by the
26 amount of any indebtedness to the insurer on the contract, including
27 interest due and accrued; and increased by any existing additional
28 amounts credited by the insurer to the contract. In no event shall any
29 cash surrender benefit be less than the minimum nonforfeiture amount
30 at that time. The death benefit under such contracts shall be at least
31 equal to the cash surrender benefit.

32 j. For contracts referred to in subsection f. which do not provide
33 cash surrender benefits, the present value of any paid-up annuity
34 benefit available as a nonforfeiture option at any time prior to maturity
35 shall not be less than the present value of that portion of the maturity
36 value of the paid-up annuity benefit provided under the contract
37 arising from considerations paid prior to the time the contract is
38 surrendered in exchange for, or changed to, a deferred paid-up
39 annuity, such present value being calculated for the period prior to the
40 maturity date on the basis of the interest rate specified in the contract
41 for accumulating the net considerations to determine such maturity
42 value, and increased by any existing additional amounts credited by the
43 insurer to the contract. For contracts referred to in subsection f.
44 which do not provide any death benefits prior to the commencement
45 of any annuity payments, such present values shall be calculated on the
46 basis of such interest rate and the mortality table specified in the

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1 contract for determining the maturity value of the paid-up annuity
2 benefit. However, in no event shall the present value of a paid-up
3 annuity benefit be less than the minimum nonforfeiture amount at that
4 time.

5 k. For the purpose of determining the benefits calculated under
6 subsections i. and j., in the case of annuity contracts under which an
7 election may be made to have annuity payments commence at optional
8 maturity dates, the maturity date shall be deemed to be the latest date
9 for which election shall be permitted by the contract, but shall not be
10 deemed to be later than the anniversary of the contract next following
11 the annuitant's seventieth birthday or the tenth anniversary of the
12 contract, whichever is later.

13 l. Any contract referred to in subsection f. which does not provide
14 cash surrender benefits or does not provide death benefits at least
15 equal to the minimum nonforfeiture amount prior to the
16 commencement of any annuity payments shall include a statement in
17 a prominent place in the contract that such benefits are not provided.

18 m. Any paid-up annuity, cash surrender or death benefits available
19 at any time, other than on the contract anniversary under any contract
20 with fixed scheduled considerations referred to in subsection f. shall
21 be calculated with allowance for the lapse of time and the payment of
22 any scheduled considerations beyond the beginning of the contract
23 year in which cessation of payment of considerations under the
24 contract occurs.

25 n. For any contract referred to in subsection f. which provides,
26 within the same contract by rider or supplemental contract provision,
27 both annuity benefits and life insurance benefits that are in excess of
28 the greater of cash surrender benefits or a return of the gross
29 considerations with interest, the minimum nonforfeiture benefits shall
30 be equal to the sum of the minimum nonforfeiture benefits for the
31 annuity portion and the minimum nonforfeiture benefits, if any, for the
32 life insurance portion computed as if each portion were a separate
33 contract. Notwithstanding the provisions of subsections h., i., j., k.
34 and m., additional benefits payable (1) in the event of total and
35 permanent disability, (2) as reversionary annuity or deferred
36 reversionary annuity benefits, or (3) as other policy benefits additional
37 to life insurance, endowment, and annuity benefits, and considerations
38 for all such additional benefits, shall be disregarded in ascertaining the
39 minimum nonforfeiture amounts, paid-up annuity, cash surrender and
40 death benefits that may be required by this section. The inclusion of
41 such additional benefits shall not be required in any paid-up benefits,
42 unless such additional benefits separately would require minimum
43 nonforfeiture amounts, paid-up annuity, cash surrender and death
44 benefits.

45 o. After January 1, 1981, any insurer may file with the
46 commissioner a written notice of its election to comply with the

1 provisions of this section after a specified date before January 1, 1983.
2 After the filing of such notice, then upon such specified date, which
3 shall be the operative date of this section for such insurer, the
4 provisions of subsections f. through n. shall become operative with
5 respect to annuity contracts thereafter issued by such insurer. If an
6 insurer makes no such election, the operative date of this section for
7 such insurer shall be January 1, 1983.

8 p. This section shall not apply to any reinsurance, group annuity
9 purchased in connection with one or more retirement plans or plans of
10 deferred compensation established or maintained by or for one or more
11 employers (including partnerships or sole proprietorships), employee
12 organizations, or any combination thereof, other than plans providing
13 individual retirement accounts or individual retirement annuities under
14 Section 408 of the federal Internal Revenue Code of 1986
15 (26 U.S.C. s.408), as amended, nor to any premium deposit fund,
16 variable annuity, investment annuity, immediate annuity, any deferred
17 annuity contract after annuity payments have commenced, or
18 reversionary annuity, nor to any contract which shall be delivered
19 outside this State through an agent or other representative of the
20 insurer issuing the contract. The requirements of subsections a. to e.
21 of this section shall not apply to any group annuity, single premium
22 pure endowment, or single stipulated payment annuity.
23 (cf: P.L.1981, c.285, s.5)

24

25 2. This act shall take effect on the 90th day following enactment.

26

27

28

STATEMENT

29

30 This bill reduces the minimum nonforfeiture rate from 3% to 1.5%
31 for individual annuity contracts issued during the three-year period
32 following the effective date of the bill.

33 The minimum nonforfeiture rate is the minimum interest rate
34 guarantee that can be used by an insurer in an individual annuity
35 contract to determine its cash value. The current 3% minimum rate is
36 incompatible with the low interest rate of the current market.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2050

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 15, 2003

The Senate Commerce Committee reports favorably, and with committee amendments, Senate Bill No. 2050.

This bill, as amended by the committee, reduces the minimum nonforfeiture rate from 3% to 1.5% for individual annuity contracts issued during the two-year period following the effective date of the bill.

The minimum nonforfeiture rate is the minimum interest rate guarantee that can be used by an insurer in an individual annuity contract to determine its cash value. The current 3% minimum rate is incompatible with the low interest rate of the current market.

The committee amended the bill to change the application of the new minimum rate to individual annuity contracts issued during the two year period after its effective date, rather than three years; and to remove a provision concerning withdrawals and partial surrenders in the calculation of the nonforfeiture rate.

As reported, this bill is identical to Assembly Bill No. 3191 (2R) also reported by the committee today.