

HOUSE BILL No. 5999

(As passed the Senate, December 11, 2002)

May 7, 2002, Introduced by Rep. Richner and referred to the Committee on Insurance and Financial Services.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 4072 (MCL 500.4072), as amended by 1986 PA
318.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4072. (1) This section shall be known as the standard
2 nonforfeiture law for individual deferred annuities.
3 (2) This section ~~shall~~ DOES not apply to any reinsurance,
4 group annuity purchased under a retirement plan or plan of
5 deferred compensation established or maintained by an employer,
6 including a partnership or sole proprietorship, or by an employee
7 organization, or by both, other than a plan providing individual
8 retirement accounts or individual retirement annuities under
9 section 408 of the internal revenue code, premium deposit fund,
10 variable annuity, investment annuity, immediate annuity, a

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1 deferred annuity contract after annuity payments have commenced,
2 or reversionary annuity, nor to a contract ~~which shall be~~
3 delivered outside this state through an agent or other represen-
4 tative of the company issuing the contract.

5 (3) Except as provided in subsection (2), ~~in the case of~~
6 FOR contracts issued on or after the operative date of this sec-
7 tion, as defined in subsection (13), a contract of annuity shall
8 not be delivered or issued for delivery in this state unless it
9 contains in substance the following provisions, or corresponding
10 provisions ~~which~~ THAT in the ~~opinion of the commissioner~~
11 COMMISSIONER'S OPINION are at least as favorable to the contract
12 holder, upon cessation of payment of consideration under the
13 contract:

14 (a) That upon cessation of payment of consideration under a
15 contract, the company will grant a paid-up annuity benefit on a
16 plan stipulated in the contract of a value specified in subsec-
17 tions (6), (7), (8), (9), and (11).

18 (b) If a contract provides for a lump sum settlement at
19 maturity, or at any other time, that upon surrender of the con-
20 tract at or before the commencement of any annuity payments, the
21 company will pay in place of any paid-up annuity benefit, a cash
22 surrender benefit of an amount specified in subsections (6), (7),
23 (9), and (11). The company shall reserve the right to defer the
24 payment of the cash surrender benefit for a period of 6 months
25 after demand for the payment with surrender of the contract.

26 (c) A statement of the mortality table, if any, and interest
27 rates used in calculating any minimum paid-up annuity, cash

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1 surrender, or death benefits that are guaranteed under the
2 contract, together with sufficient information to determine the
3 amounts of the benefits.

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

12 (4) Notwithstanding the requirements of subsection (3), a
13 deferred annuity contract may provide that if considerations have
14 not been received under a contract for a period of 2 full years
15 and the portion of the paid-up annuity benefit at maturity on the
16 plan stipulated in the contract arising from considerations paid
17 before this period would be less than \$20.00 monthly, the company
18 may at its option terminate the contract by payment in cash of
19 the then present value of that portion of the paid-up annuity
20 benefit, calculated on the basis of the mortality table, if any,
21 and interest rate specified in the contract for determining the
22 paid-up annuity benefit. This payment shall relieve the company
23 of further obligation under the contract.

24 (5) The minimum values as specified in subsections (6), (7),
25 (8), (9), and (11) of any paid-up annuity, cash surrender, or
26 death benefits available under an annuity contract shall be based

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1 upon minimum nonforfeiture amounts as defined in this
2 subsection:

3 (a) ~~With respect to~~ EXCEPT AS OTHERWISE PROVIDED IN
4 SUBDIVISION (B), FOR contracts providing for flexible considera-
5 tions, the minimum nonforfeiture amount at any time at or before
6 the commencement of any annuity payments shall be equal to an
7 accumulation up to that time at a rate of interest of 3% per
8 annum of percentages of the net considerations, as defined in
9 this subsection, paid before that time, decreased by the sum of
10 subparagraphs (i) and (ii), and increased by any existing addi-
11 tional amounts credited by the company to the contract:

12 (i) Prior withdrawals from or partial surrenders of the con-
13 tract accumulated at a rate of interest of 3% per annum.

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

16 (B) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT
17 THAT ADDED THIS SUBDIVISION AND CONTINUING UNTIL JANUARY 1, 2005
18 FOR CONTRACTS PROVIDING FOR FLEXIBLE CONSIDERATIONS, THE MINIMUM
19 NONFORFEITURE AMOUNT AT ANY TIME AT OR BEFORE THE COMMENCEMENT OF
20 ANY ANNUITY PAYMENTS SHALL BE EQUAL TO AN ACCUMULATION UP TO THAT
21 TIME AT A RATE OF INTEREST OF 1.5% PER ANNUM OF PERCENTAGES OF
22 THE NET CONSIDERATIONS, AS DEFINED IN THIS SUBSECTION, PAID
23 BEFORE THAT TIME, DECREASED BY THE SUM OF SUBPARAGRAPHS (i) AND
24 (ii), AND INCREASED BY ANY EXISTING ADDITIONAL AMOUNTS CREDITED
25 BY THE COMPANY TO THE CONTRACT:

26 (i) PRIOR WITHDRAWALS FROM OR PARTIAL SURRENDERS OF THE
27 CONTRACT ACCUMULATED AT A RATE OF INTEREST OF 1.5% PER ANNUM.

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1 (ii) THE AMOUNT OF ANY INDEBTEDNESS TO THE COMPANY ON THE
2 CONTRACT, INCLUDING INTEREST DUE AND ACCRUED.

3 (C) ~~(b)~~ The net consideration for a given contract year
4 used to define the minimum nonforfeiture amount shall be an
5 amount not less than zero, and shall be equal to the correspond-
6 ing gross considerations credited to the contract during that
7 contract year less an annual contract charge of \$30.00 and less a
8 collection charge of \$1.25 per consideration credited to the con-
9 tract during that contract year. The percentages of net consid-
10 erations shall be 65% of the net consideration for the first con-
11 tract year and 87-1/2 of the net considerations for the second
12 and later contract years. Notwithstanding the preceding sen-
13 tence, the percentage shall be 65% of the portion of the total
14 net consideration for any renewal contract year which exceeds by
15 not more than 2 times the sum of those portions of the net con-
16 siderations in all prior contract years for which the percentage
17 was 65%.

18 (D) ~~(c) With respect to~~ FOR contracts providing for fixed
19 scheduled considerations, minimum nonforfeiture amounts shall be
20 calculated on the assumption that considerations are paid annu-
21 ally in advance, and shall be defined as for contracts with flex-
22 ible considerations ~~which are~~ paid annually, except that:

23 (i) The portion of the net consideration for the first con-
24 tract year to be accumulated shall be the sum of 65% of the net
25 consideration for the first contract year plus 22-1/2% of the
26 excess of the net consideration for the first contract year over

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1 the lesser of the net considerations for the second and third
2 contract years.

3 (ii) The annual contract charge shall be the lesser of
4 \$30.00 or 10% of the gross annual considerations.

5 (E) ~~(d) With respect to~~ FOR contracts providing for a
6 single consideration, minimum nonforfeiture amounts shall be
7 defined as for contracts with flexible considerations, except
8 that the percentage of net consideration used to determine the
9 minimum nonforfeiture amount shall be equal to 90% and the net
10 consideration shall be the gross consideration less a contract
11 charge of \$75.00.

12 (6) Any paid-up annuity benefit available under a contract
13 shall be such that its present value on the date annuity payments
14 are to commence is at least equal to the minimum nonforfeiture
15 amount on that date. This present value shall be computed using
16 the mortality table, if any, and the interest rate specified in
17 the contract for determining the minimum paid-up annuity benefits
18 guaranteed in the contract.

19 (7) For contracts ~~which~~ THAT provide cash surrender bene-
20 fits, the cash surrender benefits available before maturity shall
21 not be less than the present value as of the date of surrender of
22 that portion of the maturity value of the paid-up annuity benefit
23 arising from considerations paid before the time of cash
24 surrender. The present value shall be calculated on the basis of
25 an interest rate not more than 1% higher than the interest rate
26 specified in the contract for accumulating the net considerations
27 to determine the maturity value. However, a cash surrender

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1 benefit shall not be less than the minimum nonforfeiture amount
2 at that time. The death benefit under contracts ~~which~~ THAT
3 provide cash surrender benefits shall be at least equal to the
4 cash surrender benefit. As used in this subsection AND EXCEPT AS
5 OTHERWISE PROVIDED IN THIS SUBSECTION, "maturity value" means an
6 accumulation up to the maturity date at the rate of interest
7 guaranteed in the contract for accumulating the net considera-
8 tions to determine the maturity value, but in no event less than
9 3% per annum, of the percentages of the net considerations, as
10 defined in subsection (5), paid before that time, decreased by
11 the sum of prior withdrawals from or partial surrenders of the
12 contract accumulated at the rate of interest guaranteed in the
13 contract for accumulating net considerations to determine the
14 maturity value but in no event less than 3% per annum and the
15 amount of any indebtedness to the company on the contract,
16 including interest due and accrued, and increased by excess
17 interest previously credited by the company to the contract.
18 BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
19 SUBSECTION (5)(B) AND CONTINUING UNTIL JANUARY 1, 2005, AS USED
20 IN THIS SUBSECTION, "MATURITY VALUE" MEANS AN ACCUMULATION UP TO
21 THE MATURITY DATE AT THE RATE OF INTEREST GUARANTEED IN THE CON-
22 TRACT FOR ACCUMULATING THE NET CONSIDERATIONS TO DETERMINE THE
23 MATURITY VALUE, BUT IN NO EVENT LESS THAN 1.5% PER ANNUM, OF THE
24 PERCENTAGES OF THE NET CONSIDERATIONS, AS DEFINED IN SUBSECTION
25 (5), PAID BEFORE THAT TIME, DECREASED BY THE SUM OF PRIOR WITH-
26 DRAWALS FROM OR PARTIAL SURRENDERS OF THE CONTRACT ACCUMULATED AT
27 THE RATE OF INTEREST GUARANTEED IN THE CONTRACT FOR ACCUMULATING

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1 NET CONSIDERATIONS TO DETERMINE THE MATURITY VALUE BUT IN NO
2 EVENT LESS THAN 1.5% PER ANNUM AND THE AMOUNT OF ANY INDEBTEDNESS
3 TO THE COMPANY ON THE CONTRACT, INCLUDING INTEREST DUE AND
4 ACCRUED, AND INCREASED BY EXCESS INTEREST PREVIOUSLY CREDITED BY
5 THE COMPANY TO THE CONTRACT. As used in this subsection, the
6 excess interest is the amount credited over and above the guaran-
7 teed interest.

8 (8) For contracts ~~which~~ THAT do not provide cash surrender
9 benefits, the present value of any paid-up annuity benefit avail-
10 able as a nonforfeiture option at any time before maturity shall
11 not be less than the present value of that portion of the matu-
12 rity value of the paid-up annuity benefit provided under the con-
13 tract arising from considerations paid before the contract is
14 surrendered in exchange for, or changed to, a deferred paid-up
15 annuity. The present value shall be calculated for the period
16 before the maturity date on the basis of the interest rate speci-
17 fied in the contract for accumulating the net considerations to
18 determine the maturity value, and increased by any existing addi-
19 tional amounts credited by the company to the contract. For con-
20 tracts ~~which~~ THAT do not provide death benefits before the com-
21 mencement of annuity payments, the present values shall be calcu-
22 lated on the basis of the interest rate and the mortality table
23 specified in the contract for determining the maturity value of
24 the paid-up annuity benefit. However, the present value of a
25 paid-up annuity benefit shall not be less than the minimum non-
26 forfeiture amount at that time.

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1 (9) For the purpose of determining the benefits calculated
2 under subsections (7) and (8), in the case of annuity contracts
3 under which an election may be made to have annuity payments com-
4 mence at optional maturity dates, the maturity date shall be con-
5 sidered to be the latest date for which election shall be permit-
6 ted by the contract, but shall not be later than the anniversary
7 of the contract next following the annuitant's seventieth birth-
8 day, or the tenth anniversary of the contract, whichever is
9 later.

10 (10) A contract ~~which~~ THAT does not provide cash surrender
11 benefits or does not provide death benefits at least equal to the
12 minimum nonforfeiture amount before the commencement of annuity
13 payments shall include a statement in a prominent place in the
14 contract that those benefits are not provided.

15 (11) Any paid-up annuity, cash surrender, or death benefits
16 available at any time, other than on the contract anniversary
17 under a contract with fixed scheduled considerations, shall be
18 calculated with allowance for the lapse of time and the payment
19 of any scheduled considerations beyond the beginning of the con-
20 tract year in which cessation of payment of considerations under
21 the contract occurs.

22 (12) For a contract ~~which~~ THAT provides, within the same
23 contract by rider or supplemental contract provision, both annu-
24 ity benefits and life insurance benefits that are in excess of
25 the greater of cash surrender benefits or a return of the gross
26 considerations with interest, the minimum nonforfeiture benefits
27 shall be equal to the sum of the minimum nonforfeiture benefits

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1 for the annuity portion and the minimum nonforfeiture benefits,
2 if any, for the life insurance portion computed as if each por-
3 tion were a separate contract. Notwithstanding subsections (6),
4 (7), (8), (9), and (11), additional benefits payable ~~in the~~
5 ~~event of~~ FOR total and permanent disability, as reversionary
6 annuity or deferred reversionary annuity benefits, or as other
7 policy benefits additional to life insurance, endowment and annu-
8 ity benefits, and considerations for all such additional bene-
9 fits, shall be disregarded in ascertaining the minimum nonforfei-
10 ture amounts, paid-up annuity, cash surrender, and death benefits
11 that may be required by this section. The inclusion of the addi-
12 tional benefits shall not be required in any paid-up benefits,
13 unless the additional benefits separately would require minimum
14 nonforfeiture amounts, paid-up annuity, cash surrender, and death
15 benefits.

16 (13) After October 1, 1980, a company may file with the com-
17 missioner a written notice of its election to comply with this
18 section after a specified date before October 1, 1982. After the
19 filing of this notice, then on that specified date, which shall
20 be the operative date of this section for the company, this sec-
21 tion shall become operative with respect to annuity contracts
22 thereafter issued by the company. If a company does not make the
23 election, the operative date of this section for the company
24 shall be October 1, 1982.

25 (14) Notwithstanding the other provisions of this section,
26 upon cancellation of an annuity ~~which is~~ subject to an
27 assignment under section 2080(6), the minimum nonforfeiture

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1 amount of the annuity shall be 92% of the sum of the total
2 premiums paid by the assignor at the time of the cancellation
3 plus interest on such premiums at an annual rate of not less than
4 5% or the consumer price index, whichever is greater. As used in
5 this subsection, "consumer price index" means that term as
6 defined in section 2080.