# HOUSE BILL REPORT
# 2SSB 5793

**As Passed House:**
March 3, 2004

**Title:** An act relating to minimum nonforfeiture amounts applicable to certain contracts of life insurance and annuities.

**Brief Description:** Changing on a temporary basis the minimum nonforfeiture amounts applicable to certain contracts of life insurance and annuities.

**Sponsors:** By Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Winsley and Prentice).

**Brief History:**
**Committee Activity:**
Financial Institutions & Insurance: 2/24/04, 2/27/04 [DP].
**Floor Activity:**
Passed House: 3/3/04, 96-0.

**Brief Summary of Second Substitute Bill**

- Changes the minimum non-forfeiture amounts applicable to annuity contracts.

## HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** Do pass. Signed by 11 members: Representatives Schual-Berke, Chair; G. Simpson, Vice Chair; Benson, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Cairnes, Carrell, Cooper, Hatfield, Roach, Santos and D. Simpson.

**Staff:** Carrie Tellefson (786-7127).

**Background:**

An "annuity" is a type of investment product that an individual may purchase from an insurance company. The typical annuity contract requires the purchaser (annuitant) to pay for the annuity either by a single premium or through installment payments. The insurance company, in turn, pays the annuitant a fixed sum, payable at specific intervals, for a specific period of time or for life. Each of the payments received by the annuitant represents a partial return of the invested capital as well as interest. Most annuity contracts require the annuitant to pay up-front fees and require the annuitant to pay a penalty if he or she decides to take the cash surrender value of the annuity before the annuity payments begin.

The Insurance Commissioner (Commissioner) is responsible for the regulation of annuity contracts that are offered by insurance companies. Minimum non-forfeiture amounts are those amounts in an annuity contract that the policy holder does not forfeit even if he or she stops paying premiums. Annuity contracts must contain provisions requiring the insurer to pay a cash surrender benefit to the annuitant if the annuitant decides to "cash out" of the policy before maturity. Insurers are required to use a minimum interest rate of 3 percent per annum in calculating the value of any paid-up annuity, cash surrender, or death benefit.

The National Association of Insurance Commissioners (NAIC) adopts model legislation on various insurance topics. The NAIC developed model legislation regarding minimum non-forfeiture rates in 2003.

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**Summary of Bill:**

Insurers must grant a paid-up annuity benefit either when the annuitant stops making his or her payments under the contract or when the annuitant requests, in writing, a paid-up annuity benefit.

When an annuitant decides to take a cash surrender benefit before annuity payments begin, the insurance company may defer payment of the cash surrender benefit for a period not to exceed six months, after making a written request and receiving written approval from the Commissioner. The request must address the necessity and equitability of the deferral.

The interest rate used to determine the minimum non-forfeiture amount is the lesser of 3 percent per annum or the five year constant maturity treasury rate reduced by 125 basis points where the resulting interest rate is not less than 1 percent. The interest rate is applied to an initial period and may be redetermined for additional periods. The redetermination date, basis, and period must be stated in the annuity contract.

When an annuity contract participates in an equity indexed benefit, it may increase the reduction described above by up to an additional 100 basis points to reflect the value of the equity index benefit. The present value of the additional reduction may not exceed the market value of the benefit. The Commissioner may require an insurer to demonstrate that the present value of the additional reduction does not exceed the market value of the benefit and, if the demonstration is not acceptable to the Commissioner, he may disallow or limit the additional reduction.

The minimum non-forfeiture amount due when an annuitant wants to cash out prior to receiving annuity payments is equal to the accumulation at rates of interest, as described above, decreased by prior withdrawals or partial surrenders (including interest, as described above); an annual contract charge of $50 (including interest, as described above); any premium tax paid by the insurer for the contract (including interest, as described above); and the amount owed on the annuity contract (including interest, as described above).

Before January 1, 2006, an insurer can choose to issue an annuity contract under the old law or the new law on this subject. On or after January 1, 2006, an insurer must issue an annuity contract under the new law.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect on July 1, 2004.

**Testimony For:** Annuities are products that are sold by insurance companies in all 50 states. Fourteen states have adopted this NAIC language. Interest rates on investments are not very good now - they are at historical lows. A person can get a mortgage with an interest rate as low as 4.2 percent. Some annuities sold a few years ago had interest rates as high as 7 percent. This bill reflects the real market with respect to interest rates.

The Office of the Insurance Commissioner noted that last year's bill also was the NAIC model - it was a placeholder. The NAIC adopted language lowering the interest rate used to calculate the minimum non-forfeiture amount from 3 percent to 1.5 percent as a placeholder while they recalculated the entire model. They adopted their final model in their spring meeting, during last year's legislative session. This version is their last word on the topic.

These laws have been changed many times over the years. A year ago, the NAIC worked to try to find an index that would prevent them from having to continue amending state laws whenever there is a market adjustment. In March of 2003, the NAIC finalized this particular language as a model bill. One more state has adopted this so there are 14 states using the NAIC model now. The bill protects consumers more because the floor moves up from the 3 percent that currently exists. That's the floor and not necessarily the market price. This bill is prospective only - it only applies to annuities issued and purchased subsequent to the act. It will open up the marketplace for people to use this as a retirement benefit. It's good for uniformity; the index is good.

**Testimony Against:** None.

**Persons Testifying:** Senator Winsley, prime sponsor; and Basil Badley, American Council of Life Insurers.

**Persons Signed In To Testify But Not Testifying:** None.