

As Introduced

**125th General Assembly
Regular Session
2003-2004**

S. B. No. 187

Senators Nein, Robert Gardner, Armbruster, Schuler, Stivers, Mumper

A BILL

To amend sections 3915.02, 3915.073, and 3915.14 of
the Revised Code to adopt a new formula for
determining the minimum nonforfeiture value of an
individual deferred annuity, to require insurance
companies to obtain the Superintendent of
Insurance's approval prior to deferring the
payment of a cash surrender benefit, and to
prohibit the delivery or use of an annuity
contract and its related endorsements for thirty
days after the form of the contract or endorsement
is filed with the Superintendent, unless earlier
approved by the Superintendent, and to amend the
version of section 3915.073 of the Revised Code as
results from this act two years after the act's
effective date.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3915.02, 3915.073, and 3915.14 of
the Revised Code be amended to read as follows:

Sec. 3915.02. This chapter does not apply to annuities except
as provided in sections 3915.051, 3915.073, 3915.14, and 3915.21
to 3915.24 of the Revised Code, industrial policies except as

provided in sections 3915.07 and 3915.071 of the Revised Code, 21
fraternal benefit societies, corporations or associations 22
operating on the assessment plan, or corporations or associations 23
which have been organized under sections 3919.01 to 3919.19 of the 24
Revised Code, except corporations and associations which, as of 25
September 28, 1933, have amended their articles of incorporation 26
under section 3919.13 of the Revised Code. 27

Sec. 3915.073. (A) This section shall be known as the 28
standard nonforfeiture law for individual deferred annuities. 29

(B) This section does not apply to any reinsurance, group 30
annuity purchased under a retirement plan or plan of deferred 31
compensation established or maintained by an employer, including a 32
partnership or sole proprietorship, or by an employee 33
organization, or by both, other than a plan providing individual 34
retirement accounts or individual retirement annuities under 35
section 408 of the Internal Revenue Code of 1954, 26 U.S.C.A. 408, 36
as amended, premium deposit fund, variable annuity, investment 37
annuity, immediate annuity, any deferred annuity contract after 38
annuity payments have commenced, or reversionary annuity, nor to 39
any contract which is delivered outside this state through an 40
agent or other representative of the company issuing the contract. 41

(C) In the case of contracts issued on or after the operative 42
date of this section as defined in division ~~(L)~~(M) of this 43
section, no contract of annuity, except as stated in division (B) 44
of this section, shall be delivered or issued for delivery in this 45
state unless ~~it~~ the contract contains in substance the following 46
provisions, or corresponding provisions that in the opinion of the 47
superintendent of insurance are at least as favorable to the 48
~~contractholder, upon~~ contract owners, relative to the cessation of 49
payment of consideration under the contract: 50

(1) That upon cessation of payment of considerations under a contract, or upon the written request of the contract owner, the company ~~will~~ shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in divisions (E), (F), (G), (H), and (J) of this section;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company ~~will~~ shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in divisions (E), (F), (H), and (J) of this section. The company ~~shall~~ may reserve the right to defer the payment of such cash surrender benefit for a period ~~of~~ not to exceed six months after demand therefor with surrender of the contract. The deferral is contingent upon the company's conveyance of a written request for the deferral to the superintendent and the company's receipt of written approval from the superintendent for the deferral. The request shall address the necessity and equitability to all contract owners of the deferral.

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

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

Notwithstanding the requirements of this section, any 83
deferred annuity contract may provide that if no considerations 84
have been received under a contract for a period of two full years 85
and the portion of the paid-up annuity benefit at maturity on the 86
plan stipulated in the contract arising from considerations paid 87
prior to such period would be less than twenty dollars monthly, 88
the company may at its option terminate such contract by payment 89
in cash of the then present value of such portion of the paid-up 90
annuity benefit, calculated on the basis of the mortality table, 91
if any, and interest rate specified in the contract for 92
determining the paid-up annuity benefit, and by such payment shall 93
be relieved of any further obligation under such contract. 94

(D) The minimum values as specified in divisions (E), (F), 95
(G), (H), and (J) of this section of any paid-up annuity, cash 96
surrender, or death benefits available under an annuity contract 97
shall be based upon minimum nonforfeiture amounts as defined in 98
divisions (D)(1), (2), and (3) or divisions (D)(4), (5), (6), and 99
(7) of this section. 100

(1) With respect to contracts providing for flexible 101
considerations, the minimum nonforfeiture amount at any time at or 102
prior to the commencement of any annuity payments shall be equal 103
to an accumulation up to such time at a rate of interest of ~~three~~ 104
one and one-half per cent per annum of percentages of the net 105
considerations, as defined in division (D)(1) of this section, 106
paid prior to such time, decreased by the sum of: 107

(a) Any prior withdrawals from or partial surrenders of the 108
contract accumulated at a rate of interest of ~~three~~ one and 109
one-half per cent per annum; ~~and~~ 110

(b) The amount of any indebtedness to the company on the 111
contract, including interest due and accrued; and increased by any 112
existing additional amounts credited by the company to the 113

contract. 114

The net considerations for a given contract year used to 115
define the minimum nonforfeiture amount shall be an amount not 116
less than zero and shall be equal to the corresponding gross 117
considerations credited to the contract during that contract year 118
less an annual contract charge of thirty dollars and less a 119
collection charge of one dollar and twenty-five cents per 120
consideration credited to the contract during that contract year. 121
The percentages of net considerations shall be sixty-five per cent 122
of the net consideration for the first contract year and 123
eighty-seven and one-half per cent of the net considerations for 124
the second and later contract years. Notwithstanding the 125
provisions of the preceding sentence, the percentage shall be 126
sixty-five per cent of the portion of the total net consideration 127
for any renewal contract year that exceeds by not more than two 128
times the sum of those portions of the net considerations in all 129
prior contract years for which the percentage was sixty-five per 130
cent. 131

~~Notwithstanding any other provision of this section, for any 132
contract issued on or after the effective date of this amendment, 133
and before September 1, 2004, the interest rate at which net 134
considerations, partial withdrawals, and partial surrenders shall 135
be accumulated for purposes of determining minimum nonforfeiture 136
amounts shall be one and one half per cent per annum. 137~~

(2) With respect to contracts providing for fixed scheduled 138
considerations, minimum nonforfeiture amounts shall be calculated 139
on the assumption that considerations are paid annually in advance 140
and shall be defined as for contracts with flexible considerations 141
which are paid annually with two exceptions: 142

(a) The portion of the net consideration for the first 143
contract year to be accumulated shall be the sum of sixty-five per 144
cent of the net consideration for the first contract year plus 145

twenty-two and one-half per cent of the excess of the net 146
consideration for the first contract year over the lesser of the 147
net considerations for the second and third contract years; 148

(b) The annual contract charge shall be the lesser of (i) 149
thirty dollars or (ii) ten per cent of the gross annual 150
consideration. 151

(3) With respect to contracts providing for a single 152
consideration, minimum nonforfeiture amounts shall be defined as 153
for contracts with flexible considerations except that the 154
percentage of net consideration used to determine the minimum 155
nonforfeiture amount shall be equal to ninety per cent and the net 156
consideration shall be the gross consideration less a contract 157
charge of seventy-five dollars. 158

(4)(a) The minimum nonforfeiture amount at any time at or 159
prior to the commencement of any annuity payments shall be equal 160
to an accumulation up to such time at rates of interest determined 161
in accordance with division (D)(5) of this section of the net 162
considerations, determined in accordance with division (D)(4)(b) 163
of this section, paid prior to such time, decreased by the sum of: 164

(i) Any prior withdrawals from or partial surrenders of the 165
contract, accumulated at rates of interest determined in 166
accordance with division (D)(5) of this section; 167

(ii) An annual contract charge of fifty dollars, accumulated 168
at rates of interest determined in accordance with division (D)(5) 169
of this section; 170

(iii) Any premium tax paid by the company for the contract, 171
accumulated at rates of interest determined in accordance with 172
division (D)(5) of this section; 173

(iv) The amount of any indebtedness to the company on the 174
contract, including interest due and accrued. 175

(b) The net considerations for a given contract year used to 176
define the minimum nonforfeiture amount shall be an amount equal 177
to eighty-seven and one-half per cent of the gross considerations 178
credited to the contract during that contract year. 179

(5)(a) The interest rate used in determining minimum 180
nonforfeiture amounts under divisions (D)(4) to (D)(7) of this 181
section shall be an annual rate of interest determined as the 182
lesser of three per cent per annum or the following: 183

(i) The five-year constant maturity treasury rate reported by 184
the federal reserve as of a date or an average over a period, as 185
specified in the contract, rounded to the nearest one-twentieth of 186
one per cent, with a period extending no longer than fifteen 187
months prior to the contract issue date or the redetermination 188
date specified in division (D)(5)(b) of this section; 189

(ii) Reduced by one hundred twenty-five basis points; 190

(iii) Where the resulting interest rate is not less than one 191
per cent. 192

(b) The interest rate determined under division (D)(5)(a) of 193
this section shall apply for an initial period and may be 194
redetermined for additional periods. The redetermination date, 195
basis and period, if any, shall be stated in the contract. The 196
basis is the date or average over a specified period that produces 197
the value of the five-year constant maturity treasury rate to be 198
used at each redetermination date. 199

(6) During the period or term that a contract provides 200
substantative participation in an equity-indexed benefit, the 201
contract may provide for an increase in the reduction described in 202
division (D)(5)(a)(ii) of this section by a maximum of one hundred 203
basis points to reflect the value of the equity-indexed benefit. 204
The present value at the contract issue date, and at each 205
redetermination date thereafter, of the additional reduction shall 206

not exceed the market value of the benefit. The superintendent may 207
require a demonstration that the present value of the additional 208
reduction does not exceed the market value of the benefit. If the 209
demonstration is not acceptable to the superintendent, the 210
superintendent may disallow or limit the additional reduction. 211

(7) The superintendent may adopt rules to implement division 212
(D)(6) of this section and to provide for further adjustments to 213
the calculation of minimum nonforfeiture amounts for contracts 214
that provide substantive participation in an equity-indexed 215
benefit and for other contracts for which the superintendent 216
determines adjustments are justified. 217

(E) Any paid-up annuity benefit available under a contract 218
shall be such that its present value on the date annuity payments 219
are to commence is at least equal to the minimum nonforfeiture 220
amount on that date. Such present value shall be computed using 221
the mortality table, if any, and the interest rate specified in 222
the contract for determining the minimum paid-up annuity benefits 223
guaranteed in the contract. 224

(F) For contracts which provide cash surrender benefits, such 225
cash surrender benefits available prior to maturity shall not be 226
less than the present value as of the date of surrender of that 227
portion of the maturity value of the paid-up annuity benefit that 228
would be provided under the contract at maturity arising from 229
considerations paid prior to the time of cash surrender reduced by 230
the amount appropriate to reflect any prior withdrawals from or 231
partial surrenders of the contract, such present value being 232
calculated on the basis of an interest rate not more than one per 233
cent higher than the interest rate specified in the contract for 234
accumulating the net considerations to determine such maturity 235
value, decreased by the amount of any indebtedness to the company 236
on the contract, including interest due and accrued, and increased 237
by any existing additional amounts credited by the company to the 238

contract. In no event shall any cash surrender benefit be less 239
than the minimum nonforfeiture amount at that time. The death 240
benefit under such contracts shall be at least equal to the cash 241
surrender benefit. 242

(G) For contracts that do not provide cash surrender 243
benefits, the present value of any paid-up annuity benefit 244
available as a nonforfeiture option at any time prior to maturity 245
shall not be less than the present value of that portion of the 246
maturity value of the paid-up annuity benefit provided under the 247
contract arising from considerations paid prior to the time the 248
contract is surrendered in exchange for, or changed to, a deferred 249
paid-up annuity, such present value being calculated for the 250
period prior to the maturity date on the basis of the interest 251
rate specified in the contract for accumulating the net 252
considerations to determine such maturity value, and increased by 253
any existing additional amounts credited by the company to the 254
contract. For contracts that do not provide any death benefits 255
prior to the commencement of any annuity payments, such present 256
values shall be calculated on the basis of such interest rate and 257
the mortality table specified in the contract for determining the 258
maturity value of the paid-up annuity benefit. However, in no 259
event shall the present value of a paid-up annuity benefit be less 260
than the minimum nonforfeiture amount at that time. 261

(H) For the purpose of determining the benefits calculated 262
under divisions (F) and (G) of this section, in the case of 263
annuity contracts under which an election may be made to have 264
annuity payments commence at optional maturity dates, the maturity 265
date shall be deemed to be the latest date for which election 266
shall be permitted by the contract, but shall not be deemed to be 267
later than the anniversary of the contract next following the 268
annuitant's seventieth birthday or the tenth anniversary of the 269
contract, whichever is later. 270

(I) Any contract that does not provide cash surrender 271
benefits or does not provide death benefits at least equal to the 272
minimum nonforfeiture amount prior to the commencement of any 273
annuity payments shall include a statement in a prominent place in 274
the contract that such benefits are not provided. 275

(J) Any paid-up annuity, cash surrender, or death benefits 276
available at any time, other than on the contract anniversary 277
under any contract with fixed scheduled considerations, shall be 278
calculated with allowance for the lapse of time and the payment of 279
any scheduled considerations beyond the beginning of the contract 280
year in which cessation of payment of considerations under the 281
contract occurs. 282

(K) For any contract that provides, within the same contract 283
by rider or supplemental contract provision, both annuity benefits 284
and life insurance benefits that are in excess of the greater of 285
cash surrender benefits or a return of the gross considerations 286
with interest, the minimum nonforfeiture benefit shall be equal to 287
the sum of the minimum nonforfeiture benefits for the annuity 288
portion and the minimum nonforfeiture benefits, if any, for the 289
life insurance portion computed as if each portion were a separate 290
contract. Notwithstanding the provisions of divisions (E), (F), 291
(G), (H), and (J) of this section, additional benefits payable: 292

(1) In the event of total and permanent disability; 293

(2) As reversionary annuity or deferred reversionary annuity 294
benefits; or 295

(3) As other policy benefits additional to life insurance, 296
endowment and annuity benefits, and considerations for all such 297
additional benefits shall be disregarded in ascertaining the 298
minimum nonforfeiture amounts, paid-up annuity, cash surrender, 299
and death benefits that may be required by this section. 300

The inclusion of such additional benefits shall not be 301

required in any paid-up benefits, unless such additional benefits 302
separately would require minimum nonforfeiture amounts, paid-up 303
annuity, cash surrender, and death benefits. 304

~~(L) Any company may file with the superintendent a written 305
notice of its election to comply with the provisions of this 306
section on or before July 1, 1980. The date specified in the 307
notice shall be the operative date of this section for such 308
company. If a company makes no such election, the operative date 309
of this section for the company shall be July 1, 1980. The 310
superintendent may adopt rules in accordance with Chapter 119. of 311
the Revised Code to implement this section. 312~~

(M) Before the second anniversary of the effective date of 313
this amendment, a company may elect to apply this section to 314
annuity contracts on a contract-form-by-contract-form basis by 315
using either divisions (D)(1), (2), and (3) or divisions (D)(4), 316
(5), (6), and (7) of this section. Divisions (D)(1), (2), and (3) 317
of this section shall be repealed on the second anniversary date 318
of the effective date of this amendment. 319

Sec. 3915.14. (A) No policy of life insurance, nor any 320
indorsement, rider, or application which becomes or is designed to 321
become a part of any such policy, shall be delivered, issued for 322
delivery, or used in this state, or be issued by a life insurance 323
company organized under the laws of this state, until thirty days 324
after the form of said policy, indorsement, rider, or application 325
has been filed with the superintendent of insurance, unless within 326
~~such~~ that time the superintendent gives the ~~insurer~~ insurance 327
company written approval for the use of ~~such~~ the form. ~~When~~ 328

(B) No individual or group annuity policy or contract, 329
including, but not limited to, a guaranteed investment contract, 330
deposit administration contract, funding agreement, structured 331
settlement agreement, or similar types, excluding those required 332

to be filed with the superintendent pursuant to section 3911.011 333
of the Revised Code, and no certificate, endorsement, rider, or 334
application which becomes or is designed to become a part of any 335
such policy, contract, or agreement, shall be delivered, issued 336
for delivery, or used in this state, or shall be issued by a life 337
insurance company organized under the laws of this state, until 338
thirty days after the form of the policy, contract, agreement, 339
certificate, endorsement, rider, or application has been filed 340
with the superintendent, unless within that time the 341
superintendent gives the insurance company written approval for 342
the use of the form. 343

(C) When the superintendent finds within such thirty-day 344
period that the form filed contains any language ~~which~~ that is 345
prohibited by any law of this state, including any rule of the 346
superintendent, or is inconsistent, ambiguous, misleading, 347
deceptive, or likely to mislead an applicant or policyholder, ~~he~~ 348
the superintendent shall give written notice of such finding to 349
~~any insurer which~~ the insurance company that filed ~~such~~ the form, 350
and thereafter ~~it~~ the insurance company shall not deliver, issue 351
for delivery, or use ~~such~~ the form. 352

The superintendent's action is subject to review by any court 353
of competent ~~jurisdiction~~ jurisdiction, subject to Chapter 119. of 354
the Revised Code. 355

Section 2. That existing sections 3915.02, 3915.073, and 356
3915.14 of the Revised Code are hereby repealed. 357

Section 3. That section 3915.073 of the Revised Code as it 358
results from Section 1 of this act be amended to read as follows: 359

Sec. 3915.073. (A) This section shall be known as the 360
standard nonforfeiture law for individual deferred annuities. 361

(B) This section does not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code of 1954, 26 U.S.C.A. 408, as amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which is delivered outside this state through an agent or other representative of the company issuing the contract.

~~(C) In the case of contracts issued on or after the operative date of this section as defined in division (M) of this section,~~
~~no~~ No contract of annuity, except as stated in division (B) of this section, shall be delivered or issued for delivery in this state unless the contract contains in substance the following provisions, or corresponding provisions that in the opinion of the superintendent of insurance are at least as favorable to the contract owners, relative to the cessation of payment of consideration under the contract:

(1) That upon cessation of payment of considerations under a contract, or upon the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in divisions (E), (F), (G), (H), and (J) of this section;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in divisions (E), (F), (H), and (J) of this section. The company may reserve

the right to defer the payment of such cash surrender benefit for 394
a period not to exceed six months after demand therefor with 395
surrender of the contract. The deferral is contingent upon the 396
company's conveyance of a written request for the deferral to the 397
superintendent and the company's receipt of written approval from 398
the superintendent for the deferral. The request shall address the 399
necessity and equitability to all contract owners of the deferral. 400

(3) A statement of the mortality table, if any, and interest 401
rates used in calculating any minimum paid-up annuity, cash 402
surrender, or death benefits that are guaranteed under the 403
contract, together with sufficient information to determine the 404
amounts of such benefits; 405

(4) A statement that any paid-up annuity, cash surrender, or 406
death benefits that may be available under the contract are not 407
less than the minimum benefits required by any statute of the 408
state in which the contract is delivered and an explanation of the 409
manner in which such benefits are altered by the existence of any 410
additional amounts credited by the company to the contract, any 411
indebtedness to the company on the contract, or any prior 412
withdrawals from or partial surrenders of the contract. 413

Notwithstanding the requirements of this section, any 414
deferred annuity contract may provide that if no considerations 415
have been received under a contract for a period of two full years 416
and the portion of the paid-up annuity benefit at maturity on the 417
plan stipulated in the contract arising from considerations paid 418
prior to such period would be less than twenty dollars monthly, 419
the company may at its option terminate such contract by payment 420
in cash of the then present value of such portion of the paid-up 421
annuity benefit, calculated on the basis of the mortality table, 422
if any, and interest rate specified in the contract for 423
determining the paid-up annuity benefit, and by such payment shall 424
be relieved of any further obligation under such contract. 425

(D) The minimum values as specified in divisions (E), (F), 426
(G), (H), and (J) of this section of any paid-up annuity, cash 427
surrender, or death benefits available under an annuity contract 428
shall be based upon minimum nonforfeiture amounts as defined in 429
divisions ~~(D)(1), (2), and (3)~~ or divisions ~~(D)(4), (5), (6), and~~ 430
~~(7)~~ of this section division. 431

~~(1) With respect to contracts providing for flexible 432
considerations, the minimum nonforfeiture amount at any time at or 433
prior to the commencement of any annuity payments shall be equal 434
to an accumulation up to such time at a rate of interest of one 435
and one half per cent per annum of percentages of the net 436
considerations, as defined in division (D)(1) of this section, 437
paid prior to such time, decreased by the sum of: 438~~

~~(a) Any prior withdrawals from or partial surrenders of the 439
contract accumulated at a rate of interest of one and one half per 440
cent per annum; 441~~

~~(b) The amount of any indebtedness to the company on the 442
contract, including interest due and accrued; and increased by any 443
existing additional amounts credited by the company to the 444
contract. 445~~

~~The net considerations for a given contract year used to 446
define the minimum nonforfeiture amount shall be an amount not 447
less than zero and shall be equal to the corresponding gross 448
considerations credited to the contract during that contract year 449
less an annual contract charge of thirty dollars and less a 450
collection charge of one dollar and twenty five cents per 451
consideration credited to the contract during that contract year. 452
The percentages of net considerations shall be sixty five per cent 453
of the net consideration for the first contract year and 454
eighty seven and one half per cent of the net considerations for 455
the second and later contract years. Notwithstanding the 456~~

~~provisions of the preceding sentence, the percentage shall be 457
sixty five per cent of the portion of the total net consideration 458
for any renewal contract year that exceeds by not more than two 459
times the sum of those portions of the net considerations in all 460
prior contract years for which the percentage was sixty five per 461
cent. 462~~

~~(2) With respect to contracts providing for fixed scheduled 463
considerations, minimum nonforfeiture amounts shall be calculated 464
on the assumption that considerations are paid annually in advance 465
and shall be defined as for contracts with flexible considerations 466
which are paid annually with two exceptions: 467~~

~~(a) The portion of the net consideration for the first 468
contract year to be accumulated shall be the sum of sixty five per 469
cent of the net consideration for the first contract year plus 470
twenty two and one half per cent of the excess of the net 471
consideration for the first contract year over the lesser of the 472
net considerations for the second and third contract years; 473~~

~~(b) The annual contract charge shall be the lesser of (i) 474
thirty dollars or (ii) ten per cent of the gross annual 475
consideration. 476~~

~~(3) With respect to contracts providing for a single 477
consideration, minimum nonforfeiture amounts shall be defined as 478
for contracts with flexible considerations except that the 479
percentage of net consideration used to determine the minimum 480
nonforfeiture amount shall be equal to ninety per cent and the net 481
consideration shall be the gross consideration less a contract 482
charge of seventy five dollars. 483~~

~~(4)(a) The minimum nonforfeiture amount at any time at or 484
prior to the commencement of any annuity payments shall be equal 485
to an accumulation up to such time at rates of interest determined 486
in accordance with division (D)~~(5)~~(2) of this section of the net 487~~

considerations, determined in accordance with division	488
(D) (4) <u>(1)</u> (b) of this section, paid prior to such time, decreased	489
by the sum of:	490
(i) Any prior withdrawals from or partial surrenders of the	491
contract, accumulated at rates of interest determined in	492
accordance with division (D) (5) <u>(2)</u> of this section;	493
(ii) An annual contract charge of fifty dollars, accumulated	494
at rates of interest determined in accordance with division	495
(D) (5) <u>(2)</u> of this section;	496
(iii) Any premium tax paid by the company for the contract,	497
accumulated at rates of interest determined in accordance with	498
division (D) (5) <u>(2)</u> of this section;	499
(iv) The amount of any indebtedness to the company on the	500
contract, including interest due and accrued.	501
(b) The net considerations for a given contract year used to	502
define the minimum nonforfeiture amount shall be an amount equal	503
to eighty-seven and one-half per cent of the gross considerations	504
credited to the contract during that contract year.	505
(5) <u>(2)</u> (a) The interest rate used in determining minimum	506
nonforfeiture amounts under divisions (D) (4) <u>(1)</u> to (7) <u>(4)</u> of this	507
section shall be an annual rate of interest determined as the	508
lesser of three per cent per annum and <u>or</u> the following:	509
(i) The five-year constant maturity treasury rate reported by	510
the federal reserve as of a date or an average over a period, as	511
specified in the contract, rounded to the nearest one-twentieth of	512
one per cent, with a period extending no longer than fifteen	513
months prior to the contract issue date or the redetermination	514
date specified in division (D) (5) <u>(2)</u> (b) of this section;	515
(ii) Reduced by one hundred twenty-five basis points;	516
(iii) Where the resulting interest rate is not less than one	517

per cent.

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(b) The interest rate determined under division (D)~~(5)~~(2)(a) of this section 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. The basis is the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.

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~~(6)~~(3) During the period or term that a contract provides substantive participation in an equity-indexed benefit, the contract may provide for an increase in the reduction described in division (D)~~(5)~~(2)(a)(ii) of this section by a maximum of one hundred basis points to reflect the value of the equity-indexed benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The superintendent may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. If the demonstration is not acceptable to the superintendent, the superintendent may disallow or limit the additional reduction.

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~~(7)~~(4) The superintendent may adopt rules to implement division (D)~~(6)~~(3) of this section and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity-indexed benefit and for other contracts for which the superintendent determines adjustments are justified.

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(E) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in

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the contract for determining the minimum paid-up annuity benefits 549
guaranteed in the contract. 550

(F) For contracts which provide cash surrender benefits, such 551
cash surrender benefits available prior to maturity shall not be 552
less than the present value as of the date of surrender of that 553
portion of the maturity value of the paid-up annuity benefit that 554
would be provided under the contract at maturity arising from 555
considerations paid prior to the time of cash surrender reduced by 556
the amount appropriate to reflect any prior withdrawals from or 557
partial surrenders of the contract, such present value being 558
calculated on the basis of an interest rate not more than one per 559
cent higher than the interest rate specified in the contract for 560
accumulating the net considerations to determine such maturity 561
value, decreased by the amount of any indebtedness to the company 562
on the contract, including interest due and accrued, and increased 563
by any existing additional amounts credited by the company to the 564
contract. In no event shall any cash surrender benefit be less 565
than the minimum nonforfeiture amount at that time. The death 566
benefit under such contracts shall be at least equal to the cash 567
surrender benefit. 568

(G) For contracts that do not provide cash surrender 569
benefits, the present value of any paid-up annuity benefit 570
available as a nonforfeiture option at any time prior to maturity 571
shall not be less than the present value of that portion of the 572
maturity value of the paid-up annuity benefit provided under the 573
contract arising from considerations paid prior to the time the 574
contract is surrendered in exchange for, or changed to, a deferred 575
paid-up annuity, such present value being calculated for the 576
period prior to the maturity date on the basis of the interest 577
rate specified in the contract for accumulating the net 578
considerations to determine such maturity value, and increased by 579
any existing additional amounts credited by the company to the 580

contract. For contracts that do not provide any death benefits 581
prior to the commencement of any annuity payments, such present 582
values shall be calculated on the basis of such interest rate and 583
the mortality table specified in the contract for determining the 584
maturity value of the paid-up annuity benefit. However, in no 585
event shall the present value of a paid-up annuity benefit be less 586
than the minimum nonforfeiture amount at that time. 587

(H) For the purpose of determining the benefits calculated 588
under divisions (F) and (G) of this section, in the case of 589
annuity contracts under which an election may be made to have 590
annuity payments commence at optional maturity dates, the maturity 591
date shall be deemed to be the latest date for which election 592
shall be permitted by the contract, but shall not be deemed to be 593
later than the anniversary of the contract next following the 594
annuitant's seventieth birthday or the tenth anniversary of the 595
contract, whichever is later. 596

(I) Any contract that does not provide cash surrender 597
benefits or does not provide death benefits at least equal to the 598
minimum nonforfeiture amount prior to the commencement of any 599
annuity payments shall include a statement in a prominent place in 600
the contract that such benefits are not provided. 601

(J) Any paid-up annuity, cash surrender, or death benefits 602
available at any time, other than on the contract anniversary 603
under any contract with fixed scheduled considerations, shall be 604
calculated with allowance for the lapse of time and the payment of 605
any scheduled considerations beyond the beginning of the contract 606
year in which cessation of payment of considerations under the 607
contract occurs. 608

(K) For any contract that provides, within the same contract 609
by rider or supplemental contract provision, both annuity benefits 610
and life insurance benefits that are in excess of the greater of 611
cash surrender benefits or a return of the gross considerations 612

with interest, the minimum nonforfeiture benefit shall be equal to 613
the sum of the minimum nonforfeiture benefits for the annuity 614
portion and the minimum nonforfeiture benefits, if any, for the 615
life insurance portion computed as if each portion were a separate 616
contract. Notwithstanding the provisions of divisions (E), (F), 617
(G), (H), and (J) of this section, additional benefits payable: 618

(1) In the event of total and permanent disability; 619

(2) As reversionary annuity or deferred reversionary annuity 620
benefits; or 621

(3) As other policy benefits additional to life insurance, 622
endowment and annuity benefits, and considerations for all such 623
additional benefits shall be disregarded in ascertaining the 624
minimum nonforfeiture amounts, paid-up annuity, cash surrender, 625
and death benefits that may be required by this section. 626

The inclusion of such additional benefits shall not be 627
required in any paid-up benefits, unless such additional benefits 628
separately would require minimum nonforfeiture amounts, paid-up 629
annuity, cash surrender, and death benefits. 630

(L) The superintendent may adopt rules in accordance with 631
Chapter 119. of the Revised Code to implement this section. 632

~~(M) Before the second anniversary of the effective date of 633
this amendment, a company may elect to apply this section to 634
annuity contracts on a contract form by contract form basis by 635
using either divisions (D)(1), (2), and (3) or divisions (D)(4), 636
(5), (6), and (7) of this section. Divisions (D)(1), (2), and (3) 637
of this section shall be repealed on the second anniversary date 638
of the effective date of this amendment. 639~~

Section 4. That existing section 3915.073 of the Revised Code 640
as it results from Section 1 of this act is hereby repealed. 641

Section 5. Sections 3 and 4 of this act shall take effect two 642
years after the effective date of this act. 643

Section 6. Section 3915.02 of the Revised Code is presented 644
in this act as a composite of the section as amended by both Sub. 645
H.B. 16 and Sub. S.B. 137 of the 119th General Assembly. The 646
General Assembly, applying the principle stated in division (B) of 647
section 1.52 of the Revised Code that amendments are to be 648
harmonized if reasonably capable of simultaneous operation, finds 649
that the composite is the resulting version of the section in 650
effect prior to the effective date of the section as presented in 651
this act. 652