Senate Engrossed

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JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
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First Regular Session
2007

CHAPTER 28

SENATE BILL 1073

AN ACT

AMENDING SECTION 20-1232, ARIZONA REVISED STATUTES; RELATING TO INDIVIDUAL DEFERRED ANNUITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 20-1232, Arizona Revised Statutes, is amended to read:

20-1232. Standard nonforfeiture law for individual deferred annuities

A. ~~Except as provided in subsection L,~~ No contract of annuity, except as stated in subsection K, shall be delivered or issued for delivery in this state unless the contract contains in substance the following provisions or corresponding provisions that in the opinion of the director are at least as favorable to the contract holder on cessation of payment of considerations under the contract:

1. That upon cessation of payment of considerations under a contract, or on the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections D, E, F, G and I.

2. If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of a paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections D, E, G and I. THE COMPANY, WITHIN THIRTY DAYS OF THE DATE OF MATURITY AS PRESCRIBED IN THE CONTRACT, SHALL NOTIFY THE ANNUITY OWNER OF THE OWNER'S RIGHTS UNDER THE CONTRACT AT THE TIME OF MATURITY OF THE CONTRACT, INCLUDING THE RIGHT TO RECEIVE THE CASH VALUE BENEFIT IN A LUMP SUM, IF APPLICABLE. THE COMPANY SHALL PAY ANY AMOUNTS DUE UNDER THE CONTRACT WITHIN THIRTY DAYS FROM THE DATE THE AMOUNT BECOMES PAYABLE. The company may reserve the right to defer the payment of the cash surrender benefit for a period not to exceed ~~six months~~ ONE HUNDRED EIGHTY DAYS after demand for such cash surrender benefit with surrender of the contract after making written request and receiving written approval from the director. The ~~request~~ ANNUITY OWNER SHALL BE NOTIFIED WITHIN FIFTEEN DAYS OF THE DATE THAT ANY REQUEST FOR WITHDRAWAL IS RECEIVED THAT THE COMPANY HAS REQUESTED A DEFERRAL PURSUANT TO THIS PARAGRAPH. IN MAKING ITS REQUEST TO THE DIRECTOR, THE COMPANY shall address the necessity and equitability to all policyholders of the deferral AND THE REASON WHY PAYMENT CANNOT TAKE PLACE WITHIN THE TIME PERIOD REQUIRED UNDER THIS PARAGRAPH FROM THE DATE THE ANNUITY BENEFIT BECOMES DUE. ANY TRANSFER OF MONIES TO ANOTHER ANNUITY COMPANY DESIGNATED BY THE CONTRACT OWNER PURSUANT TO SECTION 1035 OF THE INTERNAL REVENUE CODE SHALL TAKE PLACE WITHIN THIRTY DAYS AFTER ALL REQUIRED FORMS RELATING TO THE TRANSFER ARE FILED WITH THE ORIGINAL ANNUITY COMPANY.

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

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

B. Notwithstanding the requirements of subsection A, a deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from prior considerations paid would be less than twenty dollars monthly, the company, at its option, may terminate the contract by payment in cash of the then present value of the portion of the paid-up annuity benefit, calculated on the basis on the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by this payment shall be relieved of any further obligation under the contract.

C. The minimum values as specified in subsections D, E, F, G and I of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts prescribed as follows:

1. The minimum nonforfeiture amount at any time at or before the commencement of any annuity payments is equal to an accumulation up to that time at rates of interest, as prescribed in paragraph 2 of this subsection, of the net considerations paid before that time, decreased by the sum of all of the following:

(a) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as prescribed in paragraph 2 of this subsection.

(b) An annual contract charge of fifty dollars, accumulated at rates of interest as prescribed in paragraph 2 of this subsection.

(c) Any premium tax paid by the company for the contract, accumulated at rates of interest as prescribed in paragraph 2 of this subsection.

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

For the purposes of this paragraph, the net considerations for a given contract year used to define the minimum nonforfeiture amount is an amount equal to eighty-seven and one-half per cent of the gross considerations credited to the contract during that contract year.

2. The interest rate used in determining minimum nonforfeiture amounts is an annual rate of interest determined as the lesser of three per cent per annum and the following, which shall be specified in the contract if the interest rate will be reset:

(a) The five-year constant maturity treasury rate reported by the federal reserve as of a date, or average over a period, rounded to the nearest one-twentieth of one per cent, specified in the contract no longer than fifteen months before the contract issue date or redetermination date under subdivision (d) of this paragraph.

(b) Reduced by one hundred twenty-five basis points.

(c) Where the resulting interest rate is not less than one per cent.

(d) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.

3. During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in paragraph 2, subdivision (b) of this subsection by up to an additional one hundred basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The director may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the director, the director may disallow or limit the additional reduction.

4. The director may adopt rules to implement paragraph 3 of this subsection and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts where the director determines that adjustments are justified.

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

E. For contracts that provide cash surrender benefits, the cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit that would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, the present value being calculated on the basis of an interest rate not more than one per cent higher than the interest rate specified in the contract for accumulating the net considerations to determine maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the

company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

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

G. For the purpose of determining the benefits calculated under subsections E and F, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

H. Any contract that does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

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

J. For a contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections D, E, F, G and I, additional benefits payable in the event of total and permanent disability,

as reversionary annuity or deferred reversionary annuity benefits or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless the additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

K. This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an insurance producer or other representative of the company issuing the contract.

L. The director may adopt rules to implement this section.

APPROVED BY THE GOVERNOR APRIL 10, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2007.