

SENATE BILL NO. 624

November 10, 2021, Introduced by Rep. Theis and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 4072 (MCL 500.4072), as amended by 2003 PA 200.

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 does not apply to any reinsurance, group
4 annuity purchased under a retirement plan or plan of deferred
5 compensation established or maintained by an employer, including a
6 partnership or sole proprietorship, or by an employee organization,

1 or by both, other than a plan providing individual retirement
 2 accounts or individual retirement annuities under section 408 of
 3 the internal revenue code **of 1986, 26 USC 408**, premium deposit
 4 fund, variable annuity, investment annuity, immediate annuity, a
 5 deferred annuity contract after annuity payments have commenced, or
 6 reversionary annuity, ~~nor or~~ to a contract delivered outside this
 7 state through an agent or other representative of the company
 8 issuing the contract.

9 (3) Except as provided in subsection (2), a contract of
 10 annuity ~~shall~~**must** not be delivered or issued for delivery in this
 11 state unless it contains in substance the following provisions, or
 12 corresponding provisions that in the ~~commissioner's~~**director's**
 13 opinion are at least as favorable to the contract holder, ~~upon-on~~
 14 cessation of payment of consideration under the contract:

15 (a) That ~~upon-on~~ cessation of payment of consideration under a
 16 contract, or ~~upon-on~~ the written request of the contract owner, the
 17 company shall grant a paid-up annuity benefit on a plan stipulated
 18 in the contract of a value specified in subsections (8), (9), (10),
 19 (11), and (13).

20 (b) If a contract provides for a lump sum settlement at
 21 maturity, or at any other time, that ~~upon-on~~ surrender of the
 22 contract at or before the commencement of any annuity payments, the
 23 company shall pay in place of any paid-up annuity benefit, a cash
 24 surrender benefit of an amount specified in subsections (8), (9),
 25 (11), and (13). The company may reserve the right to defer the
 26 payment of the cash surrender benefit for a period of 6 months
 27 after demand for the payment with surrender of the contract if the
 28 company makes a written request to the ~~commissioner~~**director**
 29 showing the necessity and equitability to all policyholders of the

1 deferral and the ~~commissioner~~**director** gives written approval.

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

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

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

27 (5) The minimum values as specified in subsections (8), (9),
28 (10), (11), and (13) of any paid-up annuity, cash surrender, or
29 death benefits available under an annuity contract ~~shall~~**must** be

1 based ~~upon~~**on** the following:

2 (a) Until January 1, 2005 for contracts providing for flexible
3 considerations, the minimum nonforfeiture amount at any time at or
4 before the commencement of any annuity payments ~~shall~~**must** be equal
5 to an accumulation up to that time at a rate of interest of 1.5%
6 per annum of percentages of the net considerations, as defined in
7 subdivision (c), paid before that time, decreased by the sum of
8 subparagraphs (i) and (ii), and increased by any existing additional
9 amounts credited by the company to the contract:

10 (i) Prior withdrawals from or partial surrenders of the
11 contract accumulated at a rate of interest of 1.5% per annum.

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

14 (b) The minimum nonforfeiture amount at any time at or before
15 the commencement of any annuity payments ~~shall~~**must** be equal to an
16 accumulation up to that time at rates of interest as provided in
17 subsection (6) of the net considerations, as defined in subdivision
18 (c), paid before that time, decreased by the sum of subparagraphs
19 (i) to (iv):

20 (i) Prior withdrawals from or partial surrenders of the
21 contract accumulated at rates of interest as provided in subsection
22 (6).

23 (ii) An annual contract charge of \$50.00, accumulated at rates
24 of interest as provided in subsection (6).

25 (iii) Any premium tax paid by the company for the contract,
26 accumulated at rates of interest as provided in subsection (6).

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

29 (c) The net consideration for a given contract year used to

1 define the minimum nonforfeiture amount ~~shall~~**must** be an amount
2 equal to 87.5% of the gross considerations credited to the contract
3 during that contract year.

4 (6) The interest rate used in determining minimum
5 nonforfeiture amounts ~~shall~~**must** be an annual rate of interest
6 determined as the lesser of 3% per annum and the following, which
7 ~~shall~~**must** be specified in the contract if the interest rate will
8 be reset:

9 (a) The 5-year constant maturity treasury rate reported by the
10 ~~federal reserve~~**Federal Reserve** as of a date, or average over a
11 period, rounded to the nearest 1/20 of 1%, specified in the
12 contract no longer than 15 months before the contract issue date or
13 redetermination date under subdivision (d).

14 (b) Reduced by 125 basis points.

15 (c) ~~Where~~**If** the resulting interest rate is not less than
16 ~~1%.~~**0.15%.**

17 (d) The interest rate ~~shall~~**must** apply for an initial period
18 and may be redetermined for additional periods. The redetermination
19 date, basis, and period, if any, ~~shall~~**must** be stated in the
20 contract. As used in this subdivision, "basis" means the date or
21 average over a specified period that produces the value of the 5-
22 year constant maturity treasury rate to be used at each
23 redetermination date.

24 (7) During the period or term that a contract provides
25 substantive participation in an equity indexed benefit, the
26 contract may provide for an increase in the reduction described in
27 subsection (6)(b) of up to an additional 100 basis points to
28 reflect the value of the equity index benefit. The present value at
29 the contract issue date, and at each redetermination date after the

1 issue date, of the additional reduction ~~shall~~**must** not exceed the
2 market value of the benefit. The ~~commissioner~~**director** may require
3 a demonstration that the present value of the additional reduction
4 does not exceed the market value of the benefit and, if the
5 demonstration is unacceptable, may disallow or limit the additional
6 reduction. The ~~commissioner~~**director** may adopt rules to implement
7 this subsection and to provide for further adjustments to the
8 calculation of minimum nonforfeiture amounts for contracts that
9 provide substantive participation in an equity index benefit and
10 for other contracts that the ~~commissioner~~**director** determines
11 adjustments are justified.

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

19 (9) For contracts that provide cash surrender benefits, the
20 cash surrender benefits available before maturity ~~shall~~**must** not be
21 less than the present value as of the date of surrender of that
22 portion of the maturity value of the paid-up annuity benefit that
23 would be provided under the contract at maturity arising from
24 considerations paid before the time of cash surrender reduced by
25 the amount appropriate to reflect any prior withdrawals from or
26 partial surrenders of the contract. The present value ~~shall~~**must** be
27 calculated on the basis of an interest rate not more than 1% higher
28 than the interest rate specified in the contract for accumulating
29 the net considerations to determine the maturity value, decreased

1 by the amount of any indebtedness to the company on the contract,
2 including interest due and accrued, and increased by any existing
3 additional amounts credited by the company to the contract.
4 However, a cash surrender benefit ~~shall~~**must** not be less than the
5 minimum nonforfeiture amount at that time. The death benefit under
6 contracts that provide cash surrender benefits ~~shall~~**must** be at
7 least equal to the cash surrender benefit. Until January 1, 2005,
8 as used in this subsection, "maturity value" means an accumulation
9 up to the maturity date at the rate of interest guaranteed in the
10 contract for accumulating the net considerations to determine the
11 maturity value, but ~~in no event~~**not** less than 1.5% per annum, of
12 the percentages of the net considerations, as defined in subsection
13 (5), paid before that time, decreased by the sum of prior
14 withdrawals from or partial surrenders of the contract accumulated
15 at the rate of interest guaranteed in the contract for accumulating
16 net considerations to determine the maturity value but ~~in no event~~
17 **not** less than 1.5% per annum and the amount of any indebtedness to
18 the company on the contract, including interest due and accrued,
19 and increased by excess interest previously credited by the company
20 to the contract. As used in this subsection, the excess interest is
21 the amount credited over and above the guaranteed interest.

22 (10) For contracts that do not provide cash surrender
23 benefits, the present value of any paid-up annuity benefit
24 available as a nonforfeiture option at any time before maturity
25 ~~shall~~**must** not be less than the present value of that portion of
26 the maturity value of the paid-up annuity benefit provided under
27 the contract arising from considerations paid before the contract
28 is surrendered in exchange for, or changed to, a deferred paid-up
29 annuity. The present value ~~shall~~**must** be calculated for the period

1 before the maturity date on the basis of the interest rate
2 specified in the contract for accumulating the net considerations
3 to determine the maturity value, and increased by any additional
4 amounts credited by the company to the contract. For contracts that
5 do not provide death benefits before the commencement of annuity
6 payments, the present values ~~shall~~**must** be calculated on the basis
7 of the interest rate and the mortality table specified in the
8 contract for determining the maturity value of the paid-up annuity
9 benefit. However, the present value of a paid-up annuity benefit
10 ~~shall~~**must** not be less than the minimum nonforfeiture amount at
11 that time.

12 (11) In determining the benefits calculated under subsections
13 (9) and (10), for annuity contracts under which an election may be
14 made to have annuity payments commence at optional maturity dates,
15 the maturity date ~~shall be~~**is** considered to be the latest date for
16 which election shall be permitted by the contract, but ~~shall~~**must**
17 not be later than the anniversary of the contract next following
18 the annuitant's seventieth birthday, or the tenth anniversary of
19 the contract, whichever is later.

20 (12) A contract that does not provide cash surrender benefits
21 or does not provide death benefits at least equal to the minimum
22 nonforfeiture amount before the commencement of annuity payments
23 ~~shall~~**must** include a statement in a prominent place in the contract
24 that those benefits are not provided.

25 (13) Any paid-up annuity, cash surrender, or death benefits
26 available at any time, other than on the contract anniversary under
27 a contract with fixed scheduled considerations, ~~shall~~**must** be
28 calculated with allowance for the lapse of time and the payment of
29 any scheduled considerations beyond the beginning of the contract

1 year in which cessation of payment of considerations under the
2 contract occurs.

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

24 (15) Until January 1, 2005, an insurer may elect to proceed
25 under subsection (5)(a) or (b). On and after January 1, 2005, an
26 insurer shall proceed under subsection (5)(b).