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HOUSE BILL NO. 2609

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on January 16, 2003)

(Patron Prior to Substitute—Delegate Bryant)

A BILL to amend and reenact § 38.2-3221 of the Code of Virginia, relating to annuity contracts; minimum values.

Be it enacted by the General Assembly of Virginia:**1. That § 38.2-3221 of the Code of Virginia is amended and reenacted as follows:**

§ 38.2-3221. Minimum values.

The minimum values specified in §§ 38.2-3222 through 38.2-3225 and 38.2-3227 of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon the minimum nonforfeiture amounts defined in this section.

A. 1. For contracts providing for flexible considerations, the minimum nonforfeiture amount at or any time before the beginning of any annuity payments shall equal an accumulation up to that time at an annual rate of interest of three percent of percentages of the net considerations as defined in this section, paid prior to that time, increased by an existing additional amount credited by the insurer to the contract and decreased by the sum of:

a. Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent per year; and

b. The amount of any indebtedness to the insurer on the contract, including interest due and accrued.

2. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be not less than zero and shall equal the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars and less a collection charge of one dollar and twenty-five cents per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent of the net consideration for the first contract year and 87 1/2 percent of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent of the portion of the total net consideration for any renewal contract year that 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 percent.

B. For 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 the same as for contracts with flexible considerations that are paid annually with two exceptions:

1. The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent of the net consideration for the first contract year plus 22 1/2 percent 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.

2. The annual contract charge shall be the lesser of (i) thirty dollars or (ii) ten percent of the gross annual consideration.

C. For contracts providing for a single consideration, minimum nonforfeiture amounts shall be the same as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall equal ninety percent, and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars.

D. Notwithstanding any other provision of this section, for any contract issued on or after April 1, 2003, and before July 1, 2005, the interest rate at which net considerations, partial withdrawals, and partial surrenders shall be accumulated, for the purposes of determining minimum nonforfeiture amounts, shall be one and one-half percent per year.

2. That an emergency exists and this act is in force from its passage.