

REFERENCE TITLE: deferred annuities; cash surrender; payment

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

## **SB 1073**

Introduced by  
Senator Gray L

AN ACT

AMENDING SECTION 20-1232, ARIZONA REVISED STATUTES; RELATING TO INDIVIDUAL 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 unless the contract contains in substance the following provisions or  
9 corresponding provisions that in the opinion of the director are at least as  
10 favorable to the contract holder on cessation of payment of considerations  
11 under the contract:

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

16 2. If a contract provides for a lump sum settlement at maturity, or at  
17 any other time, that upon surrender of the contract at or prior to the  
18 commencement of any annuity payments, the company shall pay in lieu of a  
19 paid-up annuity benefit a cash surrender benefit of such amount as is  
20 specified in subsections D, E, G and I. The company may reserve the right to  
21 defer the payment of the cash surrender benefit for a period not to exceed  
22 ~~six months~~ THIRTY DAYS after demand for such cash surrender benefit with  
23 surrender of the contract after making written request and receiving written  
24 approval from the director. The request shall address the necessity and  
25 equitability to all policyholders of the deferral.

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

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

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

1 specified in the contract for determining the paid-up annuity benefit, and by  
2 this payment shall be relieved of any further obligation under the contract.

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

7 1. The minimum nonforfeiture amount at any time at or before the  
8 commencement of any annuity payments is equal to an accumulation up to that  
9 time at rates of interest, as prescribed in paragraph 2 of this subsection,  
10 of the net considerations paid before that time, decreased by the sum of all  
11 of the following:

12 (a) Any prior withdrawals from or partial surrenders of the contract  
13 accumulated at rates of interest as prescribed in paragraph 2 of this  
14 subsection.

15 (b) An annual contract charge of fifty dollars, accumulated at rates  
16 of interest as prescribed in paragraph 2 of this subsection.

17 (c) Any premium tax paid by the company for the contract, accumulated  
18 at rates of interest as prescribed in paragraph 2 of this subsection.

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

21 For the purposes of this paragraph, the net considerations for a given  
22 contract year used to define the minimum nonforfeiture amount is an amount  
23 equal to eighty-seven and one-half per cent of the gross considerations  
24 credited to the contract during that contract year.

25 2. The interest rate used in determining minimum nonforfeiture amounts  
26 is an annual rate of interest determined as the lesser of three per cent per  
27 annum and the following, which shall be specified in the contract if the  
28 interest rate will be reset:

29 (a) The five-year constant maturity treasury rate reported by the  
30 federal reserve as of a date, or average over a period, rounded to the  
31 nearest one-twentieth of one per cent, specified in the contract no longer  
32 than fifteen months before the contract issue date or redetermination date  
33 under subdivision (d) of this paragraph.

34 (b) Reduced by one hundred twenty-five basis points.

35 (c) Where the resulting interest rate is not less than one per cent.

36 (d) The interest rate shall apply for an initial period and may be  
37 redetermined for additional periods. The redetermination date, basis and  
38 period, if any, shall be stated in the contract. The basis is the date or  
39 average over a specified period that produces the value of the five-year  
40 constant maturity treasury rate to be used at each 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 reduction  
3 described in paragraph 2, subdivision (b) of this subsection by up to an  
4 additional one hundred basis points to reflect the value of the equity index  
5 benefit. The present value at the contract issue date, and at each  
6 redetermination date thereafter, of the additional reduction shall not exceed  
7 the market value of the benefit. The director may require a demonstration  
8 that the present value of the additional reduction does not exceed the market  
9 value of the benefit. Lacking such a demonstration that is acceptable to the  
10 director, the director may disallow or limit the additional reduction.

11           4. The director may adopt rules to implement paragraph 3 of this  
12 subsection and to provide for further adjustments to the calculation of  
13 minimum nonforfeiture amounts for contracts that provide substantive  
14 participation in an equity index benefit and for other contracts where the  
15 director determines that adjustments are justified.

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

22           E. For contracts that provide cash surrender benefits, the cash  
23 surrender benefits available prior to maturity shall not be less than the  
24 present value as of the date of surrender of that portion of the maturity  
25 value of the paid-up annuity benefit that would be provided under the  
26 contract at maturity arising from considerations paid prior to the time of  
27 cash surrender reduced by the amount appropriate to reflect any prior  
28 withdrawals from or partial surrenders of the contract, the present value  
29 being calculated on the basis of an interest rate not more than one per cent  
30 higher than the interest rate specified in the contract for accumulating the  
31 net considerations to determine maturity value, decreased by the amount of  
32 any indebtedness to the company on the contract, including interest due and  
33 accrued, and increased by any existing additional amounts credited by the  
34 company to the contract. In no event shall any cash surrender benefit be  
35 less than the minimum nonforfeiture amount at that time. The death benefit  
36 under such contracts shall be at least equal to the cash surrender benefit.

37           F. For contracts that do not provide cash surrender benefits, the  
38 present value of any paid-up annuity benefit available as a nonforfeiture  
39 option at any time prior to maturity shall not be less than the present value  
40 of that portion of the maturity value of the paid-up annuity benefit provided  
41 under the contract arising from considerations paid prior to the time the  
42 contract is surrendered in exchange for, or changed to, a deferred paid-up  
43 annuity, the present value being calculated for the period prior to the  
44 maturity date on the basis of the interest rate specified in the contract for  
45 accumulating the net considerations to determine maturity value and increased

1 by any additional amounts credited by the company to the contract. For  
2 contracts that do not provide any death benefits prior to the commencement of  
3 any annuity payments, the present values shall be calculated on the basis of  
4 such interest rate and the mortality table specified in the contract for  
5 determining the maturity value of the paid-up annuity benefit. However, in no  
6 event shall the present value of a paid-up annuity benefit be less than the  
7 minimum nonforfeiture amount at that time.

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

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

19 I. Any paid-up annuity, cash surrender or death benefits available at  
20 any time, other than on the contract anniversary under any contract with  
21 fixed scheduled considerations, shall be calculated with allowance for the  
22 lapse of time and the payment of any scheduled considerations beyond the  
23 beginning of the contract year in which cessation of payment of  
24 considerations under the contract occurs.

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

1           K. This section shall not apply to any reinsurance, group annuity  
2 purchased under a retirement plan or plan of deferred compensation  
3 established or maintained by an employer, including a partnership or sole  
4 proprietorship, or by an employee organization, or by both, other than a plan  
5 providing individual retirement accounts or individual retirement annuities  
6 under section 408 of the internal revenue code, as now or hereafter amended,  
7 premium deposit fund, variable annuity, investment annuity, immediate  
8 annuity, any deferred annuity contract after annuity payments have commenced,  
9 or reversionary annuity, nor to any contract which shall be delivered outside  
10 this state through an insurance producer or other representative of the  
11 company issuing the contract.

12           L. The director may adopt rules to implement this section.