



General Assembly

January Session, 2003

**Amendment**

LCO No. 5443

\*HB0637805443HD0\*

Offered by:

REP. OREFICE, 37<sup>th</sup> Dist.

To: House Bill No. 6378

File No. 74

Cal. No. 78

**"AN ACT CONCERNING MINIMUM NONFORFEITURE  
PROVISIONS FOR CERTAIN ANNUITIES."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 38a-440 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) This section shall not apply to any reinsurance, group annuity  
6 purchased under a retirement plan or plan of deferred compensation  
7 established or maintained by an employer, including a partnership or  
8 sole proprietorship, or by an employee organization, or by both, other  
9 than a plan providing individual retirement accounts or individual  
10 retirement annuities under Section 408 of the Internal Revenue Code,  
11 as now or hereafter amended, premium deposit fund, variable annuity,  
12 investment annuity, immediate annuity, any deferred annuity contract  
13 after annuity payments have commenced, or reversionary annuity, nor  
14 to any contract which shall be delivered outside this state through an

15 agent or other representative of the company issuing the contract.

16 (b) In the case of contracts issued on or after the effective date  
17 specified in accordance with the provisions of [subsection (k)]  
18 subsections (k) and (l) of this section, no contract of annuity, except as  
19 stated in subsection (a) of this section, shall be delivered or issued for  
20 delivery in this state unless it contains in substance the following  
21 provisions, or corresponding provisions which in the opinion of the  
22 commissioner are at least as favorable to the contractholder, upon  
23 cessation of payment of considerations under the contract: (1) That  
24 upon cessation of payment of considerations under a contract, or upon  
25 the written request of the contract owner, the company [will] shall  
26 grant a paid-up annuity benefit on a plan stipulated in the contract of  
27 such value as is specified in subsections (d), (e), (f), (g) and (i) of this  
28 section; (2) if a contract provides for a lump sum settlement at  
29 maturity, or at any other time, that upon surrender of the contract at or  
30 prior to the commencement of any annuity payments, the company  
31 [will] shall pay in lieu of any paid-up annuity benefit a cash surrender  
32 benefit of such amount as is specified in subsections (d), (e), (g) and (i)  
33 of this section. The company [shall] may reserve the right to defer the  
34 payment of such cash surrender benefit for a period [of] not to exceed  
35 six months after demand therefor with surrender of the contract after  
36 making written request and receiving written approval of the  
37 commissioner, provided such request addresses the deferral's necessity  
38 and equitability with respect to all policyholders; (3) a statement of the  
39 mortality table, if any, and interest rates used in calculating any  
40 minimum paid-up annuity, cash surrender or death benefits that are  
41 guaranteed under the contract, together with sufficient information to  
42 determine the amounts of such benefits; and (4) a statement that any  
43 paid-up annuity, cash surrender or death benefits which may be  
44 available under the contract are not less than the minimum benefits  
45 required by the statutes of the state in which the contract is delivered  
46 and an explanation of the manner in which such benefits are altered by  
47 the existence of any additional amounts credited by the company to  
48 the contract, any indebtedness to the company on the contract or any

49 prior withdrawals from or partial surrenders of the contract.  
50 Notwithstanding the requirements of this subsection, any deferred  
51 annuity contract may provide that if no considerations have been  
52 received under a contract for a period of two full years and the portion  
53 of the paid-up annuity benefit at maturity on the plan stipulated in the  
54 contract arising from considerations paid prior to such period would  
55 be less than twenty dollars monthly, the company may at its option  
56 terminate such contract by payment in cash of the then present value  
57 of such portion of the paid-up annuity benefit, calculated on the basis  
58 of the mortality table, if any, and interest rate specified in the contract  
59 for determining the paid-up annuity benefit, and by such payment  
60 shall be relieved of any further obligation under such contract.

61 (c) The minimum values as specified in subsections (d), (e), (f), (g)  
62 and (i) of this section of any paid-up annuity, cash surrender or death  
63 benefits available under an annuity contract shall be based upon  
64 minimum nonforfeiture amounts as defined in this subsection: (1)  
65 [With respect to contracts providing for flexible considerations, the]  
66 The minimum nonforfeiture amount at any time at or prior to the  
67 commencement of any annuity payments shall be equal to an  
68 accumulation up to such time at [a rate] rates of interest, [of three per  
69 cent per annum of percentages] as indicated in subdivision (3) of this  
70 subsection, of the net considerations, as [hereinafter] defined in this  
71 subsection, paid prior to such time, decreased by the sum of (A) any  
72 prior withdrawals from or partial surrenders of the contract  
73 accumulated at [a rate] rates of interest [of three per cent per annum,  
74 and (B)] as indicated in subdivision (3) of this subsection; (B) an annual  
75 contract charge of fifty dollars, accumulated at rates of interest as  
76 indicated in subdivision (3) of this subsection; and (C) the amount of  
77 any indebtedness to the company on the contract, including interest  
78 due and accrued, [; and increased by any existing additional amounts  
79 credited by the company to the contract. The] (2) The net  
80 considerations for a given contract year used to define the minimum  
81 nonforfeiture amount shall be an amount [not less than zero and shall  
82 be equal to the corresponding] equal to eighty-seven and one-half per

83 cent of the gross considerations credited to the contract during that  
84 contract year. [less an annual contract charge of thirty dollars and less  
85 a collection charge of one dollar and twenty-five cents per  
86 consideration credited to the contract during that contract year. The  
87 percentages of net considerations shall be sixty-five per cent of the net  
88 consideration for the first contract year and eighty-seven and one-half  
89 per cent of the net considerations for the second and later contract  
90 years, except the percentage shall be sixty-five per cent of the portion  
91 of the total net consideration for any renewal contract year which  
92 exceeds by not more than two times the sum of those portions of the  
93 net considerations in all prior contract years for which the percentage  
94 was sixty-five per cent; (2) with respect to contracts providing for fixed  
95 scheduled considerations, minimum nonforfeiture amounts shall be  
96 calculated on the assumption that considerations are paid annually in  
97 advance and shall be defined as for contracts with flexible  
98 considerations which are paid annually with two exceptions: (A) The  
99 portion of the net consideration for the first contract year to be  
100 accumulated shall be the sum of sixty-five per cent of the net  
101 consideration for the first contract year plus twenty-two and one-half  
102 per cent of the excess of the net consideration for the first contract year  
103 over the lesser of the net considerations for the second and third  
104 contract years; (B) the annual contract charge shall be the lesser of (i)  
105 thirty dollars or (ii) ten per cent of the gross annual consideration. (3)  
106 With respect to contracts providing for a single consideration,  
107 minimum nonforfeiture amounts shall be defined as for contracts with  
108 flexible considerations except that the percentage of net consideration  
109 used to determine the minimum nonforfeiture amount shall be equal  
110 to ninety per cent and the net consideration shall be the gross  
111 consideration less a contract charge of seventy-five dollars.] (3) The  
112 interest rate used in determining minimum nonforfeiture amounts  
113 shall be an annual rate of interest determined as the lesser of three per  
114 cent per annum or the rate calculated pursuant to subparagraphs (A)  
115 to (D), inclusive, of this subdivision, which shall be specified in the  
116 contract if the interest rate will be reset: (A) The five-year Constant  
117 Maturity Treasury Rate reported by the Federal Reserve as of a date, or

118 average over a period of time, rounded to the nearest one-twentieth of  
119 one per cent, specified in the contract no later than fifteen months prior  
120 to the contract issue date or redetermination date under subparagraph  
121 (D) of this subdivision; (B) reduced by one hundred twenty-five basis  
122 points; (C) where the resulting interest rate is not less than one per  
123 cent; and (D) where such interest rate applies for an initial period of  
124 time and may be redetermined for additional periods of time. The  
125 redetermination date, basis and period, if any, shall be stated in the  
126 contract. The basis is the date or average over a specified period of  
127 time that produces the value of the five-year Constant Maturity  
128 Treasury Rate to be used at each redetermination date. (4) During the  
129 period of time or term that a contract provides substantive  
130 participation in an equity indexed benefit, the contract may increase  
131 the reduction described in subparagraph (B) of subdivision (3) of this  
132 subsection by an amount up to an additional one hundred basis points  
133 to reflect the value of the equity index benefit. The present value at the  
134 contract issue date, and at each redetermination date thereafter, of the  
135 additional reduction shall not exceed the market value of the benefit.  
136 The commissioner may require a demonstration that the present value  
137 of the additional reduction does not exceed the market value of the  
138 benefit. If there is no such demonstration that is acceptable to the  
139 commissioner, the commissioner may disallow or limit the additional  
140 reduction. (5) The commissioner may adopt regulations, in accordance  
141 with chapter 54, to implement the provisions of subdivision (4) of this  
142 subsection and to provide for further adjustments to the calculation of  
143 minimum nonforfeiture amounts for contracts that provide substantive  
144 participation in an equity index benefit and for other contracts for  
145 which the commissioner determines adjustments are justified.

146 (d) Any paid-up annuity benefit available under a contract shall be  
147 such that its present value on the date annuity payments are to  
148 commence is at least equal to the minimum nonforfeiture amount on  
149 that date. Such present value shall be computed using the mortality  
150 table, if any, and the interest [rate] rates specified in the contract for  
151 determining the minimum paid-up annuity benefits guaranteed in the

152 contract.

153 (e) For contracts which provide cash surrender benefits, such cash  
154 surrender benefits available prior to maturity shall not be less than the  
155 present value as of the date of surrender of that portion of the maturity  
156 value of the paid-up annuity benefit which would be provided under  
157 the contract at maturity arising from considerations paid prior to the  
158 time of cash surrender reduced by the amount appropriate to reflect  
159 any prior withdrawals from or partial surrenders of the contract, such  
160 present value being calculated on the basis of an interest rate not more  
161 than one per cent higher than the interest rate specified in the contract  
162 for accumulating the net considerations to determine such maturity  
163 value, decreased by the amount of any indebtedness to the company  
164 on the contract, including interest due and accrued, and increased by  
165 any existing additional amounts credited by the company to the  
166 contract. In no event shall any cash surrender benefit be less than the  
167 minimum nonforfeiture amount at that time. The death benefit under  
168 such contracts shall be at least equal to the cash surrender benefit.

169 (f) For contracts which do not provide cash surrender benefits, the  
170 present value of any paid-up annuity benefit available as a  
171 nonforfeiture option at any time prior to maturity shall not be less than  
172 the present value of that portion of the maturity value of the paid-up  
173 annuity benefit, provided under the contract arising from  
174 consideration paid prior to the time the contract is surrendered in  
175 exchange for, or changed to, a deferred paid-up annuity, such present  
176 value being calculated for the period prior to the maturity date on the  
177 basis of the interest rate specified in the contract for accumulating the  
178 net considerations to determine such maturity value, and increased by  
179 any existing additional amounts credited by the company to the  
180 contract. For contracts which do not provide any death benefits prior  
181 to the commencement of any annuity payments, such present values  
182 shall be calculated on the basis of such interest rate and the mortality  
183 table specified in the contract for determining the maturity value of the  
184 paid-up annuity benefit. In no event shall the present value of a paid-  
185 up annuity benefit be less than the minimum nonforfeiture amount at

186 that time.

187 (g) For the purpose of determining the benefits calculated under  
188 subsections (e) and (f) of this section, in the case of annuity contracts  
189 under which an election may be made to have annuity payments  
190 commence at optional maturity dates, the maturity date shall be  
191 deemed to be the latest date for which election shall be permitted by  
192 the contract, but shall not be deemed to be later than the anniversary of  
193 the contract next following the annuitant's seventieth birthday or the  
194 tenth anniversary of the contract, whichever is later.

195 (h) Any contract which does not provide cash surrender benefits or  
196 does not provide death benefits at least equal to the minimum  
197 nonforfeiture amount prior to the commencement of any annuity  
198 payments shall include a statement in a prominent place in the  
199 contract that such benefits are not provided.

200 (i) Any paid-up annuity, cash surrender or death benefits available  
201 at any time, other than on the contract anniversary under any contract  
202 with fixed scheduled considerations, shall be calculated with  
203 allowance for the lapse of time and the payment of any scheduled  
204 considerations beyond the beginning of the contract year in which  
205 cessation of payment of considerations under the contract occurs.

206 (j) For any contract which provides, within the same contract by  
207 rider or supplemental contract provision, both annuity benefits and life  
208 insurance benefits that are in excess of the greater of cash surrender  
209 benefits or a return of the gross considerations with interest, the  
210 minimum nonforfeiture benefits shall be equal to the sum of the  
211 minimum nonforfeiture benefits for the annuity portion and the  
212 minimum nonforfeiture benefits, if any, for the life insurance portion  
213 computed as if each portion were a separate contract. Notwithstanding  
214 the provisions of subsections (d), (e), (f), (g) and (i) of this section,  
215 additional benefits payable (1) in the event of total and permanent  
216 disability, (2) as reversionary annuity or deferred reversionary annuity  
217 benefits, or (3) as other policy benefits additional to life insurance,

218 endowment and annuity benefits, and considerations for all such  
 219 additional benefits, shall be disregarded in ascertaining the minimum  
 220 nonforfeiture amounts, paid-up annuity, cash surrender and death  
 221 benefits that may be required by this section. The inclusion of such  
 222 additional benefits shall not be required in any paid-up benefits, unless  
 223 such additional benefits separately would require minimum  
 224 nonforfeiture amounts, paid-up annuity, cash surrender and death  
 225 benefits.

226 (k) On or after October 1, 1978, but prior to January 1, 1981, any  
 227 company may file with the commissioner a written notice of its  
 228 election to comply with the provisions of this section after a specified  
 229 date and the provisions of this section shall apply to annuity contracts  
 230 issued by such company on or after such specified date. On or after  
 231 January 1, 1981, the provisions of this section shall apply to annuity  
 232 contracts issued by any company.

233 (l) On or after the effective date of this section, but prior to July 1,  
 234 2005, any company may file with the commissioner a written notice of  
 235 its election to comply with the provisions of this section with respect to  
 236 contract forms specified in the notice and issued on and after the  
 237 effective date of this section, except that (1) no such notice shall be  
 238 required for a company that elects to comply with the provisions of  
 239 this section as set forth in the general statutes, revision of 1958, revised  
 240 to January 1, 2003, and (2) on and after July 1, 2005, the provisions of  
 241 this section shall apply to all annuity contracts issued by any company  
 242 on and after July 1, 2005.

243 (m) The commissioner may adopt regulations, in accordance with  
 244 chapter 54, to implement the provisions of this section."

This act shall take effect as follows:	
Section 1	<i>from passage</i>