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JULIANNE M. BOWLER
COMMISSIONER OF INSURANCE

Bulletin 2004-05

TO: **Insurers Offering Annuity Products in Massachusetts**

FROM: **Julianne M. Bowler, Commissioner of Insurance** Julianne M. Bowler

DATE: **June 10, 2004**

RE: **Individual Annuity Filing Requirements for the New Provision Created With Chapter 59 of the Acts of 2004 for Determining Minimum Nonforfeiture Amounts for Individual Annuities**

The purpose of this Bulletin is to inform life insurers issuing individual annuities in the Commonwealth of the recently enacted provisions of Chapter 59 of the Acts of 2004 that added a new section, §144A1/2, to M.G.L. c. 175 that will become effective on June 30, 2004. The new section amends M.G.L. c. 175 to provide a new provision for determining minimum nonforfeiture amounts for individual annuities. Chapter 59 provides that a company may elect to apply either the existing provisions of M.G.L. c. 175, §144A or the new provisions of M.G.L. c. 175, §144A1/2 on a contract form by contract form basis between June 30, 2004 and June 1, 2005. Thereafter, all individual annuity nonforfeiture values must conform to the provisions of M.G.L. c. 175, §144A1/2.

The Division of Insurance has developed an expedited prior approval form filing procedure for companies that wish to implement the provisions of M.G.L. c. 175, §144A1/2 for determining the minimum nonforfeiture rate for previously approved annuity contracts. This expedited procedure allows companies to certify that the form(s) contained in the submission are being filed for the sole purpose of conforming the contracts to the nonforfeiture provisions of M.G.L. c. 175, §144A1/2 enacted by Chapter 59 of the Acts of 2004. Companies may use the expedited form filing procedure to revise the guaranteed minimum interest rate as it appears in the contract specifications page, and in any other provision in the contract, as well as the table of guaranteed values and the guaranteed settlement option interest rate and tables.

All submissions should include the phrase "Annuity Interest Rate Change" on the "Re:" line. The previously approved form(s) need not be resubmitted.

Actuarial Memorandum

A company using the expedited filing procedure must submit an actuarial memorandum describing either:

a) that the insurer is going to use the redetermination method and, if so, the insurer's indexing methodology accompanied by a statement as to the anticipated frequency changes that will be made in the minimum guaranty rate for future contract issues; or

b) that the insurer is choosing to fix the minimum nonforfeiture interest rate for as long as that contract form is issued.

The actuarial memorandum should also include:

- a description of the relationship of the minimum guaranteed crediting rate to the nonforfeiture rate; and
- a demonstration of compliance with the nonforfeiture law:
  - o the demonstration must include, at a minimum, the account value, surrender charge, surrender value, and minimum nonforfeiture amounts: one demonstration must be based on the accumulation of percentages of premiums (for the retrospective test), the other on the discounted maturity value (for the prospective test).
  - o the demonstration must clearly identify the basis of all values (interest rates, bonuses, fees, surrender charges, etc.).

Contract Forms

The forms, the corresponding table of guaranteed values and the guaranteed settlement option interest rate and tables so filed may contain brackets where the minimum guaranty rate appears in recognition that the minimum guaranty rate for that contract will be reset periodically for new issues. If the guaranteed interest rate is not going to be reset, then there shall be no brackets around such interest rate. Moreover, if the nonforfeiture rate is not going to be reset and instead be fixed, then that fact should be so stated on the data page.

If the minimum guaranteed crediting rate in any year is lower than the nonforfeiture rate, then the contract must:

- o disclose the nonforfeiture rate on the data page;
- o describe the nonforfeiture amount (the floor) in detail based on 87½% of the premium accumulated at the nonforfeiture rate;
- o include a provision in the contract that the interest credited in any year will be sufficient to keep the values under the contract at least as great as the minimum nonforfeiture amount; and
- o the interest rate may apply for an initial period (such as the lifetime of the contract) or it may be redetermined for additional periods. If the nonforfeiture interest rate will be redetermined, the contract must state the initial period, the redetermination date, the redetermination basis, and the redetermination period.

The submission is also to include a certification (as above) signed by a duly authorized officer of the company making the submission that the filing is being made for the sole purpose of amending previously approved annuity contracts in order to conform them to the nonforfeiture provisions of M.G.L. c. 175, §144A1/2, and that to the best of the officer's knowledge and belief the form(s) is (are) in compliance with the nonforfeiture provisions of M.G.L. c. 175, §144A1/2.

The Commissioner will rely entirely on the certification that the sole change being effected by forms submitted pursuant to this expedited procedure is to conform previously approved contracts to the nonforfeiture provisions of M.G.L. c. 175, §144A1/2. Accordingly, the Division will not be subjecting the contracts being amended to further review. Should however, the Commissioner subsequently determine that the certification was improperly made, any contract so amended by an improperly certified form shall be retroactively modified so as to comply with the requirements of Massachusetts law and regulations.

If you choose to use this expedited procedure, the company may consider the revised forms as having been deemed approved after the filing has been on file with the Division of Insurance for 30 calendar days, during which time the Commissioner has neither approved the form(s) nor notified the company in writing that in the Commissioner's opinion the form(s) (does/do) not comply with the laws of the commonwealth, provided, however, that no annuity contract containing an amended form so deemed approved may be issued or delivered in the Commonwealth prior to June 30, 2004.

Any questions regarding this bulletin should be addressed to Kevin Beagan, Director of the State Rating Bureau at (617) 521-7323.

Sample Annuity Amendment Form Certification

I am the _____, a duly authorized officer of _____, and do hereby certify that the enclosed form(s) listed in Attachment #1 (is/are) being filed for the purpose of amending previously approved annuity contracts for the sole purpose of conforming the contracts to the nonforfeiture provisions of M.G.L. c. 175, §144A1/2 enacted by Chapter 59 of the Acts of 2004, and that to the best of my knowledge and belief said form(s) is (are) in compliance with the nonforfeiture provisions of M.G.L. c. 175, §144A1/2. I further certify that the only change(s) being made to such form(s) is (are) to the Minimum Nonforfeiture Interest Rate and to the table of guaranteed values, the settlement option interest rate and the settlement option mortality table, if applicable.

Printed Name _____

Signature _____ Date _____

Attachment #1

Forms Submission List

Form Number(s) of Revised Form(s)	Annuity Contract Form(s) Amended	Date of Prior Approval