

SENATE BILL NO. 222

INTRODUCED BY S. FITZPATRICK, T. GAUTHIER, T. RICHMOND, D. SALOMON, J. SMALL

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING CERTAIN ANNUITY CONTRACTS FROM HAVING SURRENDER PENALTIES OR CHARGES ON CONTRACTS OLDER THAN 10 YEARS FROM THE DATE OF ISSUANCE; AMENDING SECTION 33-20-905, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Annuity penalty -- 10-year prohibition. (1) An annuity may not charge a surrender penalty on an annuity contract after 10 years from ~~the date of issuance;~~

(A) THE DATE OF ISSUANCE; OR

(B) FOR CONTRACTS FOR WHICH THE ANNUITANT VOLUNTARILY DEPOSITS A SEPARATE PREMIUM THAT WAS NOT REQUIRED UNDER THE ANNUITY CONTRACT, THE DATE OF EACH SEPARATE ANNUITY PREMIUM DEPOSIT. WITHIN 10 YEARS AFTER THE SEPARATE DEPOSIT, THE INSURER MAY CHARGE A SURRENDER PENALTY FOR THAT DEPOSIT.

(2) AN INSURER MUST PROVIDE WRITTEN NOTICE TO THE ANNUITANT OF ANY SURRENDER PENALTY IMPOSED UNDER THE CONTRACT, INCLUDING SUBSEQUENT NOTICES IF THE ANNUITANT VOLUNTARILY CONTRIBUTES SEPARATE PREMIUM DEPOSITS UNDER SUBSECTION (1)(B).

~~(2)~~(3) For purposes of this section, the term "surrender penalty" means a surrender penalty, fee, or charge for the early withdrawal of funds from an annuity contract or for the cancellation of the annuity contract.

~~(3)~~(4) This section applies to any annuity contract, including but not limited to annuity contracts under Title 30, chapter 10.

Section 2. Section 33-20-905, MCA, is amended to read:

"33-20-905. Standards for disclosure document and buyer's guide. (1) When the application for an annuity contract is taken in a face-to-face meeting, the applicant must be given, at or before the time of application, both the disclosure document and the buyer's guide.

(2) (a) When the application for an annuity contract is taken by means other than in a face-to-face meeting, the applicant must be sent both the disclosure document and the buyer's guide not later than 5 business days after the completed application is received by the insurer.

1 (b) When an application is received as a result of a direct solicitation through the mail, providing a
2 disclosure document and a buyer's guide in the mailing inviting prospective applicants to apply for an annuity
3 contract satisfies the requirement that the disclosure document and buyer's guide be provided not later than 5
4 business days after receipt of the application.

5 (c) When an application is received over the internet, taking reasonable steps to make the disclosure
6 document and buyer's guide available for viewing and printing on the insurer's website satisfies the requirement
7 that the disclosure document and the buyer's guide be provided not later than 5 business days of receipt of the
8 application.

9 (d) A solicitation for an annuity contract provided in other than a face-to-face meeting must include a
10 statement that the proposed applicant may contact the commissioner's office for a free annuity buyer's guide, or
11 an insurer may include a statement that the prospective applicant may contact the insurer for a free annuity
12 buyer's guide.

13 (3) When the disclosure document and buyer's guide are not provided at or before the time of
14 application, a free-look period of not less than 15 days must be provided for the applicant to return the annuity
15 contract without penalty. This free-look period must run concurrently with any other free-look period provided
16 under state law.

17 (4) At a minimum, the following information must be included in the disclosure document:

18 (a) the generic name of the contract, the company product name, if different, the form number, and the
19 fact that it is an annuity;

20 (b) the insurer's name and address;

21 (c) a description of the contract and its benefits, emphasizing its long-term nature, including when
22 appropriate:

23 (i) the guaranteed elements, nonguaranteed elements, and determinable elements of the contract and
24 their limitations, if any, and an explanation of how the elements operate;

25 (ii) an explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration
26 of the rate, and the fact that rates may change from time to time and are not guaranteed;

27 (iii) periodic income options both on a guaranteed and nonguaranteed basis;

28 (iv) any value reductions caused by withdrawals from or surrender of the contract within 10 years of
29 issuance under [section 1];

30 (v) how values in the contract can be accessed;

- 1 (vi) the death benefit, if one is available, and how it will be calculated;
- 2 (vii) a summary of the federal tax status of the contract and any penalties applicable on withdrawal of
- 3 values from the contract; and
- 4 (viii) impact of any rider, such as a long-term care rider;
- 5 (d) specific dollar amount or percentage charges and fees with an explanation of how they apply; and
- 6 (e) information about the current guaranteed rate for new contracts that contains a clear notice that the
- 7 rate is subject to change.
- 8 (5) Insurers shall define terms used in the disclosure statement in language that facilitates the
- 9 understanding by a typical person within the segment of the public to which the disclosure statement is directed."

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11 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
12 integral part of Title 33, chapter 20, and the provisions of Title 33, chapter 20, apply to [section 1].

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14 **NEW SECTION. Section 4. Applicability.** [This act] applies to annuity contracts issued or renewed on
15 or after [the effective date of this act].

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