

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 913

H. P. 726

House of Representatives, March 2, 1979

On Motion of Mr. Howe of South Portland, referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. F. Carter of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Amend the Standard Nonforfeiture Law.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 24-A MRSA § 2532, sub-§ 4, first sentence, as enacted by PL 1969, c. 132, § 1, is amended to read:

All Except as provided in subsection 5, all adjusted premiums and present values referred to in sections 2529 to 2534 shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table, provided that, for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than 3 years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the Commissioners 1961 Standard Industrial Mortality Table.

Sec. 2. 24-A MRSA § 2532, sub-§ 5 is enacted to read:

5. In the case of policies issued on or after , 1979, adjusted premiums and present values for any category of ordinary insurance issued on female risks may be calculated according to an age not more than 6 years younger than the actual age of the insured. All calculations for all policies of ordinary and industrial insurance shall be made on the basis of the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture

benefits, provided that the rate of interest shall not exceed 5½% per year, except that for any single premium whole life or endowment insurance policy the rate shall not exceed 6½ per year.

Sec. 3. 24-A MRSA §§ 2541-2551 are enacted to read:

§ 2541. Short title

Sections 2541 to 2551 shall be known as the "Standard Nonforfeiture Law for Individual Deferred Annuities."

§ 2542. Applicability

Sections 2541 to 2551 shall 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 the Internal Revenue Code, Section 408, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this State through an agent or other representative of the company issuing the contract.

§ 2543. Nonforfeiture provisions

1. In the case of contracts issued on or after _____, 1979, no contract of annuity, except as stated in section 2542, shall be delivered in this State unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the superintendent are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

A. Upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in sections 2545 to 2548 and section 2550;

B. If a contract provides for a lump sum settlement at maturity, or at any other time, 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 of such amount as is specified in sections 2545 to 2548 and section 2550. The insurer shall reserve the right to defer the payment of the cash surrender benefit for a period of 6 months after demand therefor with surrender of the contract;

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; and

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 any statute 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 any additional amounts credited by the insurer to the contract, any indebtedness to the insurer on the contract or any prior withdrawals from or partial surrenders of the contract.

2. Notwithstanding the requirements of sections 2541 to 2551, any deferred annuity contract may provide that if no considerations have 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 prior to that period would be less than \$20 monthly, the insurer 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, and by that payment shall be relieved of any further obligation under that contract.

§ 2544. Minimum values

The minimum values as specified in sections 2545 to 2548 and section 2550 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.

1. With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to that time at a rate of interest of 3% per year of percentages of the net considerations, as hereinafter defined, paid prior to that time, decreased by the sum of:

A. Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of 3% per year; and

B. The amount of any indebtedness to the insurer on the contract, including interest due and accrued and increased by any existing additional amounts credited by the insurer to the contract.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of \$30 and less a collection charge of \$1.25 per consideration credited to the contract during that contract year. The percentages of net considerations shall be 65% of the net consideration for the first contract year and 87½% of the net considerations for the 2nd 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 which 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%.

2. With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with 2 exceptions:

A. The portion of the net consideration for the first contract year to be accumulated shall be the sum of 65% of the net consideration for the first contract year plus 22½% of the excess of the net consideration for the first contract year over the lesser of the net considerations for the 2nd and 3rd contract years; and

B. The annual contract charge shall be the lesser of \$30 or 10% of the gross annual consideration.

3. With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations, except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to 90% and the net consideration shall be the gross consideration less a contract charge of \$75.

§ 2545. Computation of present value

Any paid-up annuity benefit available under a 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. The 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.

§ 2546. Calculation of cash surrender values

For contracts which provide cash surrender benefits, the cash surrender 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, the present value being 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 insurer on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the insurer 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 the contracts shall be at least equal to the cash surrender benefit.

§ 2547. Calculation of paid-up annuity benefits

For contracts which do 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, the 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 the maturity value, and increased by an existing additional amounts credited by the insurer to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, the present values shall 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. In no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

§ 2548. Maturity date

For the purpose of determining the benefits calculated under sections 2546 and 2547, in the case of annuity contracts 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 70th birthday or the 10th anniversary of the contract, whichever is later.

§ 2549. Disclosure of limited death benefits

Any 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 those benefits are not provided.

§ 2550. Inclusion of lapse of time considerations

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

§ 2551. Proration of values; additional benefits

For any contract which 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, if any, for the life insurance portion shall be computed as if each portion were a separate contract. Notwithstanding the provisions of sections 2545 to 2548 and section 2550, 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 these additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by sections 2541 to 2551. The inclusion of the additional benefits shall not be required in any paid-up benefits, unless the additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

STATEMENT OF FACT

This bill effects certain changes in the standard nonforfeiture laws. The proposed changes would:

1. Require insurers to make available minimum nonforfeiture values to individual annuity contract purchasers who cease paying considerations prior to maturity of their contracts just as they are now required to provide minimum nonforfeiture values for life insurance;
2. Recognize changes in the level of life insurance company interest earnings that have occurred since the law was last updated and recognize the difference in the investment risks associated with various types of insurance and annuity products so that life insurers will have to offer lower priced products with lower nonforfeiture values; and
3. Recognize the greater increase in longevity of women relative to that of men and give insurers the flexibility to offer women lower priced life insurance with lower nonforfeiture values.