

INSURANCE CODE

TITLE 7. LIFE INSURANCE AND ANNUITIES

SUBTITLE A. LIFE INSURANCE IN GENERAL

CHAPTER 1107. STANDARD NONFORFEITURE LAW FOR CERTAIN ANNUITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1107.001. APPLICABILITY OF CHAPTER. (a) This chapter applies to an annuity contract issued on or after August 29, 1979.

(b) This chapter also applies to an annuity contract issued by a company after a date specified in a written notice:

(1) that was filed with the State Board of Insurance after August 29, 1977, but before August 29, 1979; and

(2) under which the company filing the notice elected to comply before August 29, 1979, with the law codified by this chapter.

(c) Companies shall issue, and the department shall review, annuity contracts as follows:

(1) under Sections 1107.051-1107.054 until August 31, 2005; or

(2) under Sections 1107.055-1107.057 after September 1, 2003.

(d) Companies shall not issue annuity contracts under Sections 1107.051-1107.054 after August 31, 2005.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.002. EXEMPTIONS. (a) This chapter does not apply to:

(1) a reinsurance contract;

(2) a group annuity contract that is purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, by an employee organization, or by both, other than a plan that provides individual retirement accounts or individual retirement annuities under Section 408, Internal Revenue Code of

1986, as amended;

- (3) a premium deposit fund;
- (4) a variable annuity contract;
- (5) an investment annuity contract;
- (6) an immediate annuity contract;
- (7) a deferred annuity contract under which annuity payments have begun;
- (8) a reversionary annuity contract; or
- (9) a contingent deferred annuity contract as defined by Section [1116.003](#).

(b) This chapter does not apply to a contract delivered outside this state through an agent or other representative of the company that issues the contract.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 375 (S.B. [1107](#)), Sec. 1, eff. June 9, 2015.

Sec. 1107.003. REQUIRED NONFORFEITURE PROVISIONS. (a) An annuity contract delivered or issued for delivery in this state must contain in substance the provisions prescribed by this section or corresponding provisions that, in the opinion of the department, are at least as favorable to the contract holder when payment of considerations under the contract ceases.

(b) The annuity contract must provide that when payment of considerations under a contract ceases, the company will grant a paid-up annuity benefit on a plan stipulated in the contract that has a value that complies with this chapter.

(c) An annuity contract that provides for a lump-sum settlement at maturity or at any other time must provide that on surrender of the contract on or before the time annuity payments begin, the company that issues the contract shall pay a cash surrender benefit in an amount that complies with this chapter in lieu of a paid-up annuity benefit. A company may reserve the right to defer payment of any cash surrender benefit for a period not to

exceed six months after demand for payment of the benefit is made with surrender of the contract.

(d) An annuity contract must contain:

(1) a statement of the mortality table, if any, and interest rates to be used to compute any minimum paid-up annuity, cash surrender, or death benefits that are guaranteed under the contract, together with information that is sufficient to determine the amounts of the benefits;

(2) a statement that any paid-up annuity, cash surrender, or death benefits available under the contract are not less than the minimum benefits required by this state; and

(3) an explanation of the manner in which a paid-up annuity, cash surrender, or death benefit is altered by the existence of any additional amounts credited to the contract by the company that issues the contract, any indebtedness to the company on the contract, or any prior withdrawals from or partial surrenders of the contract.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.004. OPTIONAL TERMINATION PROVISION. (a) Notwithstanding the requirements of Section [1107.003](#), an annuity contract may provide that the company has the option to terminate the contract by making a cash payment of the then present value of that portion of the paid-up annuity benefit if:

(1) no considerations are received under the contract for two years; and

(2) at maturity, payments on the portion of the paid-up annuity benefit on the plan stipulated in the contract attributable to considerations paid before that period would be less than \$20 each month.

(b) If an annuity contract contains a provision permitted under Subsection (a):

(1) the present value of a portion of a paid-up annuity benefit paid under that provision must be computed on the basis of the mortality table, if any, and interest rates specified in the

contract for determining the paid-up annuity benefit; and

(2) a payment made under that provision relieves the company of any further obligation under the contract.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.005. CONTACT DISCLOSURE THAT CERTAIN BENEFITS NOT PROVIDED. An annuity contract that does not provide a cash surrender benefit or that does not provide a death benefit that is at least equal to the minimum nonforfeiture amount for the contract under Subchapter B before annuity payments begin must include a statement in a prominent place in the contract that those benefits are not provided.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.006. MATURITY DATE. In determining the value of benefits under Sections [1107.102](#), [1107.103](#), and [1107.104](#), the maturity date is the latest date on which an election is permitted by the contract, but not later than the later of:

(1) the next anniversary of the annuity contract that follows the annuitant's 70th birthday; or

(2) the 10th anniversary of the contract.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 408 (H.B. [1919](#)), Sec. 1, eff. September 1, 2009.

SUBCHAPTER B. COMPUTATION OF MINIMUM NONFORFEITURE AMOUNT

Sec. 1107.051. MINIMUM NONFORFEITURE AMOUNT. The minimum value under Subchapter C of a paid-up annuity, cash surrender, or death benefit shall be computed on the basis of the minimum

nonforfeiture amount prescribed by this subchapter.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.052. CONTRACT WITH FLEXIBLE CONSIDERATIONS. (a) This section applies only to an annuity contract that provides for the payment of flexible considerations.

(b) The minimum nonforfeiture amount on or before annuity payments begin is an amount equal to the accumulation of the prescribed percentages of the amount of net considerations paid to the date of computation, which are accumulated at an interest rate of three percent per year, plus any additional amount credited to the contract by the company, less the amount of:

(1) any withdrawal from or partial surrender of the contract made before the minimum nonforfeiture amount is computed, accumulated at an interest rate of three percent per year; and

(2) any indebtedness to the company on the contract, including any accrued interest due on the indebtedness.

(c) For the purposes of this section, the amount of net consideration for a contract year may not be less than \$0 and is computed by subtracting from the amount of gross considerations credited to the contract during that contract year:

(1) an annual contract charge of \$30; and

(2) a collection charge of \$1.25 for each consideration credited to the contract during that year.

(d) Except as provided by Subsection (e), the percentage of the amount of net consideration to be used in computing a minimum nonforfeiture amount under Subsection (b) is:

(1) 65 percent for the first contract year; and

(2) 87.5 percent for each subsequent contract year.

(e) For a renewal contract year, the percentage of the amount of net consideration to be used to compute a minimum nonforfeiture amount under Subsection (b) is 65 percent of the portion of the total amount of net consideration that exceeds by not more than two times the sum of those portions of the amount of net consideration in all preceding contract years for which the

percentage was 65 percent.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.053. CONTRACT WITH FIXED, SCHEDULED CONSIDERATIONS. (a) For an annuity contract that provides for the payment of fixed, scheduled considerations, the minimum nonforfeiture amount is computed in the same manner as the minimum nonforfeiture amount for an annuity contract with flexible considerations that are paid annually, except that:

(1) the amount of net consideration for a contract year is computed using an annual contract charge equal to the lesser of:

(A) \$30; or

(B) 10 percent of the amount of the gross annual considerations paid on the contract; and

(2) the percentage of the net consideration amount for the first contract year to be used to compute the minimum nonforfeiture amount is 65 percent of the amount of net consideration for the first contract year plus 22.5 percent of the amount by which the amount of net consideration for the first contract year exceeds the lesser of:

(A) the amount of net consideration for the second contract year; or

(B) the amount of net consideration for the third contract year.

(b) The computation made under Subsection (a) must assume that the considerations are paid annually in advance.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.054. CONTRACT WITH SINGLE CONSIDERATION. For an annuity contract that provides for the payment of a single consideration, the minimum nonforfeiture amount is computed in the same manner as the minimum nonforfeiture amount for a contract with

flexible considerations, except that:

(1) the net consideration amount to be used to compute the minimum nonforfeiture amount is the amount of the gross considerations paid under the contract less a contract charge of \$75; and

(2) the percentage of the net consideration amount to be used to compute the minimum nonforfeiture amount is 90 percent. Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.055. INTEREST RATE. The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent per annum and the following, which must be specified in the contract if the interest rate will be redetermined:

(1) the five-year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date, or average over a period, rounded to the nearest 1/20th of one percent, specified in the contract no longer than 15 months prior to the contract issue date or redetermination date under Subdivision (4);

(2) reduced by 125 basis points;

(3) where the resulting interest rate is not less than 0.15 percent; and

(4) the interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis, and period, if any, shall be stated in the contract. As used in this section, basis is the date, or average over a specified period, which produces the five-year Constant Maturity Treasury Rate to be used at each redetermination date.

Added by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 262 (H.B. [1777](#)), Sec. 1, eff. September 1, 2021.

Sec. 1107.056. ADDITIONAL INTEREST RATE ADJUSTMENTS. The

commissioner may adopt rules to provide for further adjustments to Section 1107.055 for annuity contracts that provide substantive participation in an equity index benefit or other benefits as appropriate.

Added by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.057. MINIMUM NONFORFEITURE AMOUNT. (a) The minimum values as specified in Sections 1107.006 and 1107.101-1107.105 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.

(b) 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 rates of interest as indicated in this subchapter of the net considerations as defined by Subsection (c) paid prior to such time, decreased by the sum of Subdivisions (1) through (4):

(1) any withdrawal from or partial surrender of the contract made before the minimum nonforfeiture amount is computed, accumulated at an interest rate as indicated in this subchapter;

(2) an annual contract charge of \$50, accumulated at rates of interest as indicated in this subchapter;

(3) premium tax paid, if any, by the company, and not subsequently credited back to the company, for the contract, accumulated at rates of interest as indicated in this subchapter; and

(4) any indebtedness to the company on the contract, including any accrued interest due on the indebtedness.

(c) For the purposes of this section, the amount of net consideration for a contract year shall be an amount equal to 87.5 percent of the gross considerations credited to the contract during that contract year.

Added by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

SUBCHAPTER C. VALUE OF NONFORFEITURE BENEFITS

Sec. 1107.101. PRESENT VALUE OF NONFORFEITURE BENEFITS.

(a) The present value of any paid-up annuity benefit available under an annuity contract on the date annuity payments are to begin may not be less than the minimum nonforfeiture amount for that contract on that date as computed under Subchapter B.

(b) The present value of the paid-up annuity benefit shall be computed using the mortality table, if any, and the interest rates specified in the contract for computing the minimum paid-up annuity benefit guaranteed by the contract.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.102. COMPUTATION OF PAID-UP ANNUITY BENEFIT UNDER CERTAIN CONTRACTS. (a) This section applies only to an annuity contract that does not provide a cash surrender benefit.

(b) Subject to Subsection (e), the present value of a paid-up annuity benefit available as a nonforfeiture option before the maturity date may not be less than the present value of the portion of the maturity value of the paid-up annuity benefit provided under the contract that arises from considerations paid on the contract before the date the contract is surrendered in exchange for or is changed to a deferred paid-up annuity.

(c) The present value of a paid-up annuity benefit under Subsection (b) shall be:

(1) computed for the period before the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations paid on the contract to determine the maturity value; and

(2) increased by any additional amount credited by the company to the contract.

(d) Subject to Subsection (e), for an annuity contract that does not provide a death benefit before annuity payments begin, the present value of a paid-up annuity benefit available as a nonforfeiture option shall be computed using the interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit.

(e) The present value of a paid-up annuity benefit may not

be less than the minimum nonforfeiture amount on the date of surrender or change.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.103. COMPUTATION OF CASH SURRENDER BENEFIT. (a) Subject to Subsection (c), the value of a cash surrender benefit available under an annuity contract before the maturity date may not be less than the present value on the date the contract is surrendered of the portion of the maturity value of the paid-up annuity benefit that arises from considerations paid under the contract before that date and that would be provided under the contract at maturity less an amount reflecting any withdrawals from or partial surrenders of the contract before that date and the amount of any indebtedness to the company on the contract, including accrued interest due on the indebtedness, plus any additional amount credited by the company to the contract.

(b) The present value used to compute the minimum cash surrender benefit under Subsection (a) shall be computed using an interest rate that is not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations paid on the contract to determine the maturity value.

(c) The value of a cash surrender benefit may not be less than the minimum nonforfeiture amount on the date the contract is surrendered.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.104. COMPUTATION OF DEATH BENEFIT. The value of a death benefit available under an annuity contract that provides a cash surrender benefit may not be less than the value of the cash surrender benefit.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20,

2003.

Sec. 1107.105. COMPUTATION OF BENEFITS AVAILABLE AT THE TIME OTHER THAN CONTRACT ANNIVERSARY. For an annuity contract that requires payment of fixed, scheduled considerations, the value of a paid-up annuity, cash surrender, or death benefit that is available under the contract on a date other than an anniversary of the contract date shall be computed to allow for the lapse of time and any scheduled considerations paid after the beginning of the contract year in which payment of considerations under the contract ceased.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.106. MINIMUM NONFORFEITURE VALUES UNDER CONTRACT THAT PROVIDES ANNUITY AND LIFE INSURANCE BENEFITS. For a contract that provides, by rider or by supplemental provision, both annuity benefits and life insurance benefits that exceed the greater of the value of the cash surrender benefit or the amount with interest of the gross considerations paid on the contract, the minimum nonforfeiture benefits are equal to the sum of the minimum nonforfeiture benefits for the annuity portion of the contract and the minimum nonforfeiture benefits, if any, for the life insurance portion of the contract, computed as if each portion were a separate contract.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.107. COMPUTATIONS NOT AFFECTED BY ADDITIONAL BENEFITS. (a) Notwithstanding any other provision of this subchapter or Section [1107.006](#), a computation of a minimum nonforfeiture amount or of a paid-up annuity, cash surrender, or death benefit under this chapter may not include:

(1) any additional benefit that is:

(A) payable in the event of total and permanent

disability;

(B) payable as a reversionary annuity or deferred reversionary annuity benefit; or

(C) payable as another policy benefit in addition to life insurance, endowment, or annuity benefits; or

(2) the considerations paid for the additional benefit.

(b) A paid-up benefit under an annuity contract is not required to include an additional benefit described by Subsection (a) unless the additional benefit separately requires:

(1) a minimum nonforfeiture amount; or

(2) a paid-up annuity, cash surrender, or death benefit.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.

Sec. 1107.108. RULES. The commissioner may adopt rules to implement the provisions of this chapter.

Added by Acts 2003, 78th Leg., ch. 869, Sec. 1, eff. June 20, 2003.