

**Sec. 38a-433-16. Modified guaranteed annuity contract requirements**

**(a) Mandatory Contract Benefit and Design Requirements.**

(1) Any Modified Guaranteed Annuity contract delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of nonforfeiture benefits.

(2) No Modified Guaranteed Annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this state unless it contains in substance the following provisions:

(A) A provision that there shall be a period of grace of thirty days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom;

(B) A provision that, at any time within one year from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom.

(3) The market-value adjustment formula, used in determining nonforfeiture benefits, must (A) be stated in the contract, (B) be applicable for both upward and downward adjustments, and (C) provide reasonable equity to both the contract holder and the insurance company. When a contract is filed with the Commissioner for approval, it must be accompanied by an actuarial statement indicating the basis for the market-value adjustment formula and that the formula provides reasonable equity to both the contract holder and the insurance company.

(4) If and to the extent so provided under the applicable contracts, that portion of the assets of any separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

**(b) Nonforfeiture Benefits.**

(1) This subsection 38a-433-16 (b) shall not apply to any:

(A) immediate annuity,

(B) group annuity contract purchased in connection with one or more retirement plans or plans of deferred compensation established or maintained by or for one or more employers (including partnerships or sole proprietorships), employee organizations, or any combination thereof, other than plans providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, or to any

(C) deferred annuity contract after annuity payments have commenced.

(2) No Modified Guaranteed Annuity contract shall be delivered or issued for delivery in this state unless it contains in substance the following provisions:

(A) That upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan described in the contract that complies with Section 38a-433-16 (b) (5) below. Such description will include a statement of the mortality table, if any, and guaranteed or assumed interest rates used in calculating annuity payments.

(B) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer will pay in lieu of any paid-up annuity benefit a cash surrender benefit as described in the contract that complies with Section 38a-433-16 (b) (6) below. The contract may provide that the insurer may defer payment of such cash surrender benefit for a period of six months after demand.

(3) The minimum values as specified in this Section of any paid-up annuity, cash surrender or death benefits available under a Modified Guaranteed Annuity contract shall be based upon nonforfeiture amounts meeting the requirements of this subdivision, Section 38a-433-16 (b) (3).

The “Unadjusted Minimum Nonforfeiture Amount” on any date prior to the annuity commencement date shall be an amount equal to the percentages of net considerations (as specified in Section 38a-433-16 (b) (4) below) increased by the interest credits defined in Section 38a-433-13 (b) allocated to the percentage of net considerations, which amount shall be reduced to reflect the effect of:

- (A) any partial withdrawals from or partial surrender of the contract;
- (B) the amount of any indebtedness on the contract, including interest due and accrued;
- (C) an annual contract charge not less than zero and equal to (i) the lesser of thirty dollars (\$30.00) or two percent (2%) of the end of year contract value less (ii) the amount of any annual contract charge deducted from any gross considerations credited to the contract during such contract year; and
- (D) a transaction charge of ten dollars (\$10.00) for each transfer to another investment division within the same contract.

Guaranteed interest credits in each year for any period of time for which interest credits are guaranteed shall be reasonably related to the average interest credits over that period of time.

The “Minimum Nonforfeiture Amount” shall be the Unadjusted Minimum Non-forfeiture Amount adjusted by the market-value adjustment formula contained in the contract.

The annual contract charge of thirty dollars (\$30.00) and the transaction charge of ten dollars (\$10.00) referenced will be adjusted to reflect changes in the Consumer Price Index in accordance with Section 38a-433-16 (b) (4) below.

(4) The percentages of net considerations used to define the Minimum Nonforfeiture Amount in Section 38a-433-16 (b) (3) above shall meet the requirements of this subdivision, Section 38a-433-16 (b) (4).

(A) With respect to contracts providing for periodic considerations, the net considerations for a given contract year used to define the Minimum Non-forfeiture Amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars (\$30.00) and less a collection charge of one dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year and less any charges for

premium taxes. The percentages of net considerations shall be sixty-five percent (65%) for the first contract year and eighty-seven and one-half percent (87½%) for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

(B) With respect to contracts providing for a single consideration, the net consideration used to define the Minimum Nonforfeiture Amount shall be the gross consideration less a contract charge of seventy-five dollars (\$75.00) and less any charge for premium taxes. The percentage of the net consideration shall be ninety percent (90%).

The annual contract charge of thirty dollars (\$30.00), the collection charge of one dollar and twenty-five cents (\$1.25) per collection, and the single consideration contract charge of seventy-five dollars (\$75.00) referred to above, will be adjusted to reflect changes in the Consumer Price Index in accordance with Section 38a-433-16 (b) (4) (C) below.

(C) The above contract charges shall be multiplied by the ratio of (i) the Consumer Price Index for June of calendar year preceding the date of filing, to (ii) the Consumer Price Index for June, 1979.

(5) Any paid-up annuity benefit available under a Modified Guaranteed Annuity contract shall be such that its present value on the annuity commencement date is at least equal to the Minimum Nonforfeiture Amount on that date. Such present value shall be computed using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.

(6) For Modified Guaranteed Annuity contracts which provide cash surrender benefits, the cash surrender benefit at any time prior to the annuity commencement date shall not be less than the Minimum Nonforfeiture Amount next computed after the request for surrender is received by the insurer. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(7) Any Modified Guaranteed Annuity contract which does not provide cash surrender benefits, or does not provide death benefits at least equal to the Minimum Nonforfeiture Amount, prior to the annuity commencement date shall include a statement in a prominent place in the contract that such benefits are not provided.

(8) Notwithstanding the requirements of this subsection, Section 38a-433-16 (b), a Modified Guaranteed Annuity contract may provide under the situations specified in (A) or (B) below, that the insurer, at its option, may cancel the annuity and pay the contract holder the larger of the Unadjusted Minimum Nonforfeiture Amount and the Minimum Nonforfeiture Amount, and by such payment be released of any further obligation under such contract:

(A) if at any time the annuity becomes payable, the larger of the Unadjusted Minimum Nonforfeiture Amount and the Minimum Nonforfeiture Amount is less than \$2,000, or would provide an income the initial amount of which is less than \$20 per month; or

(B) if prior to the time the annuity becomes payable under a periodic payment contract no considerations have been received under the contract for a period of two full years and both (i) the total considerations paid prior to such period, reduced to reflect any partial

withdrawals from or partial surrenders of the contract, and (ii) the larger of the Unadjusted Minimum Nonforfeiture Amount and the Minimum Nonforfeiture Amount is less than \$2,000.

(9) For any Modified Guaranteed Annuity contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of Section 38a-433-16 (b) (2) above, additional benefits payable

(A) in the event of total and permanent disability,

(B) as reversionary annuity or deferred reversionary annuity benefits, or

(C) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this Section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require Minimum Nonforfeiture Amounts, paid-up annuity, cash surrender and death benefits.

(c) **The Application.** The application for a Modified Guaranteed Annuity shall prominently set forth immediately preceding the signature line language denoting that amounts payable under the contract are subject to a market value adjustment prior to a date or dates specified in the contract.

(Effective September 25, 1992)