

17B:25-21

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 194

NJSA: 17B:25-21 (The "Indexed Standard Nonforfeiture Law for Individual Deferred Annuities")

BILL NO: S2298 (Substituted for A3980)

SPONSOR(S): Lesniak and others

DATE INTRODUCED: January 31, 2005

COMMITTEE: **ASSEMBLY:** Financial Institutions and Insurance
SENATE: Commerce

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 23, 2005

SENATE: June 27, 2005

DATE OF APPROVAL: August 18, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)

S2298

[SPONSOR'S STATEMENT:](#) (Begins on page 7 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A3980

[SPONSOR'S STATEMENT:](#) (Begins on page 7 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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No

IS 9/12/07

P.L. 2005, CHAPTER 194, *approved August 18, 2005*
Senate, No. 2298 (*Second Reprint*)

1 **AN ACT** revising the standard nonforfeiture law for individual deferred
2 annuities¹ **[,]and¹** supplementing chapter 25 of Title 17B of the
3 New Jersey Statutes and ¹**[repealing section 5 of]**¹ P.L.1981, c.285
4 ¹**(C.17B:25-20)**¹.

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

8
9 1. This act shall be known and may be cited as the "¹**Indexed**¹
10 Standard Nonforfeiture Law for Individual Deferred Annuities."

11
12 2. This act shall not apply to any reinsurance, group annuity
13 purchased under a retirement plan or plan of deferred compensation
14 established or maintained by an employer (including a partnership or
15 sole proprietorship) or by an employee organization, or by both, other
16 than a plan providing individual retirement accounts or individual
17 retirement annuities under section 408 of the federal Internal Revenue
18 Code of 1986 (26 U.S.C. s.408), as now or hereafter amended,
19 premium deposit fund, variable annuity, investment annuity, immediate
20 annuity, any deferred annuity contract after annuity payments have
21 commenced, or reversionary annuity, nor to any contract which shall
22 be delivered outside this State through an agent or other representative
23 of the company issuing the contract.

24
25 3. a. No contract of annuity to which this act applies shall be
26 delivered or issued for delivery in this State on or after the second
27 anniversary of the effective date of this act, or any earlier date as
28 elected by the company pursuant to section 14 of this act, unless it
29 contains in substance the following provisions, or corresponding
30 provisions which in the opinion of the Commissioner of Banking and
31 Insurance are at least as favorable to the contract holder, upon
32 cessation of payment of considerations under the contract:

33 (1) That upon cessation of payment of considerations under a
34 contract, or upon the written request of the contract owner, the
35 company shall grant a paid-up annuity benefit on a plan stipulated in
36 the contract of that value provided by sections 5, 6, 7, 8 and 10 of this
37 act;

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 Senate SCM committee amendments adopted February 7, 2005.

² Assembly AFI committee amendments adopted May 12, 2005.

1 (2) If a contract provides for a lump sum settlement at maturity, or
2 at any other time, that upon surrender of the contract at or prior to the
3 commencement of any annuity payments, the company shall pay in lieu
4 of a paid-up annuity benefit a cash surrender benefit in the amount
5 provided by sections 5, 6, 8 and 10 of this act. The company may
6 reserve the right to defer the payment of the cash surrender benefit for
7 a period not to exceed six months after demand therefor with
8 surrender of the contract after making written request and receiving
9 written approval of the commissioner. The request shall address the
10 necessity and equitableness to all policyholders of the deferral;

11 (3) A statement of the morality table, if any, and interest rates used
12 in calculating any minimum paid-up annuity, cash surrender or death
13 benefits that are guaranteed under the contract, together with
14 sufficient information to determine the amounts of the benefits; and

15 (4) A statement that any paid-up annuity, cash surrender or death
16 benefits that may be available under the contract are not less than the
17 minimum benefits required by any statute of the state in which the
18 contract is delivered and an explanation of the manner in which the
19 benefits are altered by the existence of any additional amounts credited
20 by the company to the contract, any indebtedness to the company on
21 the contract or any prior withdrawals from or partial surrenders of the
22 contract.

23 b. Notwithstanding the requirements of this section, a deferred
24 annuity contract may provide that if no considerations have been
25 received under a contract for a period of two full years and the portion
26 of the paid-up annuity benefit at maturity on the plan stipulated in the
27 contract arising from prior considerations paid would be less than \$20
28 monthly, the company may at its option terminate the contract by
29 payment in cash of the then present value of the portion of the paid-up
30 annuity benefit, calculated on the basis on the mortality table, if any,
31 and interest rate specified in the contract for determining the paid-up
32 annuity benefit, and by this payment shall be relieved of any further
33 obligation under the contract.

34
35 4. The minimum values provided by sections 5, 6, 7, 8 and 10 of
36 this act of any paid-up annuity, cash surrender or death benefits
37 available under an annuity contract shall be based upon minimum
38 nonforfeiture amounts as defined in this section.

39 a. (1) The minimum nonforfeiture amount at any time at or prior
40 to the commencement of any annuity payments shall be equal to an
41 accumulation up to that time at rates of interest as indicated in
42 subsection b. of this section of the net considerations, as defined in
43 paragraph (2) of this subsection, paid prior to that time, decreased by
44 the sum of subparagraphs (a) through (d) below:

45 (a) Any prior withdrawals from or partial surrenders of the
46 contract accumulated at rates of interest as indicated in subsection b.

1 of this section;

2 (b) An annual contract charge of \$50, accumulated at rates of
3 interest as indicated in subsection b. of this section;

4 (c) Any premium tax paid by the company for the contract,
5 accumulated at rates of interest as indicated in subsection b. of this
6 section; and

7 (d) The amount of any indebtedness to the company on the
8 contract, including interest due and accrued.

9 (2) The net considerations for a given contract year used to define
10 the minimum nonforfeiture amount shall be an amount equal to
11 ¹[90%] 87.5%¹ of the gross considerations credited to the contract
12 during that contract year ¹, except that in the case of a single premium
13 contract, net considerations shall consist of 90% of the gross
14 considerations credited to the contract during that contract year¹.

15 b. The interest rate used in determining minimum nonforfeiture
16 amounts shall be an annual rate of interest determined as the lesser of
17 3% per annum or the following, which shall be specified in the
18 contract if the interest rate will be reset:

19 (1) The five-year Constant Maturity Treasury Rate reported by the
20 Federal Reserve Board as of a date, or average over a period, rounded
21 to the nearest 1/20th of one percent, specified in the contract no
22 longer than 15 months prior to the contract issue date or
23 redetermination date under paragraph (4) of this section;

24 (2) Reduced by 125 basis points;

25 (3) Where the resulting interest rate is not less than 1% per annum;
26 and

27 (4) The interest rate shall apply for an initial period, and may be
28 redetermined for additional periods. The redetermination date, basis
29 and period, if any, shall be stated in the contract. The basis is the date
30 or average over a specified period that produces the value of the five-
31 year Constant Maturity Treasury Rate to be used at each
32 redetermination date.

33 c. During the period or term that a contract provides a substantive
34 participation in an equity indexed benefit, it may increase the reduction
35 described in paragraph (2) of subsection b. of this section by up to an
36 additional 100 basis points to reflect the value of the equity index
37 benefit. The present value at the contract issue date, and at each
38 redetermination date thereafter, of the additional reduction shall not
39 exceed the market value of the benefit. The commissioner may require
40 a demonstration that the present value of the additional reduction does
41 not exceed the market value of the benefit. If that demonstration is
42 not acceptable to the commissioner, the commissioner may disallow or
43 limit the additional reduction.

44 d. The commissioner may adopt rules to implement the provisions
45 of subsection c. of this section which provide for further adjustments
46 to the calculation of minimum nonforfeiture amounts for contracts that

1 provide substantive participation in an equity index benefit and for
2 other contracts that the commissioner determines adjustments are
3 justified.

4

5 5. Any paid-up annuity benefit available under a contract shall be
6 such that its present value on the date annuity payments are to
7 commence is at least equal to the minimum nonforfeiture amount on
8 that date. Present value shall be computed using the mortality table,
9 if any, and the interest rates specified in the contract for determining
10 the minimum paid-up annuity benefits guaranteed in the contract.

11

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

28

29 7. For contracts that do not provide cash surrender benefits, the
30 present value of any paid-up annuity benefit available as a
31 nonforfeiture option at any time prior to maturity shall not be less than
32 the present value of that portion of the maturity value of the paid-up
33 annuity benefit provided under the contract arising from considerations
34 paid prior to the time the contract is surrendered in exchange for, or
35 changed to, a deferred paid-up annuity, such present value being
36 calculated for the period prior to the maturity date on the basis of the
37 interest rate specified in the contract for accumulating the net
38 considerations to determine maturity value, and increased by any
39 additional amounts credited by the company to the contract. For
40 contracts that do not provide any death benefits prior to the
41 commencement of any annuity payments, present values shall be
42 calculated on the basis of that interest rate and the mortality table
43 specified in the contract for determining the maturity value of the paid-
44 up annuity benefit. However, in no event shall the present value of a
45 paid-up annuity benefit be less than the minimum nonforfeiture amount
46 at that time.

1 8. ²a.² For the purpose of determining the benefits calculated under
2 sections 6 and 7 of this act ²[, in the case of annuity contracts under
3 which an election may be made to have annuity payments commence
4 at optional maturity dates, the maturity date shall be the latest date for
5 which election shall be permitted by the contract, but shall not be later
6 than the anniversary of the contract next following the annuitant's
7 seventieth birthday or the tenth anniversary of the contract, whichever
8 is later], in the case of annuity contracts for which the maturity date
9 is stated, that maturity date shall not be after the later of: (1) the
10 anniversary of the contract next following the annuitant's seventieth
11 birthday; or (2) the tenth anniversary of the contract. In the case of
12 annuity contracts under which an election may be made to have
13 annuity payments begin at optional maturity dates, the maturity date
14 shall be deemed to be the latest date for which election is permitted
15 by the contract, but shall not be deemed to be later than the latest date
16 permitted for an annuity contract with a stated maturity date.

17 b. The amount of benefits calculated under sections 6 and 7 of this
18 act on or after the stated or deemed maturity date shall not be reduced
19 by any surrender charge. The amount of the benefits calculated under
20 sections 6 and 7 of this act on or after the stated or deemed maturity
21 date shall not be less than the greater of: (1) the present value of
22 annuity benefits available on or after the maturity date, computed
23 according to the assumptions stated in section 5 of this act; and (2) the
24 amount available on or after the maturity date to be applied to the
25 purchase of an annuity on a basis stated in a contract.

26 c. Contracts providing for flexible considerations may have
27 separate surrender charge schedules associated with each
28 consideration, provided that the nonforfeiture values are at least as
29 great as they would be if each consideration had been a separate single
30 consideration contract based on the requirements of subsection a. of
31 section 4 of this act. For the purpose of determining the maturity date,
32 the tenth anniversary of the contract shall be determined separately for
33 each consideration.

34 The provisions of this section shall apply notwithstanding section
35 1 of P.L.2001, c.237 (C.17B:25-18.4), shall take precedence over that
36 section of law, and shall apply to annuity contracts regardless of
37 whether the requirements of that section have been met² .

38
39 9. A contract that does not provide cash surrender benefits or does
40 not provide death benefits at least equal to the minimum nonforfeiture
41 amount prior to the commencement of any annuity payments shall
42 include a statement in a prominent place in the contract that those
43 benefits are not provided.

44
45 10. Any paid-up annuity, cash surrender or death benefits available
46 at any time, other than on the contract anniversary under any contract

1 with fixed scheduled considerations, shall be calculated with allowance
2 for the lapse of time and the payment of any scheduled considerations
3 beyond the beginning of the contract year in which cessation of
4 payment of considerations under the contract occurs.

5
6 11. For a contract which provides, within the same contract by
7 rider or supplemental contract provision, both annuity benefits and life
8 insurance benefits that are in excess of the greater of cash surrender
9 benefits or a return of the gross considerations with interest, the
10 minimum nonforfeiture benefits shall be equal to the sum of the
11 minimum forfeiture benefits for the annuity portion and the minimum
12 nonforfeiture benefits, if any, for the life insurance portion computed
13 as if each portion were a separate contract. Notwithstanding the
14 provisions of sections 5, 6, 7, 8 and 10 of this act, additional benefits
15 payable in the event of total and permanent disability, as reversionary
16 annuity or deferred reversionary annuity benefits, or as other policy
17 benefits additional to life insurance, endowment and annuity benefits,
18 and considerations for all such additional benefits, shall be disregarded
19 in ascertaining the minimum nonforfeiture amounts, paid-up annuity,
20 cash surrender and death benefits that may be required by this act.
21 The inclusion of those benefits shall not be required in any paid-up
22 benefits unless the additional benefits separately would require
23 minimum nonforfeiture amounts, paid-up annuity, cash surrender and
24 death benefits.

25
26 12. The Commissioner of Banking and Insurance may adopt rules
27 to implement the provisions of this act pursuant to the "Administrative
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

29
30 13. ¹[Section 5 of P.L.1981, c.285 (C.17B:25-20) is repealed,
31 effective] Effective¹ on the second anniversary of the effective date of
32 ¹[this act]the "Indexed Standard Nonforfeiture Law for Individual
33 Deferred Annuities," P.L. , c. (C.)(now before the Legislature
34 as this bill), the standard nonforfeiture law for individual deferred
35 annuities as provided in section 5 of P.L.1981, c.285 (C.17B:25-20)
36 shall continue to govern a contract of annuity issued pursuant thereto,
37 but shall not apply to, and shall be superseded with respect to, a
38 contract of annuity subject to the provisions of the "Indexed Standard
39 Nonforfeiture Law for Individual Deferred Annuities," P.L. , c.
40 (C.)(now before the Legislature as this bill) as provided therein¹.

41
42 14. This act shall take effect immediately and shall apply as
43 follows:

44 a. Before the second anniversary of the effective date of this act,
45 on a contract form-by-contract form basis, to those annuity contracts
46 for which the company has filed a notice of election of applicability

1 with the Commissioner of Banking and Insurance. ²A company that
2 elects not to file using the "Indexed Standard Forfeiture Law for
3 Individual Deferred Annuities," P.L. , c. (C.)(now before the
4 Legislature as this bill), may continue to use contract forms which use
5 the interest rate of 1 1/2% per annum for minimum nonforfeiture
6 values as specified by paragraph (4) of subsection g. of section 5 of
7 P.L.1981, c.285 (C.17B:25-20).²

8 b. In all other instances, to all annuity contracts issued by the
9 company on or after the second anniversary of the effective date.

10

11

12

13

14 The "Indexed Standard Nonforfeiture Law for Individual Deferred
15 Annuities."

SENATE, No. 2298

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JANUARY 31, 2005

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

SYNOPSIS

The "Standard Nonforfeiture Law for Individual Deferred Annuities."

CURRENT VERSION OF TEXT

As introduced.



S2298 LESNIAK

2

1 AN ACT revising the standard nonforfeiture law for individual deferred
2 annuities, supplementing chapter 25 of Title 17B of the New Jersey
3 Statutes and repealing section 5 of P.L.1981, c.285.

4

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

7

8 1. This act shall be known and may be cited as the "Standard
9 Nonforfeiture Law for Individual Deferred Annuities."

10

11 2. This act shall not apply to any reinsurance, group annuity
12 purchased under a retirement plan or plan of deferred compensation
13 established or maintained by an employer (including a partnership or
14 sole proprietorship) or by an employee organization, or by both, other
15 than a plan providing individual retirement accounts or individual
16 retirement annuities under section 408 of the federal Internal Revenue
17 Code of 1986 (26 U.S.C. s.408), as now or hereafter amended,
18 premium deposit fund, variable annuity, investment annuity, immediate
19 annuity, any deferred annuity contract after annuity payments have
20 commenced, or reversionary annuity, nor to any contract which shall
21 be delivered outside this State through an agent or other representative
22 of the company issuing the contract.

23

24 3. a. No contract of annuity to which this act applies shall be
25 delivered or issued for delivery in this State on or after the second
26 anniversary of the effective date of this act, or any earlier date as
27 elected by the company pursuant to section 14 of this act, unless it
28 contains in substance the following provisions, or corresponding
29 provisions which in the opinion of the Commissioner of Banking and
30 Insurance are at least as favorable to the contract holder, upon
31 cessation of payment of considerations under the contract:

32 (1) That upon cessation of payment of considerations under a
33 contract, or upon the written request of the contract owner, the
34 company shall grant a paid-up annuity benefit on a plan stipulated in
35 the contract of that value provided by sections 5, 6, 7, 8 and 10 of this
36 act;

37 (2) If a contract provides for a lump sum settlement at maturity, or
38 at any other time, that upon surrender of the contract at or prior to the
39 commencement of any annuity payments, the company shall pay in lieu
40 of a paid-up annuity benefit a cash surrender benefit in the amount
41 provided by sections 5, 6, 8 and 10 of this act. The company may
42 reserve the right to defer the payment of the cash surrender benefit for
43 a period not to exceed six months after demand therefor with
44 surrender of the contract after making written request and receiving
45 written approval of the commissioner. The request shall address the

1 necessity and equitableness to all policyholders of the deferral;

2 (3) A statement of the morality table, if any, and interest rates used
3 in calculating any minimum paid-up annuity, cash surrender or death
4 benefits that are guaranteed under the contract, together with
5 sufficient information to determine the amounts of the benefits; and

6 (4) A statement that any paid-up annuity, cash surrender or death
7 benefits that may be available under the contract are not less than the
8 minimum benefits required by any statute of the state in which the
9 contract is delivered and an explanation of the manner in which the
10 benefits are altered by the existence of any additional amounts credited
11 by the company to the contract, any indebtedness to the company on
12 the contract or any prior withdrawals from or partial surrenders of the
13 contract.

14 b. Notwithstanding the requirements of this section, a deferred
15 annuity contract may provide that if no considerations have been
16 received under a contract for a period of two full years and the portion
17 of the paid-up annuity benefit at maturity on the plan stipulated in the
18 contract arising from prior considerations paid would be less than \$20
19 monthly, the company may at its option terminate the contract by
20 payment in cash of the then present value of the portion of the paid-up
21 annuity benefit, calculated on the basis on the mortality table, if any,
22 and interest rate specified in the contract for determining the paid-up
23 annuity benefit, and by this payment shall be relieved of any further
24 obligation under the contract.

25

26 4. The minimum values provided by sections 5, 6, 7, 8 and 10 of
27 this act of any paid-up annuity, cash surrender or death benefits
28 available under an annuity contract shall be based upon minimum
29 nonforfeiture amounts as defined in this section.

30 a. (1) The minimum nonforfeiture amount at any time at or prior
31 to the commencement of any annuity payments shall be equal to an
32 accumulation up to that time at rates of interest as indicated in
33 subsection b. of this section of the net considerations, as defined in
34 paragraph (2) of this subsection, paid prior to that time, decreased by
35 the sum of subparagraphs (a) through (d) below:

36 (a) Any prior withdrawals from or partial surrenders of the
37 contract accumulated at rates of interest as indicated in subsection b.
38 of this section;

39 (b) An annual contract charge of \$50, accumulated at rates of
40 interest as indicated in subsection b. of this section;

41 (c) Any premium tax paid by the company for the contract,
42 accumulated at rates of interest as indicated in subsection b. of this
43 section; and

44 (d) The amount of any indebtedness to the company on the
45 contract, including interest due and accrued.

46 (2) The net considerations for a given contract year used to define

1 the minimum nonforfeiture amount shall be an amount equal to 90%
2 of the gross considerations credited to the contract during that
3 contract year.

4 b. The interest rate used in determining minimum nonforfeiture
5 amounts shall be an annual rate of interest determined as the lesser of
6 3% per annum or the following, which shall be specified in the
7 contract if the interest rate will be reset:

8 (1) The five-year Constant Maturity Treasury Rate reported by the
9 Federal Reserve Board as of a date, or average over a period, rounded
10 to the nearest 1/20th of one percent, specified in the contract no
11 longer than 15 months prior to the contract issue date or
12 redetermination date under paragraph (4) of this section;

13 (2) Reduced by 125 basis points;

14 (3) Where the resulting interest rate is not less than 1% per annum;
15 and

16 (4) The interest rate shall apply for an initial period, and may be
17 redetermined for additional periods. The redetermination date, basis
18 and period, if any, shall be stated in the contract. The basis is the date
19 or average over a specified period that produces the value of the five-
20 year Constant Maturity Treasury Rate to be used at each
21 redetermination date.

22 c. During the period or term that a contract provides a substantive
23 participation in an equity indexed benefit, it may increase the reduction
24 described in paragraph (2) of subsection b. of this section by up to an
25 additional 100 basis points to reflect the value of the equity index
26 benefit. The present value at the contract issue date, and at each
27 redetermination date thereafter, of the additional reduction shall not
28 exceed the market value of the benefit. The commissioner may require
29 a demonstration that the present value of the additional reduction does
30 not exceed the market value of the benefit. If that demonstration is
31 not acceptable to the commissioner, the commissioner may disallow or
32 limit the additional reduction.

33 d. The commissioner may adopt rules to implement the provisions
34 of subsection c. of this section which provide for further adjustments
35 to the calculation of minimum nonforfeiture amounts for contracts that
36 provide substantive participation in an equity index benefit and for
37 other contracts that the commissioner determines adjustments are
38 justified.

39
40 5. Any paid-up annuity benefit available under a contract shall be
41 such that its present value on the date annuity payments are to
42 commence is at least equal to the minimum nonforfeiture amount on
43 that date. Present value shall be computed using the mortality table,
44 if any, and the interest rates specified in the contract for determining
45 the minimum paid-up annuity benefits guaranteed in the contract.

1 6. For contracts that provide cash surrender benefits, the cash
2 surrender benefits available prior to maturity shall not be less than the
3 present value as of the date of surrender of that portion of the maturity
4 value of the paid-up annuity benefit that would be provided under the
5 contract at maturity arising from considerations paid prior to the time
6 of cash surrender, reduced by the amount appropriate to reflect any
7 prior withdrawals from or partial surrenders of the contract, which
8 present value shall be calculated on the basis of an interest rate not
9 more than 1% higher than the interest rate specified in the contract for
10 accumulating the net considerations to determine maturity value,
11 decreased by the amount of any indebtedness to the company on the
12 contract, including interest due and accrued, and increased by any
13 existing additional amounts credited by the company to the contract.
14 In no event shall any cash surrender benefit be less than the minimum
15 nonforfeiture amount at that time. The death benefit under such
16 contracts shall be at least equal to the cash surrender benefit.

17
18 7. For contracts that do not provide cash surrender benefits, the
19 present value of any paid-up annuity benefit available as a
20 nonforfeiture option at any time prior to maturity shall not be less than
21 the present value of that portion of the maturity value of the paid-up
22 annuity benefit provided under the contract arising from considerations
23 paid prior to the time the contract is surrendered in exchange for, or
24 changed to, a deferred paid-up annuity, such present value being
25 calculated for the period prior to the maturity date on the basis of the
26 interest rate specified in the contract for accumulating the net
27 considerations to determine maturity value, and increased by any
28 additional amounts credited by the company to the contract. For
29 contracts that do not provide any death benefits prior to the
30 commencement of any annuity payments, present values shall be
31 calculated on the basis of that interest rate and the mortality table
32 specified in the contract for determining the maturity value of the paid-
33 up annuity benefit. However, in no event shall the present value of a
34 paid-up annuity benefit be less than the minimum nonforfeiture amount
35 at that time.

36
37 8. For the purpose of determining the benefits calculated under
38 sections 6 and 7 of this act, in the case of annuity contracts under
39 which an election may be made to have annuity payments commence
40 at optional maturity dates, the maturity date shall be the latest date for
41 which election shall be permitted by the contract, but shall not be later
42 than the anniversary of the contract next following the annuitant's
43 seventieth birthday or the tenth anniversary of the contract, whichever
44 is later.

45
46 9. A contract that does not provide cash surrender benefits or does

1 not provide death benefits at least equal to the minimum nonforfeiture
2 amount prior to the commencement of any annuity payments shall
3 include a statement in a prominent place in the contract that those
4 benefits are not provided.

5
6 10. Any paid-up annuity, cash surrender or death benefits available
7 at any time, other than on the contract anniversary under any contract
8 with fixed scheduled considerations, shall be calculated with allowance
9 for the lapse of time and the payment of any scheduled considerations
10 beyond the beginning of the contract year in which cessation of
11 payment of considerations under the contract occurs.

12
13 11. For a contract which provides, within the same contract by
14 rider or supplemental contract provision, both annuity benefits and life
15 insurance benefits that are in excess of the greater of cash surrender
16 benefits or a return of the gross considerations with interest, the
17 minimum nonforfeiture benefits shall be equal to the sum of the
18 minimum forfeiture benefits for the annuity portion and the minimum
19 nonforfeiture benefits, if any, for the life insurance portion computed
20 as if each portion were a separate contract. Notwithstanding the
21 provisions of sections 5, 6, 7, 8 and 10 of this act, additional benefits
22 payable in the event of total and permanent disability, as reversionary
23 annuity or deferred reversionary annuity benefits, or as other policy
24 benefits additional to life insurance, endowment and annuity benefits,
25 and considerations for all such additional benefits, shall be disregarded
26 in ascertaining the minimum nonforfeiture amounts, paid-up annuity,
27 cash surrender and death benefits that may be required by this act.
28 The inclusion of those benefits shall not be required in any paid-up
29 benefits unless the additional benefits separately would require
30 minimum nonforfeiture amounts, paid-up annuity, cash surrender and
31 death benefits.

32
33 12. The Commissioner of Banking and Insurance may adopt rules
34 to implement the provisions of this act pursuant to the "Administrative
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

36
37 13. Section 5 of P.L.1981, c.285 (C.17B:25-20) is repealed,
38 effective on the second anniversary of the effective date of this act.

39
40 14. This act shall take effect immediately and shall apply as
41 follows:

42 a. Before the second anniversary of the effective date of this act,
43 on a contract form-by-contract form basis, to those annuity contracts
44 for which the company has filed a notice of election of applicability
45 with the Commissioner of Banking and Insurance.

46 b. In all other instances, to all annuity contracts issued by the

1 company on or after the second anniversary of the effective date.

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STATEMENT

5

6 This bill revises the standard nonforfeiture law for individual
7 deferred annuities and repeals the current law. Nonforfeiture benefits
8 are the paid-up cash surrender value of an individual deferred annuity
9 upon default of the premium payment or surrender of the contract
10 before the end of the contract period.

11 The bill is based on the Standard Nonforfeiture Law for Individual
12 Deferred Annuities model act adopted by the National Association of
13 Insurance Commissioners (NAIC). The bill is designed to provide
14 issuers of fixed annuities with the ability to react to fluctuating interest
15 rates without the continuous need for legislation. To accomplish this,
16 the bill adopts the NAIC model's "flex rating" method of setting the
17 minimum nonforfeiture rate for fixed annuities. This method allows the
18 issuer the option of setting that rate at the lesser of 3% or 1.25%
19 below the five-year Constant Maturity Treasury Rate reported by the
20 Federal Reserve Board, as specified in the contract and no more than
21 15 months prior to the contract issue date or redetermination date, but
22 in no case lower than 1%. The flex rating method would apply to all
23 fixed annuities issued on or after the second anniversary of the
24 effective date of the bill, or, at the election of the company, on a
25 contract form-by-contract form basis, before the second anniversary
26 of the effective date if the company has filed a notice of election with
27 the Commissioner of Banking and Insurance.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2298

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 12, 2005

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Senate Bill No. 2298 (1R).

As amended, this bill revises the standard nonforfeiture law for individual deferred annuities. Nonforfeiture benefits are the paid-up cash surrender value of an individual deferred annuity upon default of the premium payment or surrender of the contract before the end of the contract period.

The bill is based, in part, on the Standard Nonforfeiture Law for Individual Deferred Annuities model act adopted by the National Association of Insurance Commissioners (NAIC). The bill is designed to provide issuers of fixed annuities with the ability to react to fluctuating interest rates without the continuous need for legislation. To accomplish this, the bill adopts the NAIC model's "flex rating" method of setting the minimum nonforfeiture rate for fixed annuities. This method allows the issuer the option of setting that rate at the lesser of 3% or 1.25% below the five-year Constant Maturity Treasury Rate reported by the Federal Reserve Board, as specified in the contract and no more than 15 months prior to the contract issue date or redetermination date, but in no case lower than 1%. The flex rating method would apply to all fixed annuities issued on or after the second anniversary of the effective date of the bill, or, at the election of the company, on a contract form-by-contract form basis, before the second anniversary of the effective date if the company has filed a notice of election with the Commissioner of Banking and Insurance. However, a company that elects not to file using the "Indexed Standard Forfeiture Law for Individual Deferred Annuities," (which is created by this bill), during the first two years after its enactment may continue to use contract forms which use the interest rate of 1 1/2% per annum for minimum nonforfeiture value as specified in existing annuities law.

Under the bill, the maximum premium expense allowance on single premium contracts shall be 10%, and on all others to which the bill applies, 12.5%.

Further, the bill provides that surrender charges cannot be imposed on or past the maturity of individual deferred annuities under certain circumstances. The bill also clarifies the operation of the surrender charge prohibition to allow for multiple purchases under a single annuity contract with multiple maturity dates for the purpose of determining any surrender penalty.

The bill provides that, in the case of annuity contracts for which the maturity date is stated, that maturity date shall not be after the later of: the anniversary of the contract next following the annuitant's seventieth birthday; or the tenth anniversary of the contract.

In the case of annuity contracts under which an election may be made to have annuity payments begin at optional maturity dates, the maturity date shall be deemed to be the latest date for which election is permitted by the contract, but shall not be later than the latest date permitted for an annuity contract with a stated maturity date.

The bill further provides that the amount of the benefits on or after the stated or deemed maturity date shall not be reduced by any surrender charge. The amount of the benefits shall not be less than the greater of: the present value of annuity benefits available on or after the maturity date, computed according to the assumptions stated in the law; or the amount available on or after the maturity date to be applied to the purchase of an annuity on a basis stated in the contract.

In addition, the bill provides that contracts providing for flexible considerations may have separate surrender charge schedules associated with each consideration, provided that the nonforfeiture values are at least as great as they would be if each consideration had been a separate single consideration contract. For the purpose of determining the maturity date, the tenth anniversary of the contract shall be determined separately for each consideration.

The bill also provides that the bill's provisions take precedence over section 1 of P.L.2001, c.237 (C.17B:25-18.4), which regulates the filing of life insurance forms approved in other states.

The bill preserves the rules that govern the generation of contracts issued to date, and specifies that the provisions of the bill apply only prospectively.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that:

- (1) surrender charges cannot be imposed on or past the maturity of individual deferred annuities under certain circumstances;
- (2) the operation of the surrender charge prohibition allows for multiple purchases under a single annuity contract with multiple maturity dates for the purpose of determining any surrender penalty;
- (3) the surrender charge provisions take precedence over section 1 of P.L.2001, c.237 (C.17B:25-18.4), which regulates the filing of life

insurance forms approved in other states; and

(4) a company that elects not to file using the "Indexed Standard Forfeiture Law for Individual Deferred Annuities," (which is created by this bill), during the first two years after its enactment may continue to use contracts forms which use the interest rate of 1 1/2% per annum for minimum nonforfeiture value as specified in existing annuities law.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2298

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2005

The Senate Commerce Committee reports favorably, and with committee amendments, Senate Bill No. 2298.

As amended, this bill revises the standard nonforfeiture law for individual deferred annuities. Nonforfeiture benefits are the paid-up cash surrender value of an individual deferred annuity upon default of the premium payment or surrender of the contract before the end of the contract period.

The bill is based on the Standard Nonforfeiture Law for Individual Deferred Annuities model act adopted by the National Association of Insurance Commissioners (NAIC). The bill is designed to provide issuers of fixed annuities with the ability to react to fluctuating interest rates without the continuous need for legislation. To accomplish this, the bill adopts the NAIC model's "flex rating" method of setting the minimum nonforfeiture rate for fixed annuities. This method allows the issuer the option of setting that rate at the lesser of 3% or 1.25% below the five-year Constant Maturity Treasury Rate reported by the Federal Reserve Board, as specified in the contract and no more than 15 months prior to the contract issue date or redetermination date, but in no case lower than 1%. The flex rating method would apply to all fixed annuities issued on or after the second anniversary of the effective date of the bill, or, at the election of the company, on a contract form-by-contract form basis, before the second anniversary of the effective date if the company has filed a notice of election with the Commissioner of Banking and Insurance.

The committee amended the bill to:

- a. specify that the current net consideration amount of 90% of gross consideration in the bill as introduced shall apply only to single premium contracts, and to provide that the net consideration for all other contracts shall be 87.5% of gross consideration. Conversely, the maximum premium expense allowance on single premium contracts shall be 10%, and on all others to which the bill applies, 12.5%.
- b. eliminate the repeal of the current law to preserve the rules that govern the generation of contracts issued to date, and to specify that the provisions of this bill apply only prospectively.

ASSEMBLY, No. 3980

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED MAY 2, 2005

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

SYNOPSIS

The "Indexed Standard Nonforfeiture Law for Individual Deferred Annuities."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/3/2005)

1 AN ACT revising the standard nonforfeiture law for individual deferred
2 annuities and supplementing chapter 25 of Title 17B of the New
3 Jersey Statutes and P.L.1981, c.285 (C.17B:25-20).

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

7
8 1. This act shall be known and may be cited as the "Indexed
9 Standard Nonforfeiture Law for Individual Deferred Annuities."

10
11 2. This act shall not apply to any reinsurance, group annuity
12 purchased under a retirement plan or plan of deferred compensation
13 established or maintained by an employer (including a partnership or
14 sole proprietorship) or by an employee organization, or by both, other
15 than a plan providing individual retirement accounts or individual
16 retirement annuities under section 408 of the federal Internal Revenue
17 Code of 1986 (26 U.S.C. s.408), as now or hereafter amended,
18 premium deposit fund, variable annuity, investment annuity, immediate
19 annuity, any deferred annuity contract after annuity payments have
20 commenced, or reversionary annuity, nor to any contract which shall
21 be delivered outside this State through an agent or other representative
22 of the company issuing the contract.

23
24 3. a. No contract of annuity to which this act applies shall be
25 delivered or issued for delivery in this State on or after the second
26 anniversary of the effective date of this act, or any earlier date as
27 elected by the company pursuant to section 14 of this act, unless it
28 contains in substance the following provisions, or corresponding
29 provisions which in the opinion of the Commissioner of Banking and
30 Insurance are at least as favorable to the contract holder, upon
31 cessation of payment of considerations under the contract:

32 (1) That upon cessation of payment of considerations under a
33 contract, or upon the written request of the contract owner, the
34 company shall grant a paid-up annuity benefit on a plan stipulated in
35 the contract of that value provided by sections 5, 6, 7, 8 and 10 of this
36 act;

37 (2) If a contract provides for a lump sum settlement at maturity, or
38 at any other time, that upon surrender of the contract at or prior to the
39 commencement of any annuity payments, the company shall pay in lieu
40 of a paid-up annuity benefit a cash surrender benefit in the amount
41 provided by sections 5, 6, 8 and 10 of this act. The company may
42 reserve the right to defer the payment of the cash surrender benefit for
43 a period not to exceed six months after demand therefor with
44 surrender of the contract after making written request and receiving
45 written approval of the commissioner. The request shall address the
46 necessity and equitableness to all policyholders of the deferral;

1 (3) A statement of the morality table, if any, and interest rates used
2 in calculating any minimum paid-up annuity, cash surrender or death
3 benefits that are guaranteed under the contract, together with
4 sufficient information to determine the amounts of the benefits; and

5 (4) A statement that any paid-up annuity, cash surrender or death
6 benefits that may be available under the contract are not less than the
7 minimum benefits required by any statute of the state in which the
8 contract is delivered and an explanation of the manner in which the
9 benefits are altered by the existence of any additional amounts credited
10 by the company to the contract, any indebtedness to the company on
11 the contract or any prior withdrawals from or partial surrenders of the
12 contract.

13 b. Notwithstanding the requirements of this section, a deferred
14 annuity contract may provide that if no considerations have been
15 received under a contract for a period of two full years and the portion
16 of the paid-up annuity benefit at maturity on the plan stipulated in the
17 contract arising from prior considerations paid would be less than \$20
18 monthly, the company may at its option terminate the contract by
19 payment in cash of the then present value of the portion of the paid-up
20 annuity benefit, calculated on the basis on the mortality table, if any,
21 and interest rate specified in the contract for determining the paid-up
22 annuity benefit, and by this payment shall be relieved of any further
23 obligation under the contract.

24
25 4. The minimum values provided by sections 5, 6, 7, 8 and 10 of
26 this act of any paid-up annuity, cash surrender or death benefits
27 available under an annuity contract shall be based upon minimum
28 nonforfeiture amounts as defined in this section.

29 a. (1) The minimum nonforfeiture amount at any time at or prior
30 to the commencement of any annuity payments shall be equal to an
31 accumulation up to that time at rates of interest as indicated in
32 subsection b. of this section of the net considerations, as defined in
33 paragraph (2) of this subsection, paid prior to that time, decreased by
34 the sum of subparagraphs (a) through (d) below:

35 (a) Any prior withdrawals from or partial surrenders of the
36 contract accumulated at rates of interest as indicated in subsection b.
37 of this section;

38 (b) An annual contract charge of \$50, accumulated at rates of
39 interest as indicated in subsection b. of this section;

40 (c) Any premium tax paid by the company for the contract,
41 accumulated at rates of interest as indicated in subsection b. of this
42 section; and

43 (d) The amount of any indebtedness to the company on the
44 contract, including interest due and accrued.

45 (2) The net considerations for a given contract year used to define
46 the minimum nonforfeiture amount shall be an amount equal to 87.5%

1 of the gross considerations credited to the contract during that
2 contract year, except that in the case of a single premium contract, net
3 considerations shall consist of 90% of the gross considerations
4 credited to the contract during that contract year.

5 b. The interest rate used in determining minimum nonforfeiture
6 amounts shall be an annual rate of interest determined as the lesser of
7 3% per annum or the following, which shall be specified in the
8 contract if the interest rate will be reset:

9 (1) The five-year Constant Maturity Treasury Rate reported by the
10 Federal Reserve Board as of a date, or average over a period, rounded
11 to the nearest 1/20th of one percent, specified in the contract no
12 longer than 15 months prior to the contract issue date or
13 redetermination date under paragraph (4) of this section;

14 (2) Reduced by 125 basis points;

15 (3) Where the resulting interest rate is not less than 1% per annum;
16 and

17 (4) The interest rate shall apply for an initial period, and may be
18 redetermined for additional periods. The redetermination date, basis
19 and period, if any, shall be stated in the contract. The basis is the date
20 or average over a specified period that produces the value of the five-
21 year Constant Maturity Treasury Rate to be used at each
22 redetermination date.

23 c. During the period or term that a contract provides a substantive
24 participation in an equity indexed benefit, it may increase the reduction
25 described in paragraph (2) of subsection b. of this section by up to an
26 additional 100 basis points to reflect the value of the equity index
27 benefit. The present value at the contract issue date, and at each
28 redetermination date thereafter, of the additional reduction shall not
29 exceed the market value of the benefit. The commissioner may require
30 a demonstration that the present value of the additional reduction does
31 not exceed the market value of the benefit. If that demonstration is
32 not acceptable to the commissioner, the commissioner may disallow or
33 limit the additional reduction.

34 d. The commissioner may adopt rules to implement the provisions
35 of subsection c. of this section which provide for further adjustments
36 to the calculation of minimum nonforfeiture amounts for contracts that
37 provide substantive participation in an equity index benefit and for
38 other contracts that the commissioner determines adjustments are
39 justified.

40
41 5. Any paid-up annuity benefit available under a contract shall be
42 such that its present value on the date annuity payments are to
43 commence is at least equal to the minimum nonforfeiture amount on
44 that date. Present value shall be computed using the mortality table,
45 if any, and the interest rates specified in the contract for determining
46 the minimum paid-up annuity benefits guaranteed in the contract.

1 6. For contracts that provide cash surrender benefits, the cash
2 surrender benefits available prior to maturity shall not be less than the
3 present value as of the date of surrender of that portion of the maturity
4 value of the paid-up annuity benefit that would be provided under the
5 contract at maturity arising from considerations paid prior to the time
6 of cash surrender, reduced by the amount appropriate to reflect any
7 prior withdrawals from or partial surrenders of the contract, which
8 present value shall be calculated on the basis of an interest rate not
9 more than 1% higher than the interest rate specified in the contract for
10 accumulating the net considerations to determine maturity value,
11 decreased by the amount of any indebtedness to the company on the
12 contract, including interest due and accrued, and increased by any
13 existing additional amounts credited by the company to the contract.
14 In no event shall any cash surrender benefit be less than the minimum
15 nonforfeiture amount at that time. The death benefit under such
16 contracts shall be at least equal to the cash surrender benefit.

17
18 7. For contracts that do not provide cash surrender benefits, the
19 present value of any paid-up annuity benefit available as a
20 nonforfeiture option at any time prior to maturity shall not be less than
21 the present value of that portion of the maturity value of the paid-up
22 annuity benefit provided under the contract arising from considerations
23 paid prior to the time the contract is surrendered in exchange for, or
24 changed to, a deferred paid-up annuity, such present value being
25 calculated for the period prior to the maturity date on the basis of the
26 interest rate specified in the contract for accumulating the net
27 considerations to determine maturity value, and increased by any
28 additional amounts credited by the company to the contract. For
29 contracts that do not provide any death benefits prior to the
30 commencement of any annuity payments, present values shall be
31 calculated on the basis of that interest rate and the mortality table
32 specified in the contract for determining the maturity value of the paid-
33 up annuity benefit. However, in no event shall the present value of a
34 paid-up annuity benefit be less than the minimum nonforfeiture amount
35 at that time.

36
37 8. For the purpose of determining the benefits calculated under
38 sections 6 and 7 of this act, in the case of annuity contracts under
39 which an election may be made to have annuity payments commence
40 at optional maturity dates, the maturity date shall be the latest date for
41 which election shall be permitted by the contract, but shall not be later
42 than the anniversary of the contract next following the annuitant's
43 seventieth birthday or the tenth anniversary of the contract, whichever
44 is later.

45
46 9. A contract that does not provide cash surrender benefits or does

1 not provide death benefits at least equal to the minimum nonforfeiture
2 amount prior to the commencement of any annuity payments shall
3 include a statement in a prominent place in the contract that those
4 benefits are not provided.

5
6 10. Any paid-up annuity, cash surrender or death benefits available
7 at any time, other than on the contract anniversary under any contract
8 with fixed scheduled considerations, shall be calculated with allowance
9 for the lapse of time and the payment of any scheduled considerations
10 beyond the beginning of the contract year in which cessation of
11 payment of considerations under the contract occurs.

12
13 11. For a contract which provides, within the same contract by
14 rider or supplemental contract provision, both annuity benefits and life
15 insurance benefits that are in excess of the greater of cash surrender
16 benefits or a return of the gross considerations with interest, the
17 minimum nonforfeiture benefits shall be equal to the sum of the
18 minimum forfeiture benefits for the annuity portion and the minimum
19 nonforfeiture benefits, if any, for the life insurance portion computed
20 as if each portion were a separate contract. Notwithstanding the
21 provisions of sections 5, 6, 7, 8 and 10 of this act, additional benefits
22 payable in the event of total and permanent disability, as reversionary
23 annuity or deferred reversionary annuity benefits, or as other policy
24 benefits additional to life insurance, endowment and annuity benefits,
25 and considerations for all such additional benefits, shall be disregarded
26 in ascertaining the minimum nonforfeiture amounts, paid-up annuity,
27 cash surrender and death benefits that may be required by this act.
28 The inclusion of those benefits shall not be required in any paid-up
29 benefits unless the additional benefits separately would require
30 minimum nonforfeiture amounts, paid-up annuity, cash surrender and
31 death benefits.

32
33 12. The Commissioner of Banking and Insurance may adopt rules
34 to implement the provisions of this act pursuant to the "Administrative
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

36
37 13. Effective on the second anniversary of the effective date of the
38 "Indexed Standard Nonforfeiture Law for Individual Deferred
39 Annuities," P.L. , c. (C.) (now before the Legislature as this
40 bill), the standard nonforfeiture law for individual deferred annuities
41 as provided in section 5 of P.L.1981, c.285 (C.17B:25-20) shall
42 continue to govern a contract of annuity issued pursuant thereto, but
43 shall not apply to, and shall be superseded with respect to, a contract
44 of annuity subject to the provisions of the "Indexed Standard
45 Nonforfeiture Law for Individual Deferred Annuities," P.L. , c.
46 (C.) (now before the Legislature as this bill) as provided therein.

1 14. This act shall take effect immediately and shall apply as
2 follows:

3 a. Before the second anniversary of the effective date of this act,
4 on a contract form-by-contract form basis, to those annuity contracts
5 for which the company has filed a notice of election of applicability
6 with the Commissioner of Banking and Insurance.

7 b. In all other instances, to all annuity contracts issued by the
8 company on or after the second anniversary of the effective date.

9

10

11

STATEMENT

12

13 This bill revises the standard nonforfeiture law for individual
14 deferred annuities. Nonforfeiture benefits are the paid-up cash
15 surrender value of an individual deferred annuity upon default of the
16 premium payment or surrender of the contract before the end of the
17 contract period.

18 The bill is based on the Standard Nonforfeiture Law for Individual
19 Deferred Annuities model act adopted by the National Association of
20 Insurance Commissioners (NAIC). The bill is designed to provide
21 issuers of fixed annuities with the ability to react to fluctuating interest
22 rates without the continuous need for legislation. To accomplish this,
23 the bill adopts the NAIC model's "flex rating" method of setting the
24 minimum nonforfeiture rate for fixed annuities. This method allows the
25 issuer the option of setting that rate at the lesser of 3% or 1.25%
26 below the five-year Constant Maturity Treasury Rate reported by the
27 Federal Reserve Board, as specified in the contract and no more than
28 15 months prior to the contract issue date or redetermination date, but
29 in no case lower than 1%. The flex rating method would apply to all
30 fixed annuities issued on or after the second anniversary of the
31 effective date of the bill, or, at the election of the company, on a
32 contract form-by-contract form basis, before the second anniversary
33 of the effective date if the company has filed a notice of election with
34 the Commissioner of Banking and Insurance.

35 Under the bill, the maximum premium expense allowance on single
36 premium contracts shall be 10%, and on all others to which the bill
37 applies, 12.5%.

38 Finally, the bill preserves the rules that govern the generation of
39 contracts issued to date, and specifies that the provisions of this bill
40 apply only prospectively.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3980

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 12, 2005

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 3980.

As amended, this bill revises the standard nonforfeiture law for individual deferred annuities. Nonforfeiture benefits are the paid-up cash surrender value of an individual deferred annuity upon default of the premium payment or surrender of the contract before the end of the contract period.

The bill is based, in part, on the Standard Nonforfeiture Law for Individual Deferred Annuities model act adopted by the National Association of Insurance Commissioners (NAIC). The bill is designed to provide issuers of fixed annuities with the ability to react to fluctuating interest rates without the continuous need for legislation. To accomplish this, the bill adopts the NAIC model's "flex rating" method of setting the minimum nonforfeiture rate for fixed annuities. This method allows the issuer the option of setting that rate at the lesser of 3% or 1.25% below the five-year Constant Maturity Treasury Rate reported by the Federal Reserve Board, as specified in the contract and no more than 15 months prior to the contract issue date or redetermination date, but in no case lower than 1%. The flex rating method would apply to all fixed annuities issued on or after the second anniversary of the effective date of the bill, or, at the election of the company, on a contract form-by-contract form basis, before the second anniversary of the effective date if the company has filed a notice of election with the Commissioner of Banking and Insurance. However, a company that elects not to file using the "Indexed Standard Forfeiture Law for Individual Deferred Annuities," (which is created by this bill), during the first two years after its enactment may continue to use contract forms which use the interest rate of 1 1/2% per annum for minimum nonforfeiture value as specified in existing annuities law.

Under the bill, the maximum premium expense allowance on single premium contracts shall be 10%, and on all others to which the bill applies, 12.5%.

Further, the bill provides that surrender charges cannot be imposed on or past the maturity of individual deferred annuities under certain circumstances. The bill also clarifies the operation of the surrender charge prohibition to allow for multiple purchases under a single annuity contract with multiple maturity dates for the purpose of determining any surrender penalty.

The bill provides that, in the case of annuity contracts for which the maturity date is stated, that maturity date shall not be after the later of: the anniversary of the contract next following the annuitant's seventieth birthday; or the tenth anniversary of the contract.

In the case of annuity contracts under which an election may be made to have annuity payments begin at optional maturity dates, the maturity date shall be deemed to be the latest date for which election is permitted by the contract, but shall not be later than the latest date permitted for an annuity contract with a stated maturity date.

The bill further provides that the amount of the benefits on or after the stated or deemed maturity date shall not be reduced by any surrender charge. The amount of the benefits shall not be less than the greater of: the present value of annuity benefits available on or after the maturity date, computed according to the assumptions stated in the law; or the amount available on or after the maturity date to be applied to the purchase of an annuity on a basis stated in the contract.

In addition, the bill provides that contracts providing for flexible considerations may have separate surrender charge schedules associated with each consideration, provided that the nonforfeiture values are at least as great as they would be if each consideration had been a separate single consideration contract. For the purpose of determining the maturity date, the tenth anniversary of the contract shall be determined separately for each consideration.

The bill also provides that the bill's provisions take precedence over section 1 of P.L.2001, c.237 (C.17B:25-18.4), which regulates the filing of life insurance forms approved in other states.

The bill preserves the rules that govern the generation of contracts issued to date, and specifies that the provisions of the bill apply only prospectively.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that:

- (1) surrender charges cannot be imposed on or past the maturity of individual deferred annuities under certain circumstances;
- (2) the operation of the surrender charge prohibition allows for multiple purchases under a single annuity contract with multiple maturity dates for the purpose of determining any surrender penalty;

(3) the surrender charge provisions take precedence over section 1 of P.L.2001, c.237 (C.17B:25-18.4), which regulates the filing of life insurance forms approved in other states; and

(4) a company that elects not to file using the "Indexed Standard Forfeiture Law for Individual Deferred Annuities," (which is created by this bill), during the first two years after its enactment may continue to use contracts forms which use the interest rate of 1 1/2% per annum for minimum nonforfeiture value as specified in existing annuities law.