



State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
LEGISLATIVE AND REGULATORY AFFAIRS
PO Box 325
TRENTON, NJ 08625-0325

RICHARD J. CODEY
Acting Governor

TEL (609) 984-3602
FAX (609) 292-0896

DONALD BRYAN
Acting Commissioner

BULLETIN NO. 05-12

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

FROM: DONALD BRYAN, ACTING COMMISSIONER

**RE: P.L. 2005, C. 45 -- SURRENDER CHARGES FOR
INDIVIDUAL DEFERRED ANNUITIES**

P.L. 2005, c. 45, the Senior Citizen Investment Protection Act, ("Act"), was approved March 21, 2005 and becomes effective 90 days thereafter on June 19, 2005. The Act amends N.J.S.A. 17B:25-20, the Standard Nonforfeiture Law for Individual Deferred Annuities, and affects the nonforfeiture values and surrender charges of individual annuity contracts issued on or after the Act's effective date. The Act applies to general account annuity contracts filed for approval, and to contracts made available for sale by filing, certification and acknowledgment pursuant to N.J.S.A. 17B:25-18.4 (the "40 States" law). The Act also applies to the fixed or general account option of variable contracts filed for approval. The purpose of this Bulletin is to advise insurers of the requirements of the Act, remind insurers of their obligation to comply with those requirements, and provide guidance regarding insurers' policy forms and company practices.

• **P.L. 2005, c. 45**

• **Maturity Date.** For the purpose of calculating minimum nonforfeiture values, the Act requires an actual or deemed maturity date of the **later** of age 70 or the tenth anniversary of the contract. For flexible premium contracts, the ten-year period can apply separately to each premium payment.

• **Surrender Charges.** The Act prohibits surrender charges on or after the actual or deemed maturity date of the contract by stating that, on or after maturity, the cash surrender value shall not be less than the annuity account value (or the present value of annuity benefits, if larger). The Act implies that a surrender charge is the difference between the account value used to calculate annuity benefits and the contract's cash surrender value. Consequently, the Act prohibits surrender charges that reduce the account value on or after the maturity date; it also prohibits two-tier annuities that provide a lower surrender account value than annuity account value on or after the maturity date. However, a guaranteed minimum income benefit in connection with funds invested in a variable account would not give rise to a prohibited surrender charge.

- **Form Requirements**

- Forms providing for surrender charges established at the time of issue, varying based on individual specifications, shall only use scales of surrender charges that comply with the Act.

- Forms with fixed scales of surrender charges terminating after a particular duration shall only be issued at ages that will ensure compliance with the Act. Such forms used at other issue ages must be revised to contain surrender charges that comply with the Act.

- Forms providing for permanent surrender charges, including but not limited to two-tiered designs, shall contain a stated or deemed maturity date that **shall not extend beyond** the **later** of age 70 or the tenth anniversary of the contract.

- **Noncompliant Form Procedures**

- All annuity contract forms issued on or after June 19, 2005 that contain nonforfeiture values and surrender charges shall comply with the Act, including forms previously filed or acknowledged by the Department.

- The Act does **not** apply to in-force contracts lawfully sold prior to June 19, 2005.

- Insurers may submit a form filing to **revise a previously approved or acknowledged contract** by submitting revised contract pages (with new distinct identifying form numbers), an amendment, or endorsement to modify the affected provision of the contract and any related table of values. Such submissions should identify the purpose of the filing and any changes to the currently filed or acknowledged form. The submission shall also include a revised actuarial memorandum.

- Insurers may **amend form filings under current review** by the Department, or that are otherwise in a pending status, to implement the Act.

- All form submissions shall be made in accordance with N.J.A.C. 11:4-40.

This Bulletin is intended to provide guidance for the most common circumstances encountered by insurers intending to make changes to their products to comply with the Act. It is not possible to address every possible variation in product design or filing status in this Bulletin. Any questions regarding this Bulletin and the impact of the Act can be addressed to the Department Office of Life and Health as follows:

- FAX. 609-633-0527
 - Phone. 609-292-5427 x50340
 - Please identify your question as being related to Bulletin 05-____ or the Senior Citizen Investment Protection Act.

6/10/05
Date

/s/ Donald Bryan
Donald Bryan
Acting Commissioner

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