STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022

Introduced by Senator Theis

ENROLLED SENATE BILL No. 624

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 4072 (MCL 500.4072), as amended by 2003 PA 200.

The People of the State of Michigan enact:

Sec. 4072. (1) This section shall be known as the standard nonforfeiture law for individual deferred annuities.

(2) This section does 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 of 1986, 26 USC 408, premium deposit fund, variable annuity, investment annuity, immediate annuity, a deferred annuity contract after annuity payments have commenced, or reversionary annuity, or to a contract delivered outside this state through an agent or other representative of the company issuing the contract.

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

(a) That on cessation of payment of consideration 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 a value specified in subsections (8), (9), (10), (11), and (13).

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

(c) 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.

(d) 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 law 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 additional amounts credited by the company to the contract, indebtedness to the company on the contract, or prior withdrawals from or partial surrenders of the contract.

(4) Notwithstanding the requirements of subsection (3), a deferred annuity contract may provide that if considerations have not been received under a contract for a period of 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 before this period would be less than $20.00 monthly, the company may at its option terminate the contract by payment in cash of the then present value of that 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. This payment relieves the company of further obligation under the contract.

(5) The minimum values as specified in subsections (8), (9), (10), (11), and (13) of any paid-up annuity, cash surrender, or death benefits available under an annuity contract must be based on the following:

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

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

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

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

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

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

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

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

(c) The net consideration for a given contract year used to define the minimum nonforfeiture amount must be an amount equal to 87.5% of the gross considerations credited to the contract during that contract year.

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

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

(b) Reduced by 125 basis points.

(c) If the resulting interest rate is not less than 0.15%.

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

(7) During the period or term that a contract provides substantive participation in an equity indexed benefit, the contract may provide for an increase in the reduction described in subsection (6)(b) of up to an additional 100 basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date after the issue date, of the additional reduction must 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 and, if the demonstration is unacceptable, may disallow or limit the additional reduction. The director may adopt rules to implement 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 that the director determines adjustments are justified.

(8) Any paid-up annuity benefit available under a contract must 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. This present value must 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.

(9) For contracts that provide cash surrender benefits, the cash surrender benefits available before maturity must 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 before 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 must be calculated on the basis of an interest rate not more than 1% higher than the interest rate specified in the contract for accumulating the net considerations to determine the 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. However, a cash surrender benefit must not be less than the minimum nonforfeiture amount at that time. The death benefit under contracts that provide cash surrender benefits must be at least equal to the cash surrender benefit. Until January 1, 2005, as used in this subsection, "maturity value" means an accumulation up to the maturity date at the rate of interest guaranteed in the contract for accumulating the net considerations to determine the maturity value, but not less than 1.5% per annum, of the percentages of the net considerations, as defined in subsection (5), paid before that time, decreased by the sum of prior withdrawals from or partial surrenders of the contract accumulated at the rate of interest guaranteed in the contract for accumulating net considerations to determine the maturity value but not less than 1.5% per annum and the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by excess interest previously credited by the company to the contract. As used in this subsection, the excess interest is the amount credited over and above the guaranteed interest.

(10) 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 before maturity must 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 before the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity. The present value must be calculated for the period before the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine the maturity value, and increased by any additional amounts credited by the company to the contract. For contracts that do not provide death benefits before the commencement of annuity payments, the present values must be calculated on the basis of the interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, the present value of a paid-up annuity benefit must not be less than the minimum nonforfeiture amount at that time.

(11) In determining the benefits calculated under subsections (9) and (10), for annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date is considered to be the latest date for which election shall be permitted by the contract, but must not 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.

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

(13) Any paid-up annuity, cash surrender, or death benefits available at any time, other than on the contract anniversary under a contract with fixed scheduled considerations, must 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.

(14) For a 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 must 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 subsections (8), (9), (10), (11), and (13), additional benefits payable for 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 additional benefits described in this subsection, must 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 the additional benefits is not required in any paid-up benefits, unless the additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits.

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

Margaret O'Brien

Secretary of the Senate

Gary E Randall

Clerk of the House of Representatives

Approved____

Governor