

# 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](#) (2<sup>nd</sup> 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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**REPORTS:**

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**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

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 annuities<sup>1</sup> **[,]and<sup>1</sup>** supplementing chapter 25 of Title 17B of the  
3 New Jersey Statutes and <sup>1</sup>**[repealing section 5 of]**<sup>1</sup> P.L.1981, c.285  
4 <sup>1</sup>**(C.17B:25-20)**<sup>1</sup>.  
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 "<sup>1</sup>**Indexed**<sup>1</sup>  
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:**

<sup>1</sup> Senate SCM committee amendments adopted February 7, 2005.

<sup>2</sup> 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 <sup>1</sup>[90%] 87.5%<sup>1</sup> of the gross considerations credited to the contract  
12 during that contract year <sup>1</sup>, 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 year<sup>1</sup>.

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. <sup>2</sup>a.<sup>2</sup> For the purpose of determining the benefits calculated under  
2 sections 6 and 7 of this act <sup>2</sup>[, 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 met<sup>2</sup>.

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. <sup>1</sup>[Section 5 of P.L.1981, c.285 (C.17B:25-20) is repealed,  
31 effective] Effective<sup>1</sup> on the second anniversary of the effective date of  
32 <sup>1</sup>[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 therein<sup>1</sup>.  
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. <sup>2</sup>A 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).<sup>2</sup>

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**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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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.

2

3

4

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.