

# 17B:25-20

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2005 **CHAPTER:** 45

**NJSA:** 17B:25-20 (Prohibits surrender charges for individual deferred annuities under certain circumstances)

**BILL NO:** A306 (Substituted for S1286)

**SPONSOR(S):** Vandervalk and others

**DATE INTRODUCED:** Pre-filed

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

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** March 15, 2004 Re-enacted February 24, 2005

**SENATE:** May 20, 2004 Re-enacted March 14, 2005

**DATE OF APPROVAL:** March 21, 2005

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) 2<sup>nd</sup> reprint enacted

**A306**

[SPONSOR'S STATEMENT:](#) (Begins on page 9 of original bill) [Yes](#)

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

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

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**S1286**

[SPONSOR'S STATEMENT:](#) (Begins on page 10 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

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

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

[VETO MESSAGE:](#) [Yes](#)

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

IS 2/27/07

P.L. 2005, CHAPTER 45, *approved March 21, 2005*  
Assembly, No. 306 (*Second Reprint*)

1 **AN ACT** concerning surrender charges for individual deferred annuities  
2 and amending 1and supplementing<sup>1</sup> P.L.1981, c.285.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 5 of P.L.1981, c.285 (C.17B:25-20) is amended to read  
8 as follows:

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

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

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

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

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

**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> **Assembly AFI committee amendments adopted February 9, 2004.**

<sup>2</sup> **Assembly amendments adopted in accordance with Governor's recommendations September 27, 2004.**

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

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

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

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

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

46 d. The adjusted stipulated payments for any annuity or pure

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

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

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

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

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

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

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

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

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

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

1 mortality table, if any, and interest rate specified in the contract for  
2 determining the paid-up annuity benefit, and by such payment shall be  
3 relieved of any further obligation under such contract.

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

8 (1) With respect to contracts providing for flexible considerations,  
9 the minimum nonforfeiture amount at any time at or prior to the  
10 commencement of any annuity payments shall be equal to an  
11 accumulation up to that time at a rate of interest of 3% per annum of  
12 percentages of the net considerations (as hereinafter defined) paid  
13 prior to such time; decreased by the sum of any prior withdrawals from  
14 or partial surrenders of the contract accumulated at a rate of interest  
15 of 3% per annum and the amount of any indebtedness to the insurer on  
16 the contract, including interest due and accrued; and increased by any  
17 existing additional amounts credited by the insurer to the contract.  
18 The net considerations for a given contract year used to define the  
19 minimum nonforfeiture amount shall be an amount not less than zero  
20 and shall be equal to the corresponding gross considerations credited  
21 to the contract during that contract year less an annual contract charge  
22 of \$30.00 and less a collection charge of \$1.25 per consideration  
23 credited to the contract during that contract year. The percentages of  
24 net considerations shall be 65% of the net consideration for the first  
25 contract year and 87 1/2% of the net considerations for the second and  
26 later contract years. Notwithstanding the provisions of the preceding  
27 sentence, the percentage shall be 65% of the portion of the total net  
28 consideration for any renewal contract year which exceeds by not  
29 more than two times the sum of those portions of the net  
30 considerations in all prior contract years for which the percentage was  
31 65%.

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

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

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

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

1 used to determine the minimum nonforfeiture amount shall be equal to  
2 90% and the net consideration shall be the gross consideration less a  
3 contract charge of \$75.00.

4 (4) Notwithstanding any other provision of this subsection to the  
5 contrary, for any contract issued on or after the effective date of  
6 P.L.2003, c.152 and before the 730th day after that effective date, the  
7 interest rate at which net consideration shall be accumulated for  
8 purposes of determining minimum nonforfeiture amounts shall be 1  
9 1/2% per annum.

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

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

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



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

6 k. <sup>1</sup> [For the purpose of determining the benefits calculated under  
7 subsections i. and j., in the case of annuity contracts under which an  
8 election may be made to have annuity payments commence at optional  
9 maturity dates, the maturity date shall be deemed to be the latest date  
10 for which election shall be permitted by the contract, but shall not be  
11 deemed to be later than the anniversary of the contract next following  
12 the annuitant's seventieth birthday or the tenth anniversary of the  
13 contract, whichever is later. A surrender charge shall not be imposed  
14 on or past maturity.] This subsection k. shall apply to the  
15 determination of the benefits calculated under subsections i. and j. of  
16 this section.

17 (1) In the case of annuity contracts for which the maturity date is  
18 stated, that maturity date shall not be after the later of: (a) the  
19 anniversary of the contract next following the annuitant's seventieth  
20 birthday; or (b) the tenth anniversary of the contract. In the case of  
21 annuity contracts under which an election may be made to have  
22 annuity payments begin at optional maturity dates, the maturity date  
23 shall be deemed to be the latest date for which election is permitted by  
24 the contract, but shall not be deemed to be later than the latest date  
25 permitted for an annuity contract with a stated maturity date.

26 (2) The amount of the benefits calculated under subsections i. and  
27 j. of this section on or after the stated or deemed maturity date shall  
28 not be reduced by any surrender charge. The amount of the benefits  
29 calculated under subsections i. and j. of this section on or after the  
30 stated or deemed maturity date shall not be less than the greater of: (a)  
31 the present value of annuity benefits available on or after the maturity  
32 date, computed according to the assumptions stated in subsection h.  
33 of this section; and (b) the amount available on or after the maturity  
34 date to be applied to the purchase of an annuity on a basis stated in the  
35 contract.

36 (3) Contracts providing for flexible considerations may have  
37 separate surrender charge schedules associated with each  
38 consideration, provided that the nonforfeiture values are at least as  
39 great as they would be if each consideration had been a separate single  
40 consideration contract based on the requirements of paragraph (3) of  
41 subsection g. of this section. For the purpose of determining the  
42 maturity date, the tenth anniversary of the contract shall be determined  
43 separately for each consideration.<sup>1</sup>

44 <sup>2</sup>The provisions of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (now before the Legislature as  
45 this bill) shall apply notwithstanding section 1 of P.L.2001, c.237  
46 (C.17B:25-18.4), shall take precedence over that section of law, and

1 shall apply to annuity contracts regardless of whether the requirements  
2 of that section have been met.<sup>2</sup>

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

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

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

35 o. After January 1, 1981, any insurer may file with the  
36 commissioner a written notice of its election to comply with the  
37 provisions of this section after a specified date before January 1, 1983.  
38 After the filing of such notice, then upon such specified date, which  
39 shall be the operative date of this section for such insurer, the  
40 provisions of subsections f. through n. shall become operative with  
41 respect to annuity contracts thereafter issued by such insurer. If an  
42 insurer makes no such election, the operative date of this section for  
43 such insurer shall be January 1, 1983.

44 p. This section shall not apply to any reinsurance, group annuity  
45 purchased in connection with one or more retirement plans or plans of  
46 deferred compensation established or maintained by or for one or more

1 employers (including partnerships or sole proprietorships), employee  
2 organizations, or any combination thereof, other than plans providing  
3 individual retirement accounts or individual retirement annuities under  
4 Section 408 of the federal Internal Revenue Code of 1986 (26 U.S.C.  
5 s.408), as amended, nor to any premium deposit fund, variable annuity,  
6 investment annuity, immediate annuity, any deferred annuity contract  
7 after annuity payments have commenced, or reversionary annuity, nor  
8 to any contract which shall be delivered outside this State through an  
9 agent or other representative of the insurer issuing the contract. The  
10 requirements of subsections a. to e. of this section shall not apply to  
11 any group annuity, single premium pure endowment, or single  
12 stipulated payment annuity.

13 (cf: P.L.2003, c.152, s.1)

14

15 <sup>1</sup>2. (New section.) The provisions of P.L. , c. (now before the  
16 Legislature as this bill) shall be known and may be cited as the "Senior  
17 Citizen Investment Protection Act."<sup>1</sup>

18

19 <sup>1</sup>[2.] 3.<sup>1</sup> This act shall take effect on the 90th day following  
20 enactment.

21

22

23

24

25 Prohibits surrender charges for individual deferred annuities under  
26 certain circumstances.

# ASSEMBLY, No. 306

## STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Assemblywoman CHARLOTTE VANDERVALK**

**District 39 (Bergen)**

**Assemblyman NEIL M. COHEN**

**District 20 (Union)**

**Assemblyman ALFRED E. STEELE**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

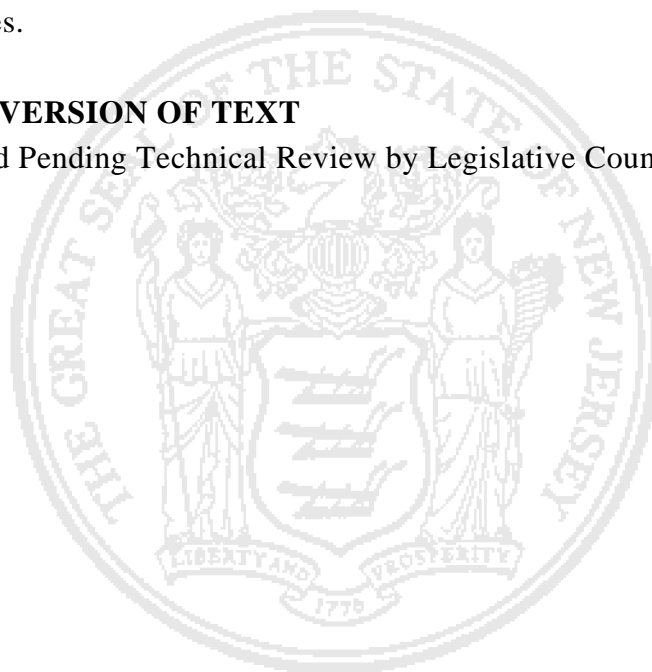
**Assemblyman Bateman**

**SYNOPSIS**

Prohibits surrender charges for individual deferred annuities under certain circumstances.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 2/10/2004)**

1 AN ACT concerning surrender charges for individual deferred annuities  
2 and amending P.L.1981, c.285.

3

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

6

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

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

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

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

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

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

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

**Matter underlined thus is new matter.**

1 which such benefits are consecutively shown in the contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 g. The minimum values as specified in subsections h., i., j., k. and  
46 m. of any paid-up annuity, cash surrender or death benefits available



1 under an annuity contract referred to in subsection f., shall be based  
2 upon minimum nonforfeiture amounts as defined in this subsection:

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

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

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

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

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

45 h. Any paid-up annuity benefit available under a contract referred  
46 to in subsection f. shall have a present value on the date annuity

1 payments are to commence at least equal to the minimum nonforfeiture  
2 amount on that date. Such present value shall be computed using the  
3 mortality table, if any, and the interest rate specified in the contract for  
4 determining the minimum paid-up annuity benefits guaranteed in the  
5 contract.

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

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

42 k. For the purpose of determining the benefits calculated under  
43 subsections i. and j., in the case of annuity contracts under which an  
44 election may be made to have annuity payments commence at optional  
45 maturity dates, the maturity date shall be deemed to be the latest date  
46 for which election shall be permitted by the contract, but shall not be

1 deemed to be later than the anniversary of the contract next following  
2 the annuitant's seventieth birthday or the tenth anniversary of the  
3 contract, whichever is later. A surrender charge shall not be imposed  
4 on or past maturity.

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

10 m. Any paid-up annuity, cash surrender or death benefits available  
11 at any time, other than on the contract anniversary under any contract  
12 with fixed scheduled considerations referred to in subsection f. shall  
13 be calculated with allowance for the lapse of time and the payment of  
14 any scheduled considerations beyond the beginning of the contract  
15 year in which cessation of payment of considerations under the  
16 contract occurs.

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

37 o. After January 1, 1981, any insurer may file with the  
38 commissioner a written notice of its election to comply with the  
39 provisions of this section after a specified date before January 1, 1983.  
40 After the filing of such notice, then upon such specified date, which  
41 shall be the operative date of this section for such insurer, the  
42 provisions of subsections f. through n. shall become operative with  
43 respect to annuity contracts thereafter issued by such insurer. If an  
44 insurer makes no such election, the operative date of this section for  
45 such insurer shall be January 1, 1983.

46 p. This section shall not apply to any reinsurance, group annuity

1 purchased in connection with one or more retirement plans or plans of  
2 deferred compensation established or maintained by or for one or more  
3 employers (including partnerships or sole proprietorships), employee  
4 organizations, or any combination thereof, other than plans providing  
5 individual retirement accounts or individual retirement annuities under  
6 Section 408 of the federal Internal Revenue Code of 1986  
7 (26 U.S.C. s.408), as amended, nor to any premium deposit fund,  
8 variable annuity, investment annuity, immediate annuity, any deferred  
9 annuity contract after annuity payments have commenced, or  
10 reversionary annuity, nor to any contract which shall be delivered  
11 outside this State through an agent or other representative of the  
12 insurer issuing the contract. The requirements of subsections a. to e.  
13 of this section shall not apply to any group annuity, single premium  
14 pure endowment, or single stipulated payment annuity.  
15 (cf: P.L.1981, c.285, s.5)

16

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

18

19

20

#### STATEMENT

21

22 This bill amends the standard nonforfeiture law for individual  
23 deferred annuities to provide that surrender charges shall not be  
24 imposed on or past the maturity date of an individual deferred annuity.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 306**

with committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 9, 2004

The Assembly Financial Institutions and Insurance Committee reports favorably, and with committee amendments, Assembly Bill No. 306.

As amended by the committee, this bill, entitled the "Senior Citizen Investment Protection Act," provides that surrender charges cannot be imposed on or past the maturity of individual deferred annuities under certain circumstances.

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. Under the bill, 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. This provision thus allows for multiple maturity dates, and permits annuitants to make future purchases on their original annuity, rather than purchasing

multiple single-premium contracts, without any surrender charge.

This bill was prefiled for introduction in the 2004 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

COMMITTEE AMENDMENTS

The committee amended the bill to clarify the operation of the surrender charge prohibition and allow for multiple purchases under a single annuity contract with multiple maturity dates for the purpose of determining any surrender penalty. In addition, the committee added the short title to the bill to emphasize that the intent of the bill is to protect senior citizen consumers in this State.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 306**

# **STATE OF NEW JERSEY**

DATED: MAY 10, 2004

The Senate Commerce Committee reports favorably Assembly Bill No. 306 (1R).

This bill, entitled the "Senior Citizen Investment Protection Act," 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. Under the bill, 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. This provision thus allows for multiple maturity dates, and permits annuitants to make future purchases on their original annuity, rather than purchasing multiple single-premium contracts, without any surrender charge.

This bill is identical to Senate Bill No. 1286(1R), also reported to day.

**SENATE, No. 1286**

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

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INTRODUCED MARCH 1, 2004

**Sponsored by:**  
**Senator GERALD CARDINALE**  
**District 39 (Bergen)**

**SYNOPSIS**

Prohibits surrender charges for individual deferred annuities under certain circumstances.

**CURRENT VERSION OF TEXT**

As introduced.





S1286 CARDINALE

2

1 AN ACT concerning surrender charges for individual deferred annuities  
2 and amending P.L.1981, c.285.

3

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

6

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

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

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

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

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

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

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

**Matter underlined thus is new matter.**

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

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

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

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

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

1 contract; (2) 20% of the adjusted stipulated payment for the first  
2 contract year; and (3) 2% of the adjusted stipulated payment for the  
3 first contract year for each year not exceeding 20 during which  
4 stipulated payments are payable.

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

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

1 and no such additional benefits shall be required to be included in any  
2 paid-up nonforfeiture benefits.

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

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

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

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

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

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

44 g. The minimum values as specified in subsections h., i., j., k. and  
45 m. of any paid-up annuity, cash surrender or death benefits available  
46 under an annuity contract referred to in subsection f., shall be based

1 upon minimum nonforfeiture amounts as defined in this subsection:

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

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

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

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

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

44 (4) Notwithstanding any other provision of this subsection to the  
45 contrary, for any contract issued on or after the effective date of  
46 P.L.2003, c.152 and before the 730th day after that effective date, the

1 interest rate at which net consideration shall be accumulated for  
2 purposes of determining minimum nonforfeiture amounts shall be 1  
3 1/2% per annum.

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

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

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

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

11 (1) In the case of annuity contracts for which the maturity date is  
12 stated, that maturity date shall not be after the later of: (a) the  
13 anniversary of the contract next following the annuitant's seventieth  
14 birthday; or (b) the tenth anniversary of the contract. In the case of  
15 annuity contracts under which an election may be made to have  
16 annuity payments begin at optional maturity dates, the maturity date  
17 shall be deemed to be the latest date for which election is permitted by  
18 the contract, but shall not be deemed to be later than the latest date  
19 permitted for an annuity contract with a stated maturity date.

20 (2) The amount of the benefits calculated under subsections i. and  
21 j. of this section on or after the stated or deemed maturity date shall  
22 not be reduced by any surrender charge. The amount of the benefits  
23 calculated under subsections i. and j. of this section on or after the  
24 stated or deemed maturity date shall not be less than the greater of: (a)  
25 the present value of annuity benefits available on or after the maturity  
26 date, computed according to the assumptions stated in subsection h.  
27 of this section; and (b) the amount available on or after the maturity  
28 date to be applied to the purchase of an annuity on a basis stated in the  
29 contract.

30 (3) Contracts providing for flexible considerations may have  
31 separate surrender charge schedules associated with each  
32 consideration, provided that the nonforfeiture values are at least as  
33 great as they would be if each consideration had been a separate single  
34 consideration contract based on the requirements of paragraph (3) of  
35 subsection g. of this section. For the purpose of determining the  
36 maturity date, the tenth anniversary of the contract shall be determined  
37 separately for each consideration.

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

43 m. Any paid-up annuity, cash surrender or death benefits available  
44 at any time, other than on the contract anniversary under any contract  
45 with fixed scheduled considerations referred to in subsection f. shall  
46 be calculated with allowance for the lapse of time and the payment of

1 any scheduled considerations beyond the beginning of the contract  
2 year in which cessation of payment of considerations under the  
3 contract occurs.

4 n. For any contract referred to in subsection f. which provides,  
5 within the same contract by rider or supplemental contract provision,  
6 both annuity benefits and life insurance benefits that are in excess of  
7 the greater of cash surrender benefits or a return of the gross  
8 considerations with interest, the minimum nonforfeiture benefits shall  
9 be equal to the sum of the minimum nonforfeiture benefits for the  
10 annuity portion and the minimum nonforfeiture benefits, if any, for the  
11 life insurance portion computed as if each portion were a separate  
12 contract. Notwithstanding the provisions of subsections h., i., j., k.  
13 and m., additional benefits payable (1) in the event of total and  
14 permanent disability, (2) as reversionary annuity or deferred  
15 reversionary annuity benefits, or (3) as other policy benefits additional  
16 to life insurance, endowment, and annuity benefits, and considerations  
17 for all such additional benefits, shall be disregarded in ascertaining the  
18 minimum nonforfeiture amounts, paid-up annuity, cash surrender and  
19 death benefits that may be required by this section. The inclusion of  
20 such additional benefits shall not be required in any paid-up benefits,  
21 unless such additional benefits separately would require minimum  
22 nonforfeiture amounts, paid-up annuity, cash surrender and death  
23 benefits.

24 o. After January 1, 1981, any insurer may file with the  
25 commissioner a written notice of its election to comply with the  
26 provisions of this section after a specified date before January 1, 1983.  
27 After the filing of such notice, then upon such specified date, which  
28 shall be the operative date of this section for such insurer, the  
29 provisions of subsections f. through n. shall become operative with  
30 respect to annuity contracts thereafter issued by such insurer. If an  
31 insurer makes no such election, the operative date of this section for  
32 such insurer shall be January 1, 1983.

33 p. This section shall not apply to any reinsurance, group annuity  
34 purchased in connection with one or more retirement plans or plans of  
35 deferred compensation established or maintained by or for one or more  
36 employers (including partnerships or sole proprietorships), employee  
37 organizations, or any combination thereof, other than plans providing  
38 individual retirement accounts or individual retirement annuities under  
39 Section 408 of the federal Internal Revenue Code of 1986  
40 (26 U.S.C. s.408), as amended, nor to any premium deposit fund,  
41 variable annuity, investment annuity, immediate annuity, any deferred  
42 annuity contract after annuity payments have commenced, or  
43 reversionary annuity, nor to any contract which shall be delivered  
44 outside this State through an agent or other representative of the  
45 insurer issuing the contract. The requirements of subsections a. to e.



1 of this section shall not apply to any group annuity, single premium  
2 pure endowment, or single stipulated payment annuity.  
3 (cf: P.L.2003, c.152, s.1)

4

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

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7

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#### STATEMENT

9

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

16 The bill provides that, in the case of annuity contracts for which the  
17 maturity date is stated, that maturity date shall not be after the later of:  
18 the anniversary of the contract next following the annuitant's  
19 seventieth birthday; or the tenth anniversary of the contract. In the  
20 case of annuity contracts under which an election may be made to have  
21 annuity payments begin at optional maturity dates, the maturity date  
22 shall be deemed to be the latest date for which election is permitted by  
23 the contract, but shall not be later than the latest date permitted for an  
24 annuity contract with a stated maturity date. The bill further provides  
25 that the amount of the benefits on or after the stated or deemed  
26 maturity date shall not be reduced by any surrender charge. Under the  
27 bill, the amount of the benefits shall not be less than the greater of: the  
28 present value of annuity benefits available on or after the maturity  
29 date, computed according to the assumptions stated in the law; or the  
30 amount available on or after the maturity date to be applied to the  
31 purchase of an annuity on a basis stated in the contract.

32 In addition, the bill provides that contracts providing for flexible  
33 considerations may have separate surrender charge schedules  
34 associated with each consideration, provided that the nonforfeiture  
35 values are at least as great as they would be if each consideration had  
36 been a separate single consideration contract. For the purpose of  
37 determining the maturity date, the tenth anniversary of the contract  
38 shall be determined separately for each consideration. This provision  
39 thus allows for multiple maturity dates, and permits annuitants to make  
40 future purchases on their original annuity, rather than purchasing  
41 multiple single-premium contracts, without any surrender charge.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### **SENATE, No. 1286**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 10, 2004

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1286.

As amended, this bill, entitled the "Senior Citizen Investment Protection Act," 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. Under the bill, 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. This provision thus allows for multiple maturity dates, and permits annuitants to make future purchases on their original annuity, rather than purchasing multiple single-premium contracts, without any surrender charge.

The committee amended the bill to add the short title to the bill.

As amended, the bill is identical to Assembly Bill No. 306 (1R), also reported today.

**ASSEMBLY BILL NO. 306**  
**(First Reprint)**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 306 (First Reprint) with my recommendations for reconsideration.

A. Summary of Bill

This bill, entitled the "Senior Citizen Investment Protection Act," limits the surrender charges that can be imposed on or past the maturity date of individual deferred annuities. An individual deferred annuity is a contract in which an insurance company makes a series of income payments in the future at regular intervals, or until the happening of an event, or for life, in return for premiums paid. During the accumulation period, the premiums paid into the annuity, less any applicable charges, earn interest. The annuity balance typically grows tax-deferred. Upon reaching the payout period, the company pays income to the annuitant or his designee.

The bill recognizes that purchasers of annuities may encounter unexpected financial emergencies necessitating immediate access to funds paid into an annuity that has reached its maturity date. Specifically, the bill precludes certain surrender charges on or after the maturity date of an annuity, and provides certain parameters regarding how maturity dates may be determined. For example, 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. Where the contract allows for a variable maturity date and allows the purchaser to choose what the maturity date will be, for the purpose of surrender charges, the maturity date will be the latest permitted

in the contract. 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.

B. Recommended Action

I commend the sponsors of this bill and the Legislature for recognizing the need to protect consumers, very often senior citizens, who purchase annuities from insurance carriers for future income, typically as a part of their retirement planning. Currently, surrender charges may severely reduce the amount returned to the annuitant, often at a time when every cent counts. Assembly Bill No. 306 is a good bill intended to protect vulnerable consumers from this harsh result, while still allowing annuity companies to assess charges in appropriate circumstances.

I am advised, however, that because the bill in its current form does not expressly state that it displaces the so-called "40 states rule," codified at N.J.S.A. 17B:25-18.4, insurers may argue that their annuity contracts are excluded from the limitations of this bill by application of that rule. Briefly stated, the "40 states rule" allows specific types of insurance contracts, including annuity contracts, to be introduced in New Jersey without prior approval by the Department of Banking and Insurance, regardless of limitations in any other laws, if they are made available for sale or use in forty other states. In effect, if the "40 states rule" were found to apply despite the provisions of this bill, the bill's surrender charge limitations could be completely circumvented by an insurer marketing an annuity product nationally. I believe that this bill would create an important protection for consumers, particularly senior citizens. To ensure that the bill's provisions are given their intended effect, I return the bill with the recommendation that language be added to it expressly exempting it from application of the "40 states rule."

Therefore, I herewith return Assembly Bill No. 306 (First Reprint) and recommend that it be amended as follows:

Page 8, Section 1, Line 39:

After "consideration." insert  
"The provisions of P.L. ,  
c. (now before the  
Legislature as this bill)  
shall apply notwithstanding  
section 1 of P.L. 2001, c. 236  
(C. 17B:25-18.4), shall take  
precedence over that section  
of law, and shall apply to  
annuity contracts regardless  
of whether the requirements of  
that section have been met."

Respectfully,

/s/ James E. McGreevey

Governor

[seal]

Attest:

/s/ Mark J. Fleming

Deputy Chief Counsel to the Governor