

LIFE INSURANCE AND ANNUITIES LAW

AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies Insurance Code provisions dealing with life insurance and annuities.

Highlighted Provisions:

This bill:

H→ ▶ addresses provisions of the standard nonforfeiture law for individual deferred annuities. ←H

**H→ [~~→ defines a two-tier annuity;~~
~~→ exempts two-tier annuities from certain cash surrender value requirements;]~~ ←H**

▶ makes permissive a requirement that the commissioner make rules to establish standards for materials used in the solicitation or sale of life insurance;

▶ requires each life insurance policy or annuity contract to contain a description on its cover page and explains what must be included in the description;

▶ requires insurers to maintain records that affect the legal effect of a life insurance policy, annuity contract, or certificate of life insurance, for the policy term plus five years;

▶ creates and defines an employer group category and exempts the groups' life insurance policies from certain requirements;

▶ exempts credit union groups and creditor groups that insure debtors from requirements that they notify their members of conversion rights and information;
and

▶ makes technical changes.

Monies Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **31A-22-409**, as last amended by Chapter 97, Laws of Utah 2004

34 **31A-22-425**, as enacted by Chapter 96, Laws of Utah 2004

35 **31A-22-501**, as last amended by Chapter 96, Laws of Utah 2004

36 **31A-22-506**, as enacted by Chapter 242, Laws of Utah 1985

37 **31A-22-507**, as enacted by Chapter 242, Laws of Utah 1985

38 ENACTS:

39 **31A-22-426**, Utah Code Annotated 1953

40 **31A-22-427**, Utah Code Annotated 1953

41 **31A-22-501.1**, Utah Code Annotated 1953



43 *Be it enacted by the Legislature of the state of Utah:*

44 Section 1. Section **31A-22-409** is amended to read:

45 **31A-22-409. Standard Nonforfeiture Law for Individual Deferred Annuities.**

46 (1) This section is known as the "Standard Nonforfeiture Law for Individual Deferred
47 Annuities."

48 (2) This section does not apply to:

49 (a) any reinsurance;

50 (b) a group annuity purchased under a retirement plan or plan of deferred

51 compensation:

52 (i) established or maintained by:

53 (A) an employer, including a partnership or sole proprietorship;

54 (B) an employee organization; or

55 (C) both an employer and an employee organization; and

56 (ii) other than a plan providing individual retirement accounts or individual retirement
57 annuities under Section 408, Internal Revenue Code;

58 (c) a premium deposit fund;

- 59 (d) a variable annuity;
- 60 (e) an investment annuity;
- 61 (f) an immediate annuity;
- 62 (g) a deferred annuity contract after annuity payments have commenced;
- 63 (h) a reversionary annuity; or
- 64 (i) any contract that shall be delivered outside this state through an agent or other
65 representative of the company issuing the contract.

66 (3) (a) If a policy is issued after this section takes effect as set forth in Subsection (15),
67 a contract of annuity, except as stated in Subsection (2), may not be delivered or issued for
68 delivery in this state unless the contract of annuity contains in substance:

- 69 (i) the provisions described in Subsection (3)(b); or
- 70 (ii) provisions corresponding to the provisions described in Subsection (3)(b) that in
71 the opinion of the commissioner are at least as favorable to the contractholder, governing
72 cessation of payment of consideration under the contract.

73 (b) Subsection (3)(a)(i) requires the following provisions:

74 (i) the company shall grant a paid-up annuity benefit on a plan stipulated in the contract
75 of such a value as specified in Subsections (7), (8), (9), (10), and (12):

76 (A) upon cessation of payment of consideration under a contract; or

77 (B) upon a written request of the contract owner;

78 (ii) if a contract provides for a lump-sum settlement at maturity, or at any other time,
79 upon surrender of the contract at or before the commencement of any annuity payments, the
80 company shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such
81 amount as is specified in Subsections (7), (8), (10), and (12);

82 (iii) a statement of the mortality table, if any, and interest rates used in calculating any
83 of the following that are guaranteed under the contract:

84 (A) minimum paid-up annuity benefits;

85 (B) cash surrender benefits; or

86 (C) death benefits;

87 (iv) sufficient information to determine the amounts of the benefits described in
88 Subsection (3)(b)(iii);

89 (v) a statement that any paid-up annuity, cash surrender, or death benefits that may be

90 available under the contract are not less than the minimum benefits required by any statute of
91 the state in which the contract is delivered; and

92 (vi) an explanation of the manner in which the benefits described in Subsection
93 (3)(b)(v) are altered by the existence of any:

94 (A) additional amounts credited by the company to the contract;

95 (B) indebtedness to the company on the contract; or

96 (C) prior withdrawals from or partial surrender of the contract.

97 (c) Notwithstanding the requirements of this Subsection (3), any deferred annuity
98 contract may provide that if no consideration has been received under a contract for a period of
99 two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated
100 in the contract arising from consideration paid before the period would be less than \$20
101 monthly:

102 (i) the company may at the company's option terminate the contract by payment in cash
103 of the then present value of such portion of the paid-up annuity benefit, calculated on the basis
104 of the mortality table specified in the contract, if any, and the interest rate specified in the
105 contract for determining the paid-up annuity benefit; and

106 (ii) the payment described in Subsection (3)(c)(i), relieves the company of any further
107 obligation under the contract.

108 (d) A company may reserve the right to defer the payment of cash surrender benefit for
109 a period not to exceed six months after demand for the payment of the cash surrender benefit
110 with surrender of the contract.

111 (4) For a policy issued before June 1, 2006, the minimum values as specified in
112 Subsections (7), (8), (9), (10), and (12) of any paid-up annuity, cash surrender, or death benefits
113 available under an annuity contract shall be based upon minimum nonforfeiture amounts as
114 established in this Subsection (4).

115 (a) (i) With respect to contracts providing for flexible considerations, the minimum
116 nonforfeiture amount at any time at or before the commencement of any annuity payments shall
117 be equal to an accumulation up to such time, at a rate of interest of 3% per annum of
118 percentages of the net considerations paid prior to such time:

119 (A) decreased by the sum of:

120 (I) any prior withdrawals from or partial surrenders of the contract accumulated at a

- 121 rate of interest of 3% per annum; and
- 122 (II) the amount of any indebtedness to the company on the contract, including interest
123 due and accrued; and
- 124 (B) increased by any existing additional amounts credited by the company to the
125 contract.
- 126 (ii) For purposes of this Subsection (4)(a), the net consideration for a given contract
127 year used to define the minimum nonforfeiture amount shall be:
- 128 (A) an amount not less than zero; and
- 129 (B) equal to the corresponding gross considerations credited to the contract during that
130 contract year less:
- 131 (I) an annual contract charge of \$30; and
- 132 (II) a collection charge of \$1.25 per consideration credited to the contract during that
133 contract year.
- 134 (iii) The percentages of net considerations shall be:
- 135 (A) 65% of the net consideration for the first contract year; and
- 136 (B) 87-1/2% of the net considerations for the second and later contract years.
- 137 (iv) Notwithstanding Subsection (4)(a)(iii), the percentage shall be 65% of the portion
138 of the total net consideration for any renewal contract year that exceeds by not more than two
139 times the sum of those portions of the net considerations in all prior contract years for which
140 the percentage was 65%.
- 141 (b) (i) Except as provided in Subsections (4)(b)(ii) and (iii), with respect to contracts
142 providing for fixed scheduled consideration, minimum nonforfeiture amounts shall be:
- 143 (A) calculated on the assumption that considerations are paid annually in advance; and
- 144 (B) defined as for contracts with flexible considerations that are paid annually.
- 145 (ii) The portion of the net consideration for the first contract year to be accumulated
146 shall be equal to an amount that is the sum of:
- 147 (A) 65% of the net consideration for the first contract year; and
- 148 (B) 22-1/2% of the excess of the net consideration for the first contract year over the
149 lesser of the net considerations for:
- 150 (I) the second contract year; and
- 151 (II) the third contract year.

152 (iii) The annual contract charge shall be the lesser of \$30 or 10% of the gross annual
153 consideration.

154 (c) With respect to contracts providing for a single consideration payment, minimum
155 nonforfeiture amounts shall be defined as for contracts with flexible considerations except that:

156 (i) the percentage of net consideration used to determine the minimum nonforfeiture
157 amount shall be equal to 90%; and

158 (ii) the net consideration shall be the gross consideration less a contract charge of \$75.

159 (5) For a policy issued on or after June 1, 2006, the minimum values as specified in
160 Subsections (7), (8), (9), (10), and (12) of any paid-up annuity, cash surrender, or death benefits
161 available under an annuity contract shall be based upon minimum nonforfeiture amounts as
162 established in this Subsection (5).

163 (a) The minimum nonforfeiture amount at any time at or before the commencement of
164 any annuity payments shall be equal to an accumulation up to such time, at rates of interest as
165 indicated in Subsection (5)(b), of 87-1/2% of the gross considerations paid before such time
166 decreased by the sum of:

167 (i) any prior withdrawals from or partial surrenders of the contract accumulated at rates
168 of interest as indicated in Subsection (5)(b);

169 (ii) an annual contract charge of \$50, accumulated at rates of interest as indicated in
170 Subsection (5)(b);

171 (iii) any premium tax paid by the company for the contract, accumulated at rates of
172 interest as indicated in Subsection (5)(b); and

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

175 (b) (i) The interest rate used in determining minimum nonforfeiture amounts shall be
176 an annual rate of interest determined as the lesser of:

177 (A) 3% per annum; and

178 (B) the five-year Constant Maturity Treasury Rate reported by the Federal Reserve,
179 rounded to the nearest 1/20th of 1%, as of a date or average over a period no longer than 15
180 months prior to the contract issue date or redetermination date under Subsection (5)(b)(iii):

181 (I) reduced by 125 basis points; and

182 (II) where the resulting interest rate is not less than 1%.

183 (ii) The interest rate shall apply for an initial period and may be redetermined for
184 additional periods.

185 (iii) (A) If the interest rate will be reset, the contract shall state:

186 (I) the initial period;

187 (II) the redetermination date;

188 (III) the redetermination basis; and

189 (IV) the redetermination period.

190 (B) The basis is the date or average over a specified period that produces the value of
191 the five-year Constant Maturity Treasury Rate to be used at each redetermination date.

192 (c) (i) During the period or term that a contract provides substantive participation in an
193 equity indexed benefit, the reduction described in Subsection (5)(b)(i)(B)(I) may be increased
194 by up to an additional 100 basis points to reflect the value of the equity index benefit.

195 (ii) The present value of the additional reduction at the contract issue date and at each
196 redetermination date may not exceed the market value of the benefit.

197 (iii) (A) The commissioner may require a demonstration that the present value of the
198 additional reduction does not exceed the market value of the benefit.

199 (B) If the demonstration required under Subsection (5)(c)(iii)(A) is not made to the
200 satisfaction of the commissioner, the commissioner may disallow or limit the additional
201 reduction.

202 (6) Notwithstanding Subsection (4), for a policy issued on or after June 1, 2004 and
203 before June 1, 2006, at the election of a company, on a contract form-by-contract form basis,
204 the minimum values as specified in Subsections (7), (8), (9), (10), and (12) of any paid-up
205 annuity, cash surrender, or death benefits available under an annuity contract may be based
206 upon minimum nonforfeiture amounts as established in Subsection (5).

207 (7) (a) Any paid-up annuity benefit available under a contract shall be such that the
208 contract's present value on the date annuity payments are to commence is at least equal to the
209 minimum nonforfeiture amount on that date.

210 (b) The present value described in Subsection (7)(a) shall be computed using the
211 mortality table, if any, and the interest rate specified in the contract for determining the
212 minimum paid-up annuity benefits guaranteed in the contract.

213 (8) (a) For contracts that provide cash surrender benefits, the cash surrender benefits

214 available before maturity may not be less than the present value as of the date of surrender of
215 that portion of the cash surrender value that would be provided under the contract at maturity
216 arising from considerations paid before the time of cash surrender:

217 (i) decreased by the amount appropriate to reflect any prior withdrawals from or partial
218 surrender of the contract;

219 (ii) decreased by the amount of any indebtedness to the company on the contract,
220 including interest due and accrued; and

221 (iii) increased by any existing additional amounts credited by the company to the
222 contract.

223 (b) For purposes of this Subsection (8), the present value being calculated on the basis
224 of an interest rate not more than 1% higher than the interest rate specified in the contract for
225 accumulating the net considerations to determine the maturity value.

226 (c) In no event shall any cash surrender benefit be less than the minimum nonforfeiture
227 amount at that time.

228 (d) The death benefit under a contract described in Subsection (8)(a) shall be at least
229 equal to the cash surrender benefit.

230 (9) (a) For contracts that do not provide cash surrender benefits, the present value of
231 any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity
232 may not be less than the present value of that portion of the maturity value of the paid-up
233 annuity benefit provided under the contract arising from considerations paid before the time the
234 contract is surrendered in exchange for, or changed to, a deferred paid-up annuity increased by
235 any existing additional amounts credited by the company to the contract.

236 (b) For purposes of this Subsection (9), the present value being calculated for the
237 period prior to the maturity date on the basis of the interest rate specified in the contract for
238 accumulating the net considerations to determine maturity value.

239 (c) For contracts that do not provide any death benefits before commencement of any
240 annuity payments, the present values shall be calculated on the basis of the interest rate and the
241 mortality table specified in the contract for determining the maturity value of the paid-up
242 annuity benefit.

243 (d) In no event shall the present value of a paid-up annuity benefit be less than the
244 minimum nonforfeiture amount at that time.

245 (10) (a) For the purpose of determining the benefits calculated under Subsections (8)
 246 and (9), the maturity date shall be considered to be the latest date permitted by the contract,
 247 except that it may not be considered to be later than the later of:

- 248 (i) the anniversary of the contract next following the annuitant's 70th birthday; or
- 249 (ii) the tenth anniversary of the contract.

250 (b) For a contract ~~that~~ **→** [~~other than a two-tier annuity as defined in Subsection (10)(d);~~] **←**

250a that

251 provides cash surrender benefits [~~on or past the maturity date~~], the cash surrender value on or
 252 past the maturity date shall be equal to the amount used to determine the annuity benefit
 253 payments.

254 (c) A surrender charge may not be imposed on or past maturity.

255 ~~→~~ [(d) ~~As used in this Subsection (10), "two-tier annuity" means an annuity contract under~~

256 ~~which:~~

257 ~~(i) cash surrender value is an accumulation, at interest, of percentages of premiums~~
 258 ~~specified in the contract; and~~

259 ~~(ii) cash surrender value cannot be derived from the amount used to determine the~~
 260 ~~annuity benefit payments.] ~~←~~~~

261 (11) Any contract that does not provide cash surrender benefits or does not provide
 262 death benefits at least equal to the minimum nonforfeiture amount before the commencement
 263 of any annuity payments shall include a statement in a prominent place in the contract that
 264 these benefits are not provided.

265 (12) Any paid-up annuity, cash surrender, or death benefits available at any time, other
 266 than on the contract anniversary under any contract with fixed scheduled considerations, shall
 267 be calculated with allowance for the lapse of time and the payment of any scheduled
 268 considerations beyond the beginning of the contract year in which cessation of payment of
 269 considerations under the contract occurs.

270 (13) (a) For any contract that provides, within the same contract by rider or
 271 supplemental contract provisions, both annuity benefits and life insurance benefits that are in
 272 excess of the greater of cash surrender benefits or a return of the gross considerations with
 273 interest, the minimum nonforfeiture benefits shall:

274 (i) be equal to the sum of:

275 (A) the minimum nonforfeiture benefits for the annuity portion; and

276 (B) the minimum nonforfeiture benefits, if any, for the life insurance portion; and
277 (ii) computed as if each portion were a separate contract.

278 (b) (i) Notwithstanding Subsections (7), (8), (9), (10), and (12), additional benefits
279 payable, as described in Subsection (13)(b)(ii), and consideration for the additional benefits
280 payable, shall be disregarded in ascertaining, if required by this section:

281 (A) the minimum nonforfeiture amounts;

282 (B) paid-up annuity;

283 (C) cash surrender; and

284 (D) death benefits.

285 (ii) For purposes of this Subsection (13), an additional benefit is a benefit payable:

286 (A) in the event of total and permanent disability;

287 (B) as reversionary annuity or deferred reversionary annuity benefits; or

288 (C) as other policy benefits additional to life insurance, endowment, and annuity
289 benefits.

290 (iii) The inclusion of the additional benefits described in this Subsection (13) may not
291 be required in any paid-up benefits, unless the additional benefits separately would require:

292 (A) minimum nonforfeiture amounts;

293 (B) paid-up annuity;

294 (C) cash surrender; and

295 (D) death benefits.

296 (14) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
297 the commissioner may adopt rules necessary to implement this section, including:

298 (a) ensuring that any additional reduction under Subsection (5)(c) is consistent with the
299 requirements imposed by Subsection (5)(c); and

300 (b) providing for adjustments in addition to the adjustments allowed under Subsection
301 (5)(c) to the calculation of minimum nonforfeiture amounts for:

302 (i) contracts that provide substantive participation in an equity index benefit; and

303 (ii) other contracts for which the commissioner determines adjustments are justified.

304 (15) (a) After this section takes effect, any company may file with the commissioner a
305 written notice of its election to comply with this section after a specified date before July 1,
306 1988.

307 (b) This section applies to annuity contracts of a company issued on or after the date
308 the company specifies in the notice.

309 (c) If a company makes no election under Subsection (15)(a), the operative date of this
310 section for such company is July 1, 1988.

311 Section 2. Section **31A-22-425** is amended to read:

312 **31A-22-425. Rulemaking authority.**

313 In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
314 commissioner [~~shall~~] may make rules to establish standards for any of the following used in
315 connection with the solicitation or sale of life insurance policies and contracts:

- 316 (1) a buyer's guide;
317 (2) a disclosure;
318 (3) an illustration;
319 (4) a policy summary; or
320 (5) a recommendation.

321 Section 3. Section **31A-22-426** is enacted to read:

322 **31A-22-426. Coverage description.**

323 (1) Each life insurance policy, annuity contract, and certificate of life insurance shall
324 contain a brief description printed on the cover page.

325 (2) The description shall include:

- 326 (a) the type of insurance;
327 (b) whether it is participating or nonparticipating;
328 (c) a significant limitation stated or included in the filed policy, contract, or certificate;

329 and

330 (d) a significant specific feature stated or included in the filed policy, contract, or
331 certificate.

332 Section 4. Section **31A-22-427** is enacted to read:

333 **31A-22-427. Life insurance and annuity policy records.**

334 A life insurer, and its successors, shall maintain all records that affect the legal effect of
335 a life insurance policy, annuity contract, or certificate of life insurance for the term of the
336 insurance plus five years.

337 Section 5. Section **31A-22-501** is amended to read:

338 **31A-22-501. Eligible groups.**

339 A group or blanket policy of life insurance may not be delivered in Utah unless the
340 insured group:

341 (1) falls within at least one of the classifications under Sections [~~31A-22-502~~]
342 31A-22-501.1 through 31A-22-509; and

343 (2) is formed for a reason other than the purchase of insurance.

344 Section 6. Section **31A-22-501.1** is enacted to read:

345 **31A-22-501.1. Employer groups.**

346 (1) The lives of a group of individuals may be insured under a policy:

347 (a) issued as a policyholder, to:

348 (i) an employer; or

349 (ii) an employer sponsored trust for the benefit of the employer's employees;

350 (b) having an insurable interest as stated in Subsection 31A-21-104(2)(a)(v); and

351 (c) subject to the requirement of Subsection 31A-21-104(9).

352 (2) A policy issued under this section is not subject to:

353 (a) Section 31A-21-311; and

354 (b) Sections 31A-22-516 through 31A-22-522.

355 Section 7. Section **31A-22-506** is amended to read:

356 **31A-22-506. Creditor groups to insure debtors.**

357 [~~A~~] (1) To insure debtors of a creditor, a group life insurance policy may be issued to a
358 policyholder who is [a] any of the following:

359 (a) the creditor [or];

360 (b) the creditor's parent holding company; or [to]

361 (c) trustees or agents designated by two or more creditors[~~, to insure debtors of the~~
362 creditors. The policies are].

363 (2) A policy described in Subsection (1) is subject to the [following] requirements[~~;~~] of
364 this Subsection (2).

365 [~~(+)~~] (a) (i) The persons eligible for insurance are;

366 (A) all of the debtors of the creditors; or

367 (B) all of any classes of debtors.

368 (ii) The policy may provide that "debtors" includes:

369 ~~[(a)]~~ (A) borrowers of money, or purchasers or lessees of goods, services, property,
370 rights, or privileges for which payment is arranged through a credit transaction; and

371 ~~[(b)]~~ (B) the debtors of one or more affiliated corporations, proprietorships, or
372 partnerships under common control with the policyholder.

373 ~~[(2)]~~ (b) (i) The premiums shall be paid by the policyholder, from:

374 (A) the creditor's funds~~[-from]~~;

375 (B) charges collected from the insured debtors~~[-]~~; or

376 (C) from both Subsections (2)(b)(i)(A) and (B).

377 (ii) Except as provided under Section 31A-22-512, a policy on which no part of the
378 premium is contributed by insured debtors specifically for their insurance shall insure all
379 eligible debtors.

380 ~~[(3)]~~ (c) (i) To the extent of the creditor's interest, the insurance may be payable to the
381 creditor or to any successor to the right, title, and interest of the creditor.

382 (ii) The payment shall reduce or extinguish the obligation of the debtor to the extent of
383 the payment.

384 (iii) When the amount of insurance exceeds the debt, the excess is payable to a
385 beneficiary other than the creditor named by the debtor, or to the debtor's estate.

386 ~~[(4)]~~ (d) Group policies issued under this section are not subject to Sections
387 31A-22-516 through ~~[31A-22-520]~~ 31A-22-521.

388 Section 8. Section **31A-22-507** is amended to read:

389 **31A-22-507. Credit union groups.**

390 (1) The lives of a group of individuals may be insured under a policy issued to a
391 policyholder who is:

392 (a) a credit union ~~[or to]~~; or

393 (b) trustees or agents designated by two or more credit unions. ~~[This]~~

394 (2) A policy described in Subsection (1) shall insure members of ~~[the]~~ a credit ~~[unions]~~
395 union for the benefit of persons other than:

396 (a) the credit ~~[unions,]~~ union;

397 (b) trustees~~[-or]~~ of the credit union;

398 (c) agents ~~[or any of their officials:]~~ of the credit union; or

399 (d) an official of an entity described in Subsections (2)(a) through (c).

400 ~~(3)~~ The policies are subject to the ~~[following]~~ requirements~~[:]~~ of this Subsection (3).

401 ~~(+)~~ (a) The persons eligible for insurance are:

402 ~~(i)~~ all of the members of the credit ~~[unions,]~~ union; or

403 ~~(ii)~~ all of any classes of ~~[it:]~~ the members of the credit union.

404 ~~(2)~~ (b) The premiums shall be paid by the policyholder. Except as provided in
405 Section 31A-22-512, a policy on which no part of the premium is collected from the covered
406 members specifically for their insurance shall insure all eligible members.

407 ~~(3) Group policies~~ (c) A group policy issued under this section ~~[are]~~ is not subject to
408 Sections 31A-22-517 through ~~[31A-22-520]~~ 31A-22-521.

Legislative Review Note
as of 1-7-05 9:24 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0201

Life Insurance and Annuities Law Amendments

19-Jan-05

11:29 AM

State Impact

No fiscal impact.

Individual and Business Impact

The record keeping provision may impact some businesses. Those costs may be passed onto the consumer.

Office of the Legislative Fiscal Analyst