

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1191**

Citations Affected: IC 27-1; IC 27-4; IC 27-9; IC 28-1; IC 28-5; IC 28-6.1.

Synopsis: Insurance activities of depository institutions. Conference committee report for EHB 1191. Amends the interest rate upon which the minimum forfeiture amount for annuity contracts issued from July 1, 2002, through June 30, 2004, is based. Imposes certain requirements on depository institutions that sell, solicit, advertise, or offer insurance. Makes a violation of the requirements an unfair and deceptive act and practice in the business of insurance. (THIS CONFERENCE COMMITTEE REPORT: (1) amends the interest rate upon which the minimum forfeiture amount for annuity contracts issued from July 1, 2002, through June 30, 2004, is based; (2) provides for treatment of a segregated investment account in the event of liquidation of an insurer; and (3) allows a depository institution or an affiliate to require of an insurance producer or an insurer a procedure that is not customarily required of an insurance producer or insurer that is connected with the depository institution or affiliate.)

Effective: Upon passage; July 1, 2002.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1191 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 27-1-12.5-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) The minimum
5 values as specified in sections 4, 5, 6, 7, and 9 of this chapter of any
6 paid-up annuity, cash surrender or death benefits available under an
7 annuity contract shall be based upon minimum nonforfeiture amounts
8 as defined in this section.
9 (b) With respect to any annuity contract providing for flexible
10 considerations, the minimum nonforfeiture amounts at any time at or
11 prior to the commencement of any annuity payments shall be equal to
12 an accumulation up to such time at a rate of interest of three percent
13 (3%) per annum of percentages of the net considerations (as hereinafter
14 defined) paid prior to such time, decreased by the sum of:
15 (1) any prior withdrawals from or partial surrenders of the contract
16 accumulated at a rate of interest of three percent (3%) per annum;
17 and
18 (2) the amount of any indebtedness to the company on the contract,
19 including interest due and accrued;
20 and increased by any existing additional amounts credited by the
21 company to the contract. The net considerations for a given contract
22 year used to define the minimum nonforfeiture amount shall be an

1 amount not less than zero and shall be equal to the corresponding gross
 2 considerations credited to the contract during that contract year less
 3 than an annual contract charge of thirty dollars ~~(\$30.00)~~ **(\$30)** and less
 4 a collection charge of one dollar and twenty-five cents (\$1.25) per
 5 consideration credited to the contract during that contract year. The
 6 percentages of net considerations shall be sixty-five percent (65%) of
 7 the net consideration for the first contract year and eighty-seven and
 8 one-half percent (87.5%) of the net considerations for the second and
 9 later contract years. Notwithstanding the provisions of the preceding
 10 sentence, the percentage shall be sixty-five percent (65%) of the
 11 portion of the total net consideration for any renewal contract year
 12 which exceeds by not more than two (2) times the sum of those
 13 portions of the net considerations in all prior contract years for which
 14 the percentage was sixty-five percent (65%).

15 (c) With respect to any annuity contract providing for fixed
 16 scheduled considerations, minimum nonforfeiture amounts shall be
 17 calculated on the assumption that considerations are paid annually in
 18 advance and shall be defined as for contracts with flexible
 19 considerations which are paid annually with two (2) exceptions:

20 (1) The portion of the net consideration for the first contract year
 21 to be accumulated shall be the sum of sixty-five percent (65%) of
 22 the net consideration for the first contract year plus twenty-two and
 23 one-half percent (22.5%) of the excess of the net consideration for
 24 the first contract year over the lesser of the net considerations for
 25 the second and third contract years.

26 (2) The annual contract charge shall be the lesser of (i) thirty
 27 dollars ~~(\$30.00)~~ **(\$30)** or (ii) ten percent (10%) of the gross annual
 28 consideration.

29 (d) With respect to any annuity contract providing for a single
 30 consideration, minimum nonforfeiture amounts shall be defined as for
 31 contracts with flexible considerations except that the percentage of net
 32 consideration used to determine the minimum nonforfeiture amount
 33 shall be equal to ninety percent (90%) and the net consideration shall
 34 be the gross consideration less a contract charge of seventy-five dollars
 35 ~~(\$75.00)~~ **(\$75)**.

36 (e) **Notwithstanding any other provision of this section, the**
 37 **minimum nonforfeiture amount for any contract issued on or after**
 38 **July 1, 2002, and before July 1, 2004, shall be based on a rate of**
 39 **interest of one and one-half percent (1.5%) per annum."**

40 Page 3, line 30, delete "procedure or".

41 Page 13, between lines 2 and 3, begin a new paragraph and insert:

42 "SECTION 4. IC 27-9-3-40.5 IS ADDED TO THE INDIANA CODE
 43 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
 44 UPON PASSAGE]: **Sec. 40.5. (a) A claim under a contract that is**
 45 **funded by an account established under IC 27-1-5-1 as a**
 46 **segregated investment account must be satisfied from the assets**
 47 **maintained in the account. The segregated investment account is**
 48 **not chargeable with a liability arising out of other business that the**
 49 **insurer conducts that has no specific relation to or dependence on**
 50 **the account.**

51 (b) **Surplus remaining in a segregated investment account by**

1 **virtue of a guarantee by the insurer as described in IC 27-1-5-1**
2 **must be included in the assets of the insurer's estate.**
3 **(c) A deficit in a segregated investment account by virtue of a**
4 **guarantee by an insurer as described in IC 27-1-5-1 must be**
5 **treated as a Class 2 claim under section 40 of this chapter."**

6 Page 15, after line 31, begin a new paragraph and insert:
7 "SECTION 11. An emergency is declared for this act."
8 Renumber all SECTIONS consecutively.
(Reference is to EHB 1191 as reprinted February 27, 2002.)

Conference Committee Report
on
Engrossed House Bill 1191

Signed by:

Representative Bodiker
Chairperson

Senator Nugent

Representative Yount

Senator Mrvan

House Conferees

Senate Conferees