

Introduced by

Representative Keiser

Senator Klein

1 A BILL for an Act to amend and reenact subsection 2 of section 26.1-34-02 of the North Dakota
2 Century Code, relating to the interest rate used in determining the minimum nonforfeiture
3 amount for an annuity.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 2 of section 26.1-34-02 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 2. For an annuity contract issued after July 31, 2005:

- 8 a. The minimum nonforfeiture amount at any time at or before the commencement
9 of any annuity payments must be equal to an accumulation up to such time at
10 rates of interest, as provided under subdivision c, of the net considerations, as
11 defined under subdivision b, paid before such time, decreased by the sum of:
- 12 (1) Any prior withdrawals from or partial surrenders of the contract accumulated
13 at rates of interest as provided under subdivision c;
 - 14 (2) An annual contract charge of fifty dollars, accumulated at rates of interest as
15 provided under subdivision c;
 - 16 (3) Any premium tax paid by the company for the contract, accumulated at
17 rates of interest as provided under subdivision c; and
 - 18 (4) The amount of any indebtedness to the company on the contract, including
19 interest due and accrued.
- 20 b. The net considerations for a given contract year used to define the minimum
21 nonforfeiture amount under subdivision a must be an amount equal to
22 eighty-seven and one-half percent of the gross considerations credited to the
23 contract during that contract year.

- 1 c. The interest rate used in determining minimum nonforfeiture amounts must be
2 determined as the lesser of:
- 3 (1) Three percent per annum; or
- 4 (2) The five-year constant maturity rate reported by the federal reserve as of a
5 date or average over a period, reduced by one hundred twenty-five basis
6 points. The rate calculated under this paragraph may not be less than
7 ~~one~~fifteen one-hundredths of one percent, must be specified in the contract,
8 and must be determined no more than fifteen months before the contract
9 issue date or redemption date.
- 10 d. The interest rate used in determining minimum nonforfeiture amounts applies for
11 an initial period and may be redetermined for additional periods. The
12 redetermination date basis and period, if any, must be stated in the contract. The
13 basis is the date or average over a specified period that produces the value of
14 the five-year constant maturity treasury rate to be used at each redetermination
15 date.
- 16 e. Notwithstanding subdivisions a, b, c, and d, during the period or term that a
17 contract provides substantive participation in an equity indexed benefit, the
18 contract may increase the reduction of one hundred twenty-five basis points
19 under paragraph 2 of subdivision c by an amount not to exceed one hundred
20 basis points, in order to reflect the value of the equity index benefit. The present
21 value at the contract issue date, the present value at each redetermination date,
22 or the additional reduction may not exceed the market value of the benefit. The
23 commissioner may require a demonstration that the present value of the
24 reduction does not exceed the market value of the benefit. Lacking such a
25 demonstration acceptable to the commissioner, the commissioner may disallow
26 or limit the additional reduction.
- 27 f. The commissioner may adopt rules to implement the provisions of subdivision e
28 and to provide further adjustments to the calculation of minimum nonforfeiture
29 amounts for contracts that provide substantive participation in an equity index
30 benefit and for other contracts if the commissioner determines that adjustments
31 are justified.