

IC 27-1-12.5

Chapter 12.5. Nonforfeiture Provisions of Annuity Contracts

IC 27-1-12.5-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 2 and 3 of this chapter by P.L.59-2004 apply to an annuity contract issued after June 30, 2004.

As added by P.L.220-2011, SEC.422.

IC 27-1-12.5-1

"Annuity contract" defined

Sec. 1. The term "annuity contract" as used in this chapter means:

- (1) any individual deferred annuity contract; and
- (2) any group annuity contract delivered or issued in connection with a plan providing individual retirement accounts or individual annuities under Section 408 of the Internal Revenue Code;

but does not refer to any other group annuity or to any reinsurance, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, and any annuity contract delivered outside this state through an agent or other representative of the company issuing the contract.

As added by Acts 1977, P.L.286, SEC.1. Amended by P.L.2-1987, SEC.36.

IC 27-1-12.5-2

Provisions of contract

Sec. 2. (a) No annuity contract shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions, which in the opinion of the insurance commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

- (1) Upon:
 - (A) cessation of payment of considerations under an annuity contract; or
 - (B) the written request of the contract holder;

the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in sections 4, 5, 6, 7, and 9 of this chapter.

- (2) If an annuity 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 any paid-up annuity benefit a cash surrender benefit of such amount as is specified in sections 4, 5, 7, and 9 of this chapter. The company may reserve the right to defer the payment of such cash surrender benefit for a period of not more than six (6) months after

demand therefor with surrender of the contract but only after:

(A) submitting to the commissioner a written request that addresses the:

(i) necessity of the deferral; and

(ii) equitability of the deferral for all the company's contract holders; and

(B) receiving the commissioner's written approval to defer.

(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 such benefits.

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the annuity 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 such 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 this chapter, any annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars (\$20.00) monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

As added by Acts 1977, P.L.286, SEC.1. Amended by P.L.59-2004, SEC.1.

IC 27-1-12.5-3

Minimum nonforfeiture amounts

Sec. 3. (a) The minimum values as specified in sections 4, 5, 6, 7, and 9 of this chapter of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(b) With respect to any annuity contract, the minimum nonforfeiture amounts at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at an annual rate of interest determined under subsections (d) and (e) of the net considerations as set forth in subsection (c) paid prior to such time, decreased by the sum of the following:

(1) Any prior withdrawals from or partial surrenders of the annuity contract accumulated at an annual rate of interest

determined under subsections (d) and (e).

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

(3) An annual contract charge of fifty dollars (\$50), accumulated at the annual rate of interest determined under subsections (d) and (e).

(c) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent (87.5%) of the gross considerations credited to the annuity contract during that contract year.

(d) Except as provided in subsection (e), the interest rate used in determining minimum nonforfeiture amounts is an annual rate of interest determined under either of the following methods:

(1) The five-year constant maturity treasury rate, rounded to the nearest five-hundredths of one percent (0.05%), as reported by the Federal Reserve as of a date specified in the annuity contract. Reduce this amount by one hundred twenty-five (125) basis points.

(2) An average of the five-year constant maturity treasury rate as reported by the Federal Reserve, rounded to the nearest five-hundredths of one percent (0.05%), over a specified period as set forth in the annuity contract. Reduce this amount by one hundred twenty-five (125) basis points.

The date under subdivision (1) or the average period used under subdivision (2) may not be longer than fifteen (15) months before the annuity contract issue date or the redetermination date as determined under subsection (f).

(e) If the rate of interest determined under subsection (d) is:

(1) less than one percent (1%), the interest rate used in determining minimum nonforfeiture amounts is one percent (1%); or

(2) greater than three percent (3%), the interest rate used in determining minimum nonforfeiture amounts is three percent (3%).

(f) The interest rate determined under subsections (d) and (e) applies for an initial period and may be redetermined for subsequent periods. The redetermination date, basis, and period, if any, must be specified in the annuity contract. The basis is:

(1) the date; or

(2) an average calculated over a specified period;

that produces the value of the five-year constant maturity treasury rate reported by the Federal Reserve to be used at each redetermination date.

(g) During the period or term that an annuity contract provides substantive participation in an equity index benefit, the contract may increase the basis point reduction described in subsection (d) by not more than an additional one hundred (100) basis points to reflect the value of the equity index benefit. The present value at the annuity contract issue date, and at each redetermination date after the annuity

contract issue date, of the additional reduction may not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. If the demonstration is not acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

(h) The commissioner may adopt rules under IC 4-22-2 to provide for further adjustments to the calculation of minimum nonforfeiture amounts for:

- (1) annuity contracts that provide participation in an equity index benefit; and
- (2) other annuity contracts for which the commissioner determines adjustments are justified.

As added by Acts 1977, P.L.286, SEC.1. Amended by P.L.130-2002, SEC.1; P.L.59-2004, SEC.2.

IC 27-1-12.5-4

Paid-up benefits

Sec. 4. Any paid-up annuity benefit available under any annuity 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. Such 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.

As added by Acts 1977, P.L.286, SEC.1.

IC 27-1-12.5-5

Cash surrender benefits

Sec. 5. If an annuity contract provides cash surrender benefits, the amount of these 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 which 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, such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such 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 an annuity contract shall be at least equal to the cash surrender benefit.

As added by Acts 1977, P.L.286, SEC.1.

IC 27-1-12.5-6

Paid-up annuity benefit available as nonforfeiture option where no

cash surrender benefits

Sec. 6. If an annuity contract does 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, such 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 such maturity value, and increased by any existing additional amounts credited by the company to the contract. The present values for an annuity contract, not providing any death benefits prior to the commencement of any annuity payments, shall be calculated on the basis of the interest rate and 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.

As added by Acts 1977, P.L.286, SEC.1.

IC 27-1-12.5-7**Maturity date determination**

Sec. 7. For the purpose of determining the benefits calculated under sections 5 and 6, in the case of an annuity contract 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.

As added by Acts 1977, P.L.286, SEC.1.

IC 27-1-12.5-8**Statement of benefits not provided**

Sec. 8. Any annuity contract which 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.

As added by Acts 1977, P.L.286, SEC.1.

IC 27-1-12.5-9**Allowance for lapse of time and payment of scheduled considerations**

Sec. 9. Under any annuity contract with fixed scheduled considerations, any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary, 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.

As added by Acts 1977, P.L.286, SEC.1.

IC 27-1-12.5-10

Life insurance; additional benefits

Sec. 10. If any annuity contract 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 sections 4, 5, 6, 7, and 9, additional benefits payable (i) in the event of total and permanent disability, (ii) as reversionary annuity or deferred reversionary annuity benefits, or (iii) 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 chapter. The inclusion of such additional benefits shall not be required in any paid-up benefits unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

As added by Acts 1977, P.L.286, SEC.1.

IC 27-1-12.5-11

Rules

Sec. 11. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.59-2004, SEC.3.