

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.4115 Nonapplicability of section; required provisions; minimum values of paid-up annuity, cash surrender, or death benefits available under modified guaranteed annuity contract; nonforfeiture amounts; percentages of net considerations.

Sec. 4115. (1) This section does not apply to any of the following:

- (a) Reinsurance.
- (b) A group annuity contract purchased in connection with 1 or more retirement plans or plans of deferred compensation established or maintained by or for 1 or more employers, employee organizations, or any combination thereof, other than plans providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code of 1986, 26 U.S.C. 408.
- (c) Premium deposit fund.
- (d) Investment annuity.
- (e) Immediate annuity.
- (f) Deferred annuity contract after annuity payments have commenced.
- (g) Reversionary annuity.
- (h) A contract that is to be delivered outside this state through an agent or other representative of the insurer issuing the contract.

(2) A modified guaranteed annuity contract shall not be delivered or issued for delivery in this state unless it contains in substance both of the following provisions:

(a) That upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan described in the contract that complies with subsection (5). The description shall include a statement of the mortality table, if any, and guaranteed or assumed interest rates used in calculating annuity payments.

(b) 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 insurer will pay in lieu of any paid-up annuity benefit a cash surrender benefit as described in the contract that complies with subsection (6). The contract may provide that the insurer may defer payment of this cash surrender benefit for a period of 6 months after demand.

(3) The minimum values as specified in this section of any paid-up annuity, cash surrender, or death benefits available under a modified guaranteed annuity contract shall be based upon nonforfeiture amounts meeting the requirements of this subsection. Guaranteed interest credits in each year for any period of time for which interest credits are guaranteed shall be reasonably related to the average guaranteed interest credits over that period of time. The minimum nonforfeiture amount shall be the unadjusted minimum nonforfeiture amount adjusted by the market-value adjustment formula contained in the contract. The unadjusted minimum nonforfeiture amount on any date prior to the annuity commencement date shall be an amount equal to the percentages of net considerations as specified in subsection (4) increased by the interest credits allocated to the percentage of net considerations, which amount shall be reduced to reflect the effect of the following:

- (a) Any partial withdrawals from or partial surrender of the contract.
- (b) The amount of any indebtedness on the contract, including interest due and accrued.
- (c) An annual contract charge not less than 0 and equal to the lesser of \$30.00 and 2% of the end of year contract value, less the amount of any annual contract charge deducted from any gross considerations credited to the contract during the contract year. The \$30.00 annual contract charge shall be adjusted as provided in subsection (4).
- (d) A transaction charge of \$10.00 for each transfer to another investment division within the same contract. The \$10.00 transaction charge shall be adjusted as provided in subsection (4).

(4) The percentages of net considerations used to define the minimum nonforfeiture amount in subsection (3) shall meet the following requirements:

(a) For contracts providing for periodic considerations, the net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than 0 and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of \$30.00 and less a collection charge of \$1.25 per consideration credited to the contract during that contract year and less any charges for premium taxes. The percentages of net considerations shall be 65% for the first contract year and 87-1/2% for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be 65% of the portion of the total net consideration for any renewal contract year that exceeds by not more than 2 times the sum of those portions of the net considerations in all prior contract years for which the percentage was 65%. The \$30.00 annual contract

charge and the \$1.25 collection charge shall be adjusted pursuant to subdivision (c).

(b) For contracts providing for a single consideration, the net consideration used to define the minimum nonforfeiture amount shall be the gross consideration less a contract charge of \$75.00 and less any charge for premium taxes. The percentage of the net consideration shall be 90%. The \$75.00 contract charge shall be adjusted pursuant to subdivision (c).

(c) The contract and collection charges shall be multiplied by the ratio of the consumer price index for June of the calendar year preceding the date of filing, to the consumer price index for June 1979. As used in this subdivision, the consumer price index means such index for all urban consumers for all items as published by the United States department of labor and as certified by the commissioner.

(5) A paid-up annuity benefit available under a modified guaranteed annuity contract shall be such that its present value on the annuity commencement date is at least equal to the minimum nonforfeiture amount on that date. This present value shall be computed using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.

(6) For modified guaranteed annuity contracts that provide cash surrender benefits, the cash surrender benefit at any time prior to the annuity commencement date shall not be less than the minimum nonforfeiture amount next computed after the request for surrender is received by the insurer. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(7) A modified guaranteed annuity 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 annuity commencement date shall include a statement in a prominent place in the contract that such benefits are not provided.

(8) Notwithstanding the requirements of this section, a modified guaranteed annuity contract may provide that under either of the following situations the insurer, at its option, may cancel the annuity and pay the contract holder the larger of the unadjusted minimum nonforfeiture amount and the minimum nonforfeiture amount, and by such payment be released of any further obligation under the contract:

(a) If at the time the annuity becomes payable, the larger of the unadjusted minimum nonforfeiture amount and the minimum nonforfeiture amount is less than \$2,000.00, or would provide an income the initial amount of which is less than \$20.00 per month.

(b) If prior to the time the annuity becomes payable under a periodic payment contract no considerations have been received under the contract for a period of 2 full years and both the total considerations paid prior to such period, reduced to reflect any partial withdrawals from or partial surrenders of the contract, and the larger of the unadjusted minimum nonforfeiture amount and the minimum nonforfeiture amount is less than \$2,000.00.

(9) For a modified guaranteed annuity contract that 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 subsection (2), 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 such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits.

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