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BULLETIN NO. 05-20

TO: ALL NEW JERSEY LICENSED LIFE INSURANCE COMPANIES AND FRATERNAL BENEFIT SOCIETIES

FROM: DONALD BRYAN, ACTING COMMISSIONER

RE: P.L. 2005, C. 194 -- INDEXED STANDARD NONFORFEITURE LAW FOR DEFERRED ANNUITIES

P.L. 2005, c. 194, the Indexed Standard Nonforfeiture Law for Deferred Annuities Act (Act), was approved, and became effective, on August 18, 2005. The Act amends N.J.S.A. 17B:25-20, the Standard Nonforfeiture Law for Individual Deferred Annuities, and affects the minimum nonforfeiture values of annuity contracts currently subject to N.J.S.A. 17B:25-20. Specifically, the Act permits the interest rate for calculating minimum nonforfeiture amounts to vary based on an index of bond rates, and changes the expense allowances that may be used in making such calculations. The purpose of this Bulletin is to provide guidance to insurers regarding the potential impact of the Act on their contract forms.

Presently Filed or Acknowledged Forms

Although the Act became effective immediately, contracts with nonforfeiture interest rate provisions that satisfied the Standard Nonforfeiture Law in effect prior to August 18, 2005, and that otherwise comply with N.J.S.A. 17B:25-20, may continue to be sold until August 17, 2007, without modification. The Act additionally repealed the provision of P.L. 2003, c. 152 that would have required the fixed 1.5% nonforfeiture rate to revert to 3% on November 13, 2005. Accordingly, modification of forms is not necessary in order for insurers to continue to use a minimum nonforfeiture rate of 1.5%.

Forms with an Indexed Interest Rate

Section 14.a of the Act permits insurers, prior to August 17, 2007, to elect that a form be subject to the Act by filing a notice of election with the Department. Such election may be made for new filings, pending filings, and to modify previously filed or acknowledged forms. In all cases, the Department is requiring that the notice of election be prepared as a filing in compliance with N.J.A.C. 11:4-40 and Bulletin 05-03.

The Act allows for forms where the minimum nonforfeiture interest rate may be redetermined on inforce contracts. The Department has determined that forms with this feature must be filed anew. The Department will not permit a previously filed or acknowledged form to be revised for this feature.

Continued use of previously filed or acknowledged products not providing for redetermination of the interest rate on inforce contracts that, with minor changes, would comply with other provisions of the Act, is permissible. For example:

- Filed or acknowledged product has a minimum guaranteed or nonforfeiture rate that is variable [bracketed], and the company previously submitted a Statement of Variability indicating that the bracketed rate would be no less than 1.5% (as required by prior law). The company may submit a notice of election with an actuarial memorandum stating that the indexed minimum nonforfeiture law is satisfied, a revised Statement of Variability describing how the actual rate used by the company will be derived and a range for the rate, and stating that such rate would be no less than the indexed rate (with the method of determination of the index rate described). (Note that this method can be used for flexible premium contracts only if the surrender charges and expense loads for nonforfeiture calculation comply with the revised requirements of the Act.)

- Filed or acknowledged product has a minimum guaranteed or nonforfeiture rate that is fixed and not variable [bracketed] and not less than 1.5% (as required by prior law). The company may submit a notice of election with a revised actuarial memorandum stating that the indexed minimum nonforfeiture law is satisfied, a revised policy or schedule pages bracketing the interest rate, a Statement of Variability describing how the actual rate used by the company will be derived and a range for the rate, and stating that such rate would be no less than the indexed rate (with the method of determination of the index rate described). The condition stated above regarding flexible premium contracts would also apply.

New product filings submitted under the Act shall clearly reference the election of the Indexed Standard Nonforfeiture Law for Deferred Annuities and shall include an actuarial memorandum stating that the indexed minimum nonforfeiture law is satisfied,. For products that will not allow for the redetermination of the minimum guaranteed interest rate after issue, the form may include variable brackets for the minimum rate if the submission includes a Statement of Variability describing how the actual rate used by the company will be derived, along with a range for the rate, and stating that such rate would be no less than the indexed rate (with the method of determination of the index rate described).

Questions

Any questions regarding this Bulletin and the impact of the Act may be addressed to the Department's Office of Life and Health by FAX (609-633-0527) or phone (609-292-5427 x50340). Please identify all questions as being related to Bulletin 05-20 or the Indexed Standard Nonforfeiture Law for Deferred Annuities.

9/2/05 _____
Date

/s/ Donald Bryan _____
Donald Bryan, Acting Commissioner

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