

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 180

HOUSE BILL 2437

AN ACT

AMENDING SECTION 20-1232, ARIZONA REVISED STATUTES; RELATING TO DEFERRED ANNUITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-1232, Arizona Revised Statutes, is amended to
3 read:

4 20-1232. Standard nonforfeiture law for individual deferred
5 annuities

6 A. Except as provided in subsection L, no contract of annuity, except
7 as stated in subsection K, shall be delivered or issued for delivery in this
8 state from and after June 30, 1979 unless such contract contains in substance
9 the following provisions or corresponding provisions which in the opinion of
10 the director are at least as favorable to the contract holder:

11 1. That upon cessation of payment of considerations under a contract,
12 the company shall grant a paid-up annuity benefit on a plan stipulated in the
13 contract of such value as is specified in subsections D, E, F, G and I.

14 2. If a contract provides for a lump sum settlement at maturity, or
15 at any other time, that upon surrender of the contract at or prior to the
16 commencement of any annuity payments, the company shall pay in lieu of any
17 paid-up annuity benefit a cash surrender benefit of such amount as is
18 specified in subsections D, E, G and I. The company shall reserve the right
19 to defer the payment of such cash surrender benefit for a period of six
20 months after demand for such cash surrender benefit with surrender of the
21 contract.

22 3. A statement of the mortality table, if any, and interest rates used
23 in calculating any minimum paid-up annuity, cash surrender or death benefits
24 that are guaranteed under the contract, together with sufficient information
25 to determine the amounts of such benefits.

26 4. A statement that any paid-up annuity, cash surrender or death
27 benefits that may be available under the contract are not less than the
28 minimum benefits required by any statute of the state in which the contract
29 is delivered and an explanation of the manner in which such benefits are
30 altered by the existence of any additional amounts credited by the company
31 to the contract, any indebtedness to the company on the contract or any prior
32 withdrawals from or partial surrenders of the contract.

33 B. Notwithstanding the requirements of subsection A, any deferred
34 annuity contract may provide that if no consideration has been received under
35 a contract for a period of two full years and the portion of the paid-up
36 annuity benefit at maturity on the plan stipulated in the contract arising
37 from considerations paid prior to such period would be less than twenty
38 dollars monthly, the company may, at its option, terminate such contract by
39 payment in cash of the then present value of such portion of the paid-up
40 annuity benefit, calculated on the basis of the mortality table, if any, and
41 interest rate specified in the contract for determining the paid-up annuity
42 benefit, and by such payment shall be relieved of any further obligation
43 under such contract.

1 C. The minimum values as specified in subsections D, E, F, G and I of
2 any paid-up annuity, cash surrender or death benefits available under an
3 annuity contract shall be based upon minimum nonforfeiture amounts prescribed
4 by this subsection:

5 1. With respect to contracts providing for flexible considerations,
6 the minimum nonforfeiture amount at any time at or prior to the commencement
7 of any annuity payments shall be equal to an accumulation up to such time at
8 a rate of interest of three ONE AND ONE-HALF per cent per annum of
9 percentages of the net considerations paid prior to such time, decreased by
10 the sum of any prior withdrawals from or partial surrenders of the contract
11 accumulated at a rate of interest of three ONE AND ONE-HALF per cent per
12 annum and the amount of any indebtedness to the company on the contract,
13 including interest due and accrued, and increased by any existing additional
14 amounts credited by the company to the contract. For the purposes of this
15 subsection, "net considerations" means, for a given contract year used to
16 define the minimum nonforfeiture amount, an amount not less than zero and
17 equal to the corresponding gross considerations credited to the contract
18 during that contract year less an annual contract charge of thirty dollars
19 and less a collection charge of one dollar and twenty-five cents per
20 consideration credited to the contract during that contract year. The
21 percentages of net considerations shall be sixty-five per cent of the net
22 consideration for the first contract year and eighty-seven and one-half per
23 cent of the net considerations for the second and subsequent contract years.
24 Notwithstanding the provisions of the preceding sentence, the percentage
25 shall be sixty-five per cent of the portion of the total net consideration
26 for any renewal contract year which exceeds by not more than two times the
27 sum of those portions of the net considerations in all prior contract years
28 for which the percentage was sixty-five per cent.

29 2. With respect to contracts providing for fixed scheduled
30 considerations, minimum nonforfeiture amounts shall be calculated on the
31 assumption that considerations are paid annually in advance and shall be
32 defined as for contracts with flexible considerations which are paid annually
33 with the following two exceptions:

34 (a) The portion of the net consideration for the first contract year
35 to be accumulated shall be the sum of sixty-five per cent of the net
36 consideration for the first contract year plus twenty-two and one-half per
37 cent of the excess of the net consideration for the first contract year over
38 the lesser of the net considerations for the second and third contract years.

39 (b) The annual contract charge shall be the lesser of thirty dollars
40 or ten per cent of the gross annual consideration.

41 3. With respect to contracts providing for a single consideration,
42 minimum nonforfeiture amounts shall be defined as for contracts with flexible
43 considerations except that the percentage of net consideration used to
44 determine the minimum nonforfeiture amount shall be equal to ninety per cent

1 and the net consideration shall be the gross consideration less a contract
2 charge of seventy-five dollars.

3 D. Any paid-up annuity benefit available under a contract shall be
4 such that its present value on the date annuity payments are to commence is
5 at least equal to the minimum nonforfeiture amount on that date. Such
6 present value shall be computed using the mortality table, if any, and the
7 interest rate specified in the contract for determining the minimum paid-up
8 annuity benefits guaranteed in the contract.

9 E. For contracts which provide cash surrender benefits, such cash
10 surrender benefits available prior to maturity shall not be less than the
11 present value as of the date of surrender of that portion of the maturity
12 value of the paid-up annuity benefit which would be provided under the
13 contract at maturity arising from considerations paid prior to the time of
14 cash surrender reduced by the amount appropriate to reflect any prior
15 withdrawals from or partial surrenders of the contract. Such present value
16 shall be calculated on the basis of an interest rate not more than one per
17 cent higher than the interest rate specified in the contract for accumulating
18 the net considerations to determine such maturity value, decreased by the
19 amount of any indebtedness to the company on the contract, including interest
20 due and accrued, and increased by any existing additional amounts credited
21 by the company to the contract. In no event shall any cash surrender benefit
22 be less than the minimum nonforfeiture amount at that time. The death
23 benefit under such contracts shall be at least equal to the cash surrender
24 benefit.

25 F. For contracts which do not provide cash surrender benefits, the
26 present value of any paid-up annuity benefit, available as a nonforfeiture
27 option at any time prior to maturity shall not be less than the present value
28 of that portion of the maturity value of the paid-up annuity benefit provided
29 under the contract arising from considerations paid prior to the time the
30 contract is surrendered in exchange for, or changed to, a deferred paid-up
31 annuity. Such present value shall be calculated for the period prior to the
32 maturity date on the basis of the interest rate specified in the contract for
33 accumulating the net considerations to determine such maturity value and
34 increased by any existing additional amounts credited by the company to the
35 contract. For contracts which do not provide any death benefits prior to the
36 commencement of any annuity payments, such present values shall be calculated
37 on the basis of such interest rate and the mortality table specified in the
38 contract for determining the maturity value of the paid-up annuity
39 benefit. However, in no event shall the present value of a paid-up annuity
40 benefit be less than the minimum nonforfeiture amount at that time.

1 G. For the purpose of determining the benefits calculated under
2 subsections E and F, in the case of annuity contracts under which an election
3 may be made to have annuity payments commence at optional maturity dates, the
4 maturity date shall be deemed to be the latest date for which election shall
5 be permitted by the contract, but shall not be deemed to be later than the
6 anniversary of the contract next following the annuitant's seventieth
7 birthday or the tenth anniversary of the contract, whichever is later.

8 H. Any contract which does not provide cash surrender benefits or does
9 not provide death benefits at least equal to the minimum nonforfeiture amount
10 prior to the commencement of any annuity payments shall include a statement
11 in a prominent place in the contract that such benefits are not provided.

12 I. Any paid-up annuity, cash surrender or death benefits available at
13 any time, other than on the contract anniversary under any contract with
14 fixed scheduled considerations, shall be calculated with allowance for the
15 lapse of time and the payment of any scheduled considerations beyond the
16 beginning of the contract year in which cessation of payment of
17 considerations under the contract occurs.

18 J. For any contract which provides, within the same contract by rider
19 or supplemental contract provision, both annuity benefits and life insurance
20 benefits that are in excess of the greater of cash surrender benefits or a
21 return of the gross considerations with interest, the minimum nonforfeiture
22 benefits shall be equal to the sum of the minimum nonforfeiture benefits for
23 the annuity portion and the minimum nonforfeiture benefits, if any, for the
24 life insurance portion computed as if each portion were a separate
25 contract. Notwithstanding the provisions of subsections D, E, F, G and I,
26 additional benefits payable in the event of total and permanent disability
27 or as reversionary annuity or deferred reversionary annuity benefits or as
28 other policy benefits additional to life insurance, endowment and annuity
29 benefits, and considerations for all such additional benefits, shall be
30 disregarded in ascertaining the minimum nonforfeiture amounts, paid-up
31 annuity, cash surrender and death benefits that may be required by this
32 section. The inclusion of such additional benefits shall not be required in
33 any paid-up benefits, unless such additional benefits separately would
34 require minimum nonforfeiture amounts, paid-up annuity, cash surrender and
35 death benefits.

36 K. This section shall not apply to any reinsurance, group annuity
37 purchased under a retirement plan or plan of deferred compensation
38 established or maintained by an employer, (including a partnership or sole
39 proprietorship,) or by an employee organization, or by both, other than a
40 plan providing individual retirement accounts or individual retirement
41 annuities under section 408 of the internal revenue code, as now or hereafter
42 amended, premium deposit fund, variable annuity, investment annuity,
43 immediate annuity, any deferred annuity contract after annuity payments have
44 commenced, or reversionary annuity, nor to any contract which shall be

1 delivered outside this state through an agent or other representative of the
2 company issuing the contract.

3 L. From and after June 30, 1977, any company may file with the
4 director a written notice of such company's election to comply with the
5 provisions of this section after a specified date before July 1, 1979. After
6 the filing of such notice, such specified date, shall be the operative date
7 of this section for such company and this section shall become operative with
8 respect to annuity contracts thereafter issued by such company. If a company
9 makes no such election, the operative date of this section for such company
10 shall be from and after June 30, 1979.

APPROVED BY THE GOVERNOR MAY 7, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2002.

Passed the House April 4, 2002,

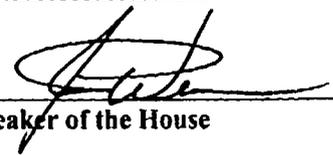
Passed the Senate May 2, 2002

by the following vote: 51 Ayes,

by the following vote: 19 Ayes,

3 Nays, 6 Not Voting

9 Nays, 2 Not Voting


Speaker of the House


President of the Senate


Chief Clerk of the House

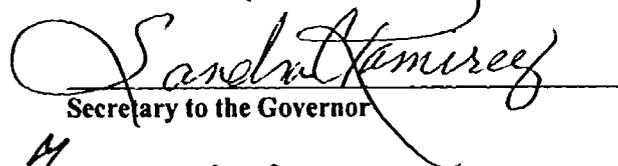

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

2 day of May, 2002

at 4:22 o'clock P M.


Secretary to the Governor

Approved this 4 day of

May, 2002,

at 10:37 o'clock A M.

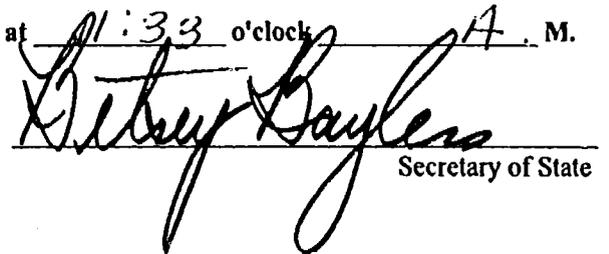

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 8 day of May, 2002

at 11:33 o'clock A M.


Secretary of State

H.B. 2437