

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DATE: 5-7-03

(Filing No. S-114)

INSURANCE AND FINANCIAL SERVICES

Reported by:

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 121, L.D. 342, Bill, "An Act to Amend the Law Relating to Annuities"

Amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, national financial markets have been severely and adversely affected as the result of the events of September 11, 2001, and those events have affected the economy of the State; and

Whereas, events surrounding recent improprieties by major publicly traded companies such as Enron have severely and adversely affected national financial markets and those events have affected the economy of the State; and

Whereas, as a result of these events, earnings on investment vehicles of all types have been significantly reduced, and this situation will continue to exist for the foreseeable future; and

Whereas, one financial investment vehicle essential to citizens of this State is annuities; and

COMMITTEE AMENDMENT

Whereas, the availability of annuity contracts providing flexible considerations will become virtually nonexistent if the laws of this State are not changed to reflect current market conditions; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 24-A MRSA §2544, as enacted by PL 1979, c. 442, §4, is amended to read:

§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 must be based upon minimum nonforfeiture amounts as defined in this section.

1. ~~With--respect--to--contracts--providing--for--flexible considerations,--the~~ The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall must be equal to an accumulation up to that time at a rate of interest ~~of--3%--per--year--of--percentages~~ as permitted under subsection 1-A 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~~ as permitted under subsection 1-A; 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;~~

C. An annual contract charge of \$50, accumulated at a rate of interest as permitted under subsection 1-A; and

D. Any premium tax paid by the insurer for the contract, accumulated at a rate of interest as permitted under subsection 1-A.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall must be an amount ~~not--less than--zero--and--shall--be~~ equal to 87 1/2% of the corresponding

Rel

COMMITTEE AMENDMENT "A" to S.P. 121, L.D. 342

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 87 1/2% 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%.~~

1-A. The rate of interest used in determining minimum nonforfeiture amounts must be determined in accordance with the following requirements and specified in any contract providing for recalculation of the rate of interest permitted under this subsection.

A. The rate of interest must be an annual rate of interest determined as the lesser of 3% per annum and the 5-year Constant Maturity Treasury Rate reported by the Federal Reserve rounded to the nearest 1/20th of 1% as of a date, or average over a period, specified in the contract that is no later than 15 months prior to the contract issue date or the redetermination date decreased by 125 basis points as long as the resulting rate of interest is not less than 1%.

B. The rate of interest applies 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. The basis is 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.

C. During the period or term that a contract provides substantive participation in an equity indexed benefit, the contract may increase the reduction described in paragraph A by up to an additional 100 basis points to reflect the value of the equity indexed benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction may not exceed the market value of the benefit. The superintendent may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit and may disallow or limit the reduction if such a demonstration is not accepted.

2 D. The superintendent may adopt rules to implement this
4 subsection and to provide for further adjustments to the
6 minimum nonforfeiture amounts for contracts providing for
8 substantive participation in an equity indexed benefit and
for contracts for which the superintendent determines
adjustments are appropriate. Rules adopted pursuant to this
subsection are routine technical rules as defined in Title
5, chapter 375, subchapter 2-A.

10 ~~2.---With respect to contracts providing for fixed scheduled~~
12 ~~considerations, minimum nonforfeiture amounts shall be calculated~~
14 ~~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:~~

16 ~~A.---The portion of the net consideration for the first~~
18 ~~contract year to be accumulated shall be the sum of 65% of~~
20 ~~the net consideration for the first contract year plus 22~~
22 ~~1/2% 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~~

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

26 ~~3.---With respect to contracts providing for a single~~
28 ~~consideration, minimum nonforfeiture amounts shall be defined as~~
30 ~~for contracts with flexible considerations, except that the~~
32 ~~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.~~

34 4. Notwithstanding this section, an insurer may elect to
36 apply provisions of this section related to the rate of interest
38 used to determine minimum nonforfeiture amounts on a contract
form basis.

40 This subsection is repealed 2 years from the effective date of
this subsection.

42 **Emergency clause.** In view of the emergency cited in the
44 preamble, this Act takes effect when approved.'

46 SUMMARY

48 This amendment replaces the bill. The amendment decreases
50 the rate-of-return requirements for annuity considerations from
3.0% to the lesser of 3% or an interest rate indexed to the

COMMITTEE AMENDMENT "A" to S.P. 121, L.D. 342

5-year Constant Maturity Treasury Rate of the Federal Reserve.
The amendment also permits an insurer to apply the interest rate
provision annuity contracts on a contract form basis until 2
years after the effective date of the provision. The amendment
also adds an emergency preamble and emergency clause.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



**121st Maine Legislature
Office of Fiscal and Program Review**

LD 342

An Act to Amend the Law Relating to Annuities

LR 1256(02)

Fiscal Note for Bill as Amended by Committee Amendment *AS-114*

Committee: Insurance and Financial Services

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Professional and Financial Regulation in implementing this bill can be absorbed by the Department utilizing existing budgeted resources.