

CHAPTER 49

AN ACT concerning surrender charges for certain individual deferred annuities and amending P.L.2005, c.194.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 8 of P.L.2005, c.194 (C.17B:25-28) is amended to read as follows:

C.17B:25-28 Determination of benefits.

8. a. For the purpose of determining the benefits calculated under sections 6 and 7 of this act, in the case of annuity contracts for which the maturity date is stated, that maturity date shall not be after the later of: (1) the anniversary of the contract next following the annuitant's seventieth birthday; or (2) the tenth anniversary of the contract. In the case of annuity contracts under which an election may be made to have annuity payments begin at optional maturity dates, the maturity date shall be deemed to be the latest date for which election is permitted by the contract, but shall not be deemed to be later than the latest date permitted for an annuity contract with a stated maturity date.

b. The amount of benefits calculated under sections 6 and 7 of this act on or after the stated or deemed maturity date shall not be reduced by any surrender charge. The amount of the benefits calculated under sections 6 and 7 of this act on or after the stated or deemed maturity date shall not be less than the greater of: (1) the present value of annuity benefits available on or after the maturity date, computed according to the assumptions stated in section 5 of this act; or (2) the amount available on or after the maturity date to be applied to the purchase of an annuity on a basis stated in a contract.

c. Contracts providing for flexible considerations may have separate surrender charge schedules associated with each consideration, provided that the nonforfeiture values are at least as great as they would be if each consideration had been a separate single consideration contract based on the requirements of subsection a. of section 4 of this act. For the purpose of determining the maturity date, the tenth anniversary of the contract shall be determined separately for each consideration.

d. (1) The difference between an annuity contract's greater present value, utilized for determining any paid-up annuity benefit, and referred to as the contract's accumulation value, and its lesser present value, utilized when an annuitant withdraws from the contract, and referred to as the contract's withdrawal value, on or after the date of maturity, shall not be considered to be a surrender charge for the purposes of this section if:

(a) the accumulation value of the contract:

(i) is never available in a lump sum, and is paid out in substantially equal payments over a period of not less than five years or the surviving lifetime of the annuitant's life, whichever period is shorter; and

(ii) for the contract period prior to the date of maturity and during the period, on or after the date of maturity, of any annuity payments, credits a fixed rate of at least 1% more than the rate credited to the withdrawal value, or credits a rate that provides substantive participation in an equity indexed benefit with an estimated expected value of at least 1% more than the rate credited to the withdrawal value; and

(b) the separately defined withdrawal value of the contract:

(i) equals, at maturity, not less than the minimum value of the contract as defined in section 4 of P.L.2005, c.194 (C.17B:25-24), plus any premium load; and

(ii) accumulates, from maturity and later, at the minimum rate as defined in section 4 of P.L.2005, c.194 (C.17B:25-24).

(2) For the purpose of this subsection, the Department of Banking and Insurance may approve other methods of providing enhanced value to the accumulation value of a contract in comparison to the withdrawal value of the contract. Any method approved by the department shall be reasonably determined to provide an enhanced value to the contract's accumulation value which is at least as favorable to the contract holder as the accumulation value provided by the provisions of this subsection.

The provisions of this section shall apply notwithstanding section 1 of P.L.2001, c.237 (C.17B:25-18.4), shall take precedence over that section of law, and shall apply to annuity contracts regardless of whether the requirements of that section have been met.

2. This act shall take effect immediately.

Approved July 20, 2006.