

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 229.4a as follows:

6 (215 ILCS 5/229.4a)

7 (Section scheduled to be repealed on July 1, 2007)

8 Sec. 229.4a. Standard Non-forfeiture Law for Individual
9 Deferred Annuities.

10 (1) Title. This Section shall be known as the Standard
11 Nonforfeiture Law for Individual Deferred Annuities.

12 (2) Applicability. This Section shall not apply to any
13 reinsurance, group annuity purchased under a retirement plan or
14 plan of deferred compensation established or maintained by an
15 employer (including a partnership or sole proprietorship) or by
16 an employee organization, or by both, other than a plan
17 providing individual retirement accounts or individual
18 retirement annuities under Section 408 of the Internal Revenue
19 Code, as now or hereafter amended, premium deposit fund,
20 variable annuity, investment annuity, immediate annuity, any
21 deferred annuity contract after annuity payments have
22 commenced, or reversionary annuity, nor to any contract which
23 shall be delivered outside this State through an agent or other
24 representative of the company issuing the contract.

25 (3) Nonforfeiture Requirements.

26 (A) In the case of contracts issued on or after the
27 operative date of this Section as defined in subsection
28 (13), no contract of annuity, except as stated in
29 subsection (2), shall be delivered or issued for delivery
30 in this State unless it contains in substance the following
31 provisions, or corresponding provisions which in the
32 opinion of the Director of Insurance are at least as

1 favorable to the contract holder, upon cessation of payment
2 of considerations under the contract:

3 (i) That upon cessation of payment of
4 considerations under a contract, or upon the written
5 request of the contract owner, the company shall grant
6 a paid-up annuity benefit on a plan stipulated in the
7 contract of such value as is specified in subsections
8 (5), (6), (7), (8) and (10);

9 (ii) If a contract provides for a lump sum
10 settlement at maturity, or at any other time, that upon
11 surrender of the contract at or prior to the
12 commencement of any annuity payments, the company
13 shall pay in lieu of a paid-up annuity benefit a cash
14 surrender benefit of such amount as is specified in
15 subsections (5), (6), (8) and (10). The company may
16 reserve the right to defer the payment of the cash
17 surrender benefit for a period not to exceed 6 months
18 after demand therefor with surrender of the contract
19 after making written request and receiving written
20 approval of the Director. The request shall address the
21 necessity and equitability to all policyholders of the
22 deferral;

23 (iii) A statement of the mortality table, if any,
24 and interest rates used calculating any minimum
25 paid-up annuity, cash surrender, or death benefits
26 that are guaranteed under the contract, together with
27 sufficient information to determine the amounts of the
28 benefits; and

29 (iv) A statement that any paid-up annuity, cash
30 surrender or death benefits that may be available under
31 the contract are not less than the minimum benefits
32 required by any statute of the state in which the
33 contract is delivered and an explanation of the manner
34 in which the benefits are altered by the existence of
35 any additional amounts credited by the company to the
36 contract, any indebtedness to the company on the

1 contract or any prior withdrawals from or partial
2 surrenders of the contract.

3 (B) Notwithstanding the requirements of this Section,
4 a deferred annuity contract may provide that if no
5 considerations have been received under a contract for a
6 period of 2 full years and the portion of the paid-up
7 annuity benefit at maturity on the plan stipulated in the
8 contract arising from prior considerations paid would be
9 less than \$20 monthly, the company may at its option
10 terminate the contract by payment in cash of the then
11 present value of the portion of the paid-up annuity
12 benefit, calculated on the basis on the mortality table, if
13 any, and interest rate specified in the contract for
14 determining the paid-up annuity benefit, and by this
15 payment shall be relieved of any further obligation under
16 the contract.

17 (4) Minimum values. The minimum values as specified in
18 subsections (5), (6), (7), (8) and (10) of any paid-up annuity,
19 cash surrender or death benefits available under an annuity
20 contract shall be based upon minimum nonforfeiture amounts as
21 defined in this subsection.

22 (A) (i) The minimum nonforfeiture amount at any time at
23 or prior to the commencement of any annuity payments shall
24 be equal to an accumulation up to such time at rates of
25 interest as indicated in subdivision (4) (B) of the net
26 considerations (as hereinafter defined) paid prior to such
27 time, decreased by the sum of paragraphs (a) through (d)
28 below:

29 (a) Any prior withdrawals from or partial
30 surrenders of the contract accumulated at rates of
31 interest as indicated in subdivision (4) (B);

32 (b) An annual contract charge of \$50,
33 accumulated at rates of interest as indicated in
34 subdivision (4) (B);

35 (c) Any premium tax paid by the company for the
36 contract, accumulated at rates of interest as

1 indicated in subdivision (4) (B); and

2 (d) The amount of any indebtedness to the
3 company on the contract, including interest due and
4 accrued.

5 (ii) The net considerations for a given contract year
6 used to define the minimum nonforfeiture amount shall be an
7 amount equal to 87.5% of the gross considerations, credited
8 to the contract during that contract year.

9 (B) The interest rate used in determining minimum
10 nonforfeiture amounts shall be an annual rate of interest
11 determined as the lesser of 3% per annum and the following,
12 which shall be specified in the contract if the interest
13 rate will be reset:

14 (i) The five-year Constant Maturity Treasury Rate
15 reported by the Federal Reserve as of a date, or
16 average over a period, rounded to the nearest 1/20th of
17 one percent, specified in the contract no longer than
18 15 months prior to the contract issue date or
19 redetermination date under subdivision (4) (B) (iv);

20 (ii) Reduced by 125 basis points;

21 (iii) Where the resulting interest rate is not less
22 than 1%; and

23 (iv) The interest rate shall apply for an initial
24 period and may be redetermined for additional periods.
25 The redetermination date, basis and period, if any,
26 shall be stated in the contract. The basis is the date
27 or average over a specified period that produces the
28 value of the 5-year Constant Maturity Treasury Rate to
29 be used at each redetermination date.

30 (C) During the period or term that a contract provides
31 substantive participation in an equity indexed benefit, it
32 may increase the reduction described in subdivision
33 (4) (B) (ii) above by up to an additional 100 basis points to
34 reflect the value of the equity index benefit. The present
35 value at the contract issue date, and at each
36 redetermination date thereafter, of the additional

1 reduction shall not exceed market value of the benefit. The
2 Director may require a demonstration that the present value
3 of the additional reduction does not exceed the market
4 value of the benefit. Lacking such a demonstration that is
5 acceptable to the Director, the Director may disallow or
6 limit the additional reduction.

7 (D) The Director may adopt rules to implement the
8 provisions of subdivision (4) (C) and to provide for further
9 adjustments to the calculation of minimum nonforfeiture
10 amounts for contracts that provide substantive
11 participation in an equity index benefit and for other
12 contracts that the Director determines adjustments are
13 justified.

14 (5) Computation of Present Value. Any paid-up annuity
15 benefit available under a contract shall be such that its
16 present value on the date annuity payments are to commence is
17 at least equal to the minimum nonforfeiture amount on that
18 date. Present value shall be computed using the mortality
19 table, if any, and the interest rates specified in the contract
20 for determining the minimum paid-up annuity benefits
21 guaranteed in the contract.

22 (6) Calculation of Cash Surrender Value. For contracts that
23 provide cash surrender benefits, the cash surrender benefits
24 available prior to maturity shall not be less than the present
25 value as of the date of surrender of that portion of the
26 maturity value of the paid-up annuity benefit that would be
27 provided under the contract at maturity arising from
28 considerations paid prior to the time of cash surrender reduced
29 by the amount appropriate to reflect any prior withdrawals from
30 or partial surrenders of the contract, such present value being
31 calculated on the basis of an interest rate not more than 1%
32 higher than the interest rate specified in the contract for
33 accumulating the net considerations to determine maturity
34 value, decreased by the amount of any indebtedness to the
35 company on the contract, including interest due and accrued,
36 and increased by any existing additional amounts credited by

1 the company to the contract. In no event shall any cash
2 surrender benefit be less than the minimum nonforfeiture amount
3 at that time. The death benefit under such contracts shall be
4 at least equal to the cash surrender benefit.

5 (7) Calculation of Paid-up Annuity Benefits. For contracts
6 that do not provide cash surrender benefits, the present value
7 of any paid-up annuity benefit available as a nonforfeiture
8 option at any time prior to maturity shall not be less than the
9 present value of that portion of the maturity value of the
10 paid-up annuity benefit provided under the contract arising
11 from considerations paid prior to the time the contract is
12 surrendered in exchange for, or changed to, a deferred paid-up
13 annuity, such present value being calculated for the period
14 prior to the maturity date on the basis of the interest rate
15 specified in the contract for accumulating the net
16 considerations to determine maturity value, and increased by
17 any additional amounts credited by the company to the contract.
18 For contracts that do not provide any death benefits prior to
19 the commencement of any annuity payments, present values shall
20 be calculated on the basis of such interest rate and the
21 mortality table specified in the contract for determining the
22 maturity value of the paid-up annuity benefit. However, in no
23 event shall the present value of a paid-up annuity benefit be
24 less than the minimum nonforfeiture amount at that time.

25 (8) Maturity Date. For the purpose of determining the
26 benefits calculated under subsections (6) and (7), in the case
27 of annuity contracts under which an election may be made to
28 have annuity payments commence at optional maturity dates, the
29 maturity date shall be deemed to be the latest date for which
30 election shall be permitted by the contract, but shall not be
31 deemed to be later than the anniversary of the contract next
32 following the annuitant's seventieth birthday or the tenth
33 anniversary of the contract, whichever is later.

34 (9) Disclosure of Limited Death Benefits. A contract that
35 does not provide cash surrender benefits or does not provide
36 death benefits at least equal to the minimum nonforfeiture

1 amount prior to the commencement of any annuity payments shall
2 include a statement in a prominent place in the contract that
3 such benefits are not provided.

4 (10) Inclusion of Lapse of Time Considerations. Any paid-up
5 annuity, cash surrender or death benefits available at any
6 time, other than on the contract anniversary under any contract
7 with fixed scheduled considerations, shall be calculated with
8 allowance for the lapse of time and the payment of any
9 scheduled considerations beyond the beginning of the contract
10 year in which cessation of payment of considerations under the
11 contract occurs.

12 (11) Proration of Values; Additional Benefits. For a
13 contract which provides, within the same contract by rider or
14 supplemental contract provision, both annuity benefits and
15 life insurance benefits that are in excess of the greater of
16 cash surrender benefits or a return of the gross considerations
17 with interest, the minimum nonforfeiture benefits shall be
18 equal to the sum of the minimum nonforfeiture benefits for the
19 annuity portion and the minimum nonforfeiture benefits, if any,
20 for the life insurance portion computed as if each portion were
21 a separate contract. Notwithstanding the provisions of
22 subsections (5), (6), (7), (8) and (10), additional benefits
23 payable in the event of total and permanent disability, as
24 reversionary annuity or deferred reversionary annuity
25 benefits, or as other policy benefits additional to life
26 insurance, endowment and annuity benefits, and considerations
27 for all such additional benefits, shall be disregarded in
28 ascertaining the minimum nonforfeiture amounts, paid-up
29 annuity, cash surrender and death benefits that may be required
30 under this Section. The inclusion of such benefits shall not be
31 required in any paid-up benefits, unless the additional
32 benefits separately would require minimum nonforfeiture
33 amounts, paid-up annuity, cash surrender and death benefits.

34 (12) Rules. The Director may adopt rules to implement the
35 provisions of this Section.

36 (13) Effective Date. After the effective date of this

1 amendatory Act of the 93rd General Assembly, a company may
2 elect to apply its provisions to annuity contracts on a
3 contract form-by-contract form basis before July 1, 2006. In
4 all other instances, this Section shall become operative with
5 respect to annuity contracts issued by the company on or after
6 July 1, 2006.

7 (14) (Blank) ~~This Section is repealed on July 1, 2007.~~

8 (Source: P.A. 93-873, eff. 8-6-04.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.