

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5793

58th Legislature
2004 Regular Session

Passed by the Senate February 13, 2004
YEAS 46 NAYS 0

President of the Senate

Passed by the House March 3, 2004
YEAS 96 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SECOND SUBSTITUTE SENATE BILL 5793
as passed by the Senate and the
House of Representatives on the
dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5793

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By Senate Committee on Financial Services, Insurance & Housing
(originally sponsored by Senators Winsley and Prentice)

READ FIRST TIME 02/04/04.

1 AN ACT Relating to minimum nonforfeiture amounts applicable to
2 certain contracts of life insurance and annuities; amending RCW
3 48.23.430 and 48.23.440; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 48.23.430 and 1982 1st ex.s. c 9 s 23 are each amended
6 to read as follows:

7 In the case of contracts issued on or after the operative date of
8 this section as defined in RCW 48.23.520, no contract of annuity,
9 except as stated in RCW 48.23.420, may be delivered or issued for
10 delivery in this state unless it contains in substance the following
11 provisions, or corresponding provisions which in the opinion of the
12 commissioner are at least as favorable to the contract holder, upon
13 cessation of payment of considerations under the contract:

14 (1) That upon cessation of payment of considerations under a
15 contract, or upon the written request of the contract owner, the
16 company (~~will~~) shall grant a paid-up annuity benefit on a plan
17 stipulated in the contract of such value as is specified in RCW
18 48.23.450, 48.23.460, 48.23.470, 48.23.480, and 48.23.500;

1 (2) If a contract provides for a lump sum settlement at maturity,
2 or at any other time, that upon surrender of the contract at or before
3 the commencement of any annuity payments, the company (~~(will)~~) shall
4 pay in lieu of any paid-up annuity benefit a cash surrender benefit of
5 such amount as is specified in RCW 48.23.450, 48.23.460, 48.23.480, and
6 48.23.500. The company (~~(shall)~~) may reserve the right to defer the
7 payment of such cash surrender benefit for a period (~~(of)~~) not to
8 exceed six months after demand therefor with surrender of the contract
9 after making written request and receiving written approval of the
10 commissioner. The request shall address the necessity and equitability
11 to all policyholders of the deferral;

12 (3) A statement of the mortality table, if any, and interest rates
13 used in calculating any minimum paid-up annuity, cash surrender, or
14 death benefits that are guaranteed under the contract, together with
15 sufficient information to determine the amounts of such benefits; and

16 (4) A statement that any paid-up annuity, cash surrender, or death
17 benefits that may be available under the contract are not less than the
18 minimum benefits required by any statute of the state in which the
19 contract is delivered and an explanation of the manner in which such
20 benefits are altered by the existence of any additional amounts
21 credited by the company to the contract, any indebtedness to the
22 company on the contract, or any prior withdrawals from or partial
23 surrenders of the contract.

24 Notwithstanding the requirements of this section, any deferred
25 annuity contract may provide that if no considerations have been
26 received under a contract for a period of two full years and the
27 portion of the paid-up annuity benefit at maturity on the plan
28 stipulated in the contract arising from considerations paid before such
29 period would be less than twenty dollars monthly, the company may at
30 its option terminate the contract by payment in cash of the then
31 present value of the portion of the paid-up annuity benefit, calculated
32 on the basis of the mortality table, if any, and interest rate
33 specified in the contract for determining the paid-up annuity benefit,
34 and by such payment is relieved of any further obligation under such
35 contract.

36 **Sec. 2.** RCW 48.23.440 and 1982 1st ex.s. c 9 s 24 are each amended
37 to read as follows:

1 The minimum values as specified in RCW 48.23.450, 48.23.460,
2 48.23.470, 48.23.480, and 48.23.500 of any paid-up annuity, cash
3 surrender, or death benefits available under an annuity contract shall
4 be based upon minimum nonforfeiture amounts as defined in this section.

5 (1) ~~((With respect to contracts providing for flexible
6 considerations,))~~ The minimum nonforfeiture amount at any time at or
7 prior to the commencement of any annuity payments is equal to an
8 accumulation up to such time at ((a)) rates of interest ((of three
9 percent per annum of percentages)) as indicated in subsection (2) of
10 this section of the net considerations, as defined in this subsection,
11 paid prior to such time, decreased by the sum of the following:

12 (a) Any prior withdrawals from or partial surrenders of the
13 contract accumulated at ((a)) rates of interest ~~((of three percent per
14 annum))~~ as indicated in subsection (2) of this section; ~~((and))~~

15 (b) An annual contract charge of fifty dollars, accumulated at
16 rates of interest as indicated in subsection (2) of this section;

17 (c) Any premium tax paid by the insurer for the contract,
18 accumulated at rates of interest as indicated in subsection (2) of this
19 section; and

20 (d) The amount of any indebtedness to the company on the contract,
21 including interest due and accrued~~((, and increased by any existing
22 additional amounts credited by the company to the contract))~~.

23 The net considerations for a given contract year used to define the
24 minimum nonforfeiture amount shall be an amount ~~((not less than zero
25 and shall be))~~ equal to ~~((the corresponding))~~ eighty-seven and one-half
26 percent of the gross considerations credited to the contract during
27 that contract year ~~((less an annual contract charge of thirty dollars
28 and less a collection charge of one dollar and twenty five cents per
29 consideration credited to the contract during that contract year. The
30 percentages of net considerations shall be sixty five percent of the
31 net consideration for the first contract year and eighty seven and one-
32 half percent of the net considerations for the second and later
33 contract years. Notwithstanding the provisions of the preceding
34 sentence, the percentage shall be sixty five percent of the portion of
35 the total net consideration for any renewal contract year which exceeds
36 by not more than two times the sum of those portions of the net
37 considerations in all prior contract years for which the percentage was
38 sixty five percent.~~

1 ~~(2) With respect to contracts providing for fixed scheduled~~
2 ~~considerations, minimum nonforfeiture amounts shall be calculated on~~
3 ~~the assumption that considerations are paid annually in advance and~~
4 ~~shall be defined as for contracts with flexible considerations which~~
5 ~~are paid annually with two exceptions:~~

6 ~~(a) The portion of the net consideration for the first contract~~
7 ~~year to be accumulated shall be the sum of sixty five percent of the~~
8 ~~net consideration for the first contract year plus twenty two and one~~
9 ~~half percent of the excess of the net consideration for the first~~
10 ~~contract year over the lesser of the net considerations for the second~~
11 ~~and third contract years; and~~

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

14 ~~(3) With respect to contracts providing for a single consideration,~~
15 ~~minimum nonforfeiture amounts shall be defined as for contracts with~~
16 ~~flexible considerations except that the percentage of net consideration~~
17 ~~used to determine the minimum nonforfeiture amount shall be equal to~~
18 ~~ninety percent and the net consideration shall be the gross~~
19 ~~consideration less a contract charge of seventy five dollars)).~~

20 (2) The interest rate used in determining minimum nonforfeiture
21 amounts shall be an annual rate of interest determined as the lesser of
22 three percent per annum and the following, which shall be specified in
23 the contract if the interest rate will be reset:

24 (a) The five-year constant maturity treasury rate reported by the
25 federal reserve as of a date certain, or averaged over a period,
26 rounded to the nearest one-twentieth of one percent, specified in the
27 contract no longer than fifteen months prior to the contract issue date
28 or redetermination date under (d) of this subsection;

29 (b) Reduced by one hundred twenty-five basis points;

30 (c) Where the resulting interest rate is not less than one percent;
31 and

32 (d) The interest rate shall apply to an initial period and may be
33 redetermined for additional periods. The redetermination date, basis,
34 and period, if any, shall be stated in the contract. The basis is the
35 date or average over a specified period that produces the value of the
36 five-year constant maturity treasury rate to be used at each
37 redetermination date.

1 (3) During the period or term that a contract provides substantive
2 participation in an equity indexed benefit, it may increase the
3 reduction described in subsection (2)(b) of this section by up to an
4 additional one hundred basis points to reflect the value of the equity
5 index benefit. The present value at the contract issue date, and at
6 each redetermination date thereafter, of the additional reduction may
7 not exceed the market value of the benefit. The commissioner may
8 require a demonstration that the present value of the additional
9 reduction does not exceed the market value of the benefit. If a
10 demonstration is not acceptable to the commissioner, the commissioner
11 may disallow or limit the additional reduction.

12 (4) The commissioner may adopt rules to implement subsection (3) of
13 this section and to provide for further adjustments to the calculation
14 of minimum nonforfeiture amounts for contracts that provide substantive
15 participation in an equity index benefit and for other policies that
16 the commissioner determines justify an adjustment.

17 (5) Before January 1, 2006, an insurer may issue an annuity policy
18 under this section as in effect on December 31, 2003; or issue an
19 annuity policy under this section as in effect on July 1, 2004. On or
20 after January 1, 2006, an insurer must issue an annuity policy under
21 this section as in effect on or after July 1, 2004.

22 NEW SECTION. Sec. 3. This act takes effect July 1, 2004.

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