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CHANGES TO INDIVIDUAL DEFERRED ANNUITY NONFORFEITURE LAW

Assembly Bill 74, which was signed into law by Governor Sandoval on June 17, 2011, included provisions (sections 40 to 42, inclusive) which amend the minimum nonforfeiture requirements under NRS 688A for individual deferred annuities issued on or after January 1, 2012.

The purpose of this Bulletin is to provide information regarding these statutory revisions to companies issuing annuities in Nevada.

The following is a summary of the changes which will become effective for individual deferred annuity contracts issued in Nevada on or after January 1, 2012. These revisions clarify that for purposes of calculating the minimum cash surrender value of an annuity:

- The minimum nonforfeiture amount **must** be determined using a maturity date that is the latest annuity commencement date allowed by the contract, but not later than age 70 or the 10th anniversary of the contract, whichever occurs later. This will generally limit the surrender charge period to 10 years and the maximum initial surrender charge to 10 percent for many annuities issued to individuals age 60 and older.
- For contracts with flexible considerations, the 10th anniversary of the contract is determined separately for each consideration. Therefore, an annuity contract that provides for flexible considerations may have separate surrender charge schedules associated with each consideration.
- A surrender charge may **not** be imposed on or after the maturity date stated in the contract.
- The cash surrender value available on or after the maturity date must be equal to the amount available upon annuitization (i.e., the amount used to determine annuity benefits). This means that the amount of any bonuses payable at maturity must be included in the maturity value that is used to determine the minimum nonforfeiture value.

This new law affects individual deferred annuities issued in Nevada on or after January 1, 2012. Beginning January 1, 2012, an individual deferred annuity contract that does not comply with these new nonforfeiture requirements may not be issued in Nevada.

The Division, therefore, recommends that all insurers offering annuities review their individual deferred annuity forms that have been approved for sale in Nevada and ensure that they are in compliance with the new minimum nonforfeiture law. Policy forms that are not in compliance must be revised and filed with the Division before use.

Filing Guidance

All forms submitted for approval must comply with the Division's filing requirements detailed in Bulletin 06-009 and must include an actuarial memorandum demonstrating compliance with the revised nonforfeiture law.

In order to facilitate the prompt review of affected forms, the Division recommends that insurers use the System for Electronic Rates and Forms Filing (SERFF) and indicate "AB74" in the Company Tracking Number field if the only reason for the submission is compliance with the 2011 legislative changes.

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