

No. 1980-89

AN ACT

SB 1135

Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," providing for standard nonforfeitures for individual deferred annuities.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsection (f) of section 410B, act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921," added July 17, 1935 (P.L.1116, No.358), is amended to read:

Section 410B. Uniform Provisions for Contracts of Annuities and Pure Endowment Contracts.—* * *

(f) A provision *specifying the options available upon cessation of payment of considerations under the contract.*

(1) *In the case of contracts issued prior to the effective date of this amendatory act, such provision shall specify that, if the contract, after having been in force for three full years, shall by its terms lapse or become forfeited because any stipulated payment to the company shall not have been made, the reserve on such contract, computed according to the standard adopted by said company in accordance with section three hundred and one of this act shall, after deducting one-fifth of the said entire reserve and any indebtedness to the company under the contract, be applied as a net single payment according to said standard for the purchase of a paid up annuity or pure endowment contract, which may be nonparticipating and which shall be payable by the company under the same terms and conditions, except as to amount of the original contract. A company may provide, in lieu of said paid up values, for a paid up annuity or pure endowment contract in an amount bearing the same proportion to the original annuity or pure endowment contract as the number of stipulated payments, which shall have been made to the company, shall bear to the total number of stipulated payments required to be made to the company under the contract, and if there be any indebtedness to the company under the contract, the amount of such paid up annuity or pure endowment shall be reduced by an amount bearing the same proportion to such paid up annuity or pure endowment as such indebtedness bears to the reserve on such paid up annuity or pure*

endowment, computed according to the standard adopted by said company in accordance with section three hundred and one of an act, approved the seventeenth day of May, one thousand nine hundred and twenty-one (Pamphlet Laws, seven hundred and eighty-nine), as amended;

(2) In the case of contracts issued on or after the effective date of this amendatory act, such provisions shall be in accordance with section 410C.

* * *

Section 2. The act is amended by adding a section to read:

Section 410C. Standard Nonforfeiture Law for Individual Deferred Annuities.—(a) This section shall be known as the Standard Nonforfeiture Law for Individual Deferred Annuities.

(b) This section 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 an employe organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, 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.

(c) In the case of contracts issued on or after the exact date of this section as defined in subsection (l) no contract of annuity, except as stated in subsection (b) shall be delivered or issued for delivery in this State unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract.

(1) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (e), (f), (g), (h) and (j).

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (e), (f), (h) and (j). The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six (6) months after demand therefor with surrender of the contract.

(3) 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 such benefits.

(4) 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 such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract. Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two 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 such period would be less than twenty dollars (\$20) monthly, the company may at its option terminate such contract by payment in cash of the then present value of such 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 such payment shall be relieved of any further obligation under such contract.

(d) The minimum values as specified in subsections (e), (f), (g), (h) and (j), 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 such time at a rate of interest of three per centum (3%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of:

(A) any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three per centum (3%) per annum; and

(B) the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company 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 thirty dollars (\$30) and less a collection charge of one dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five per centum (65%) of the net considerations for the first contract year and eighty-seven and one-half per centum (87.5%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall

be sixty-five per centum (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five per centum (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 two exceptions:

(A) The portion of the net consideration for the first contract year to be accumulated shall be sum of sixty-five per centum (65%) of the net consideration for the first contract year plus twenty-two and one-half per centum (22.5%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

(B) The annual contract charge shall be the lesser of (i) thirty dollars (\$30) or (ii) ten per centum (10%) of the gross annual considerations.

(3) With respect to contracts providing for a single consideration, minimum amount 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 ninety per centum (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars (\$75).

(e) Any paid-up annuity benefit available under a contract shall be such that its present value on the date of annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such 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 benefits guaranteed in the contract.

(f) For contracts which provide cash surrender benefits, such 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, such present value being calculated on the basis of an interest rate not more than one per centum (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company 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 such contracts shall be at least equal to the cash surrender benefit.

(g) 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, such present value being calculated for the period prior to that maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amount credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of the paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(h) For the purpose of determining the benefits calculated under subsections (f) and (g) 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 seventieth birthday or the tenth anniversary of the contract, whichever is later.

(i) 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 such benefits are not provided.

(j) 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.

(k) 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 shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (e), (f), (g), (h) and (j), additional benefits payable (i) in the event of total and permanent disability, (ii) as

reversionary annuity or deferred reversionary annuity benefits, or (iii) as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(l) After the effective date of this section, any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before the second anniversary of the effective date of this section. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with respect to annuity contracts, thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be the second anniversary of the effective date of this section.

Section 3. This act shall take effect immediately.

APPROVED—The 3rd day of July, A. D. 1980.

DICK THORNBURGH