

6748

2011-2012 Regular Sessions

I N A S S E M B L Y

March 28, 2011

Introduced by M. of A. MORELLE -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to authorizing the issuance of certain annuity contracts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subparagraph (H) of paragraph 1 of subsection (b) of
2 section 4223 of the insurance law is relettered subparagraph (I) and a
3 new subparagraph (H) is added to read as follows:
4 (H) GROUP OR INDIVIDUAL ANNUITY CONTRACT OR CERTIFICATE AUTHORIZED BY
5 SUBSECTION (G) OF SECTION FOUR THOUSAND TWO HUNDRED FORTY OF THIS ARTI-
6 CLE.
7 S 2. Section 4240 of the insurance law is amended by adding a new
8 subsection (g) to read as follows:
9 (G) A DOMESTIC OR AUTHORIZED LIFE INSURER MAY ISSUE GROUP OR INDIVID-
10 UAL ANNUITY CONTRACTS AND CERTIFICATES THAT PROVIDE BENEFITS BASED UPON
11 THE VALUE OR DECLINE IN VALUE OF ASSETS HELD IN OR RELATING TO AN ALTER-
12 NATIVE ACCOUNT AT ANY TIME THE CONTRACT OR CERTIFICATE IS OUTSTANDING.
13 FOR PURPOSES OF THIS ARTICLE, "ALTERNATIVE ACCOUNT" MEANS A TRUST
14 ACCOUNT, CUSTODIAL ACCOUNT, SECURITIES BROKERAGE ACCOUNT, MANAGED
15 ACCOUNT, ACTUAL OR SYNTHETIC INVESTMENT PORTFOLIO, OR, IF APPROVED BY
16 THE SUPERINTENDENT, ANY OTHER ACCOUNT OR INVESTMENT ARRANGEMENT, THE
17 INVESTMENTS IN OR RELATED TO WHICH SHALL BE AS AUTHORIZED OR APPROVED BY
18 THE DOMESTIC OR AUTHORIZED LIFE INSURER ISSUING SUCH CONTRACT OR CERTIF-
19 ICATE. FOR PURPOSES OF THIS SUBSECTION, "ACTUAL OR SYNTHETIC INVESTMENT
20 PORTFOLIO" SHALL MEAN A PORTFOLIO OF INVESTED ASSETS LEGALLY OR BENEFI-
21 CIALY OWNED BY THE OWNER OR BENEFICIARY OF SUCH CONTRACT OR CERTIF-
22 ICATE, OR A NOTIONAL PORTFOLIO OF INVESTED ASSETS THAT NEED NOT BE OWNED
23 BY THE OWNER OR BENEFICIARY OF SUCH CONTRACT OR CERTIFICATE BUT THE
24 ADDITION OR REMOVAL OF ASSETS FROM SUCH NOTIONAL PORTFOLIO ARE SUBJECT
25 TO THE CONTROL OF THE OWNER OR BENEFICIARY OF SUCH CONTRACT OR CERTIF-

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 ICATE. ALTERNATIVE ACCOUNTS SHALL NOT BE DEEMED SEPARATE ACCOUNTS OR
2 SUBJECT TO REGULATIONS APPLYING TO SEPARATE ACCOUNTS AND THE GROUP AND
3 INDIVIDUAL ANNUITY CONTRACTS AND CERTIFICATES DESCRIBED IN THIS
4 SUBSECTION SHALL NOT BE SUBJECT TO REGULATIONS CONCERNING SEPARATE
5 ACCOUNT PRODUCTS.

6 THE SUPERINTENDENT MAY PROMULGATE REGULATIONS TO:

7 (1) DEFINE TERMS USED IN THIS SUBSECTION THAT ARE NOT OTHERWISE
8 DEFINED;

9 (2) REQUIRE THAT THE DOMESTIC OR AUTHORIZED LIFE INSURER ESTABLISH
10 ADEQUATE SYSTEMS OF CONTROL AND REPORTING TO ENSURE THAT THE ASSETS HELD
11 IN OR RELATED TO AN ALTERNATIVE ACCOUNT ARE AUTHORIZED OR APPROVED BY
12 SUCH INSURER, AND THAT A SUMMARY OF SUCH SYSTEMS BE FILED WITH THE
13 SUPERINTENDENT, AND UPON FILING SHALL BE DEEMED APPROVED UNLESS WITHIN
14 THIRTY CALENDAR DAYS AFTER FILING THE SUPERINTENDENT DISAPPROVES SUCH
15 SUMMARY AND PROVIDES TO THE FILING INSURER A DETAILED EXPLANATION OF THE
16 BASIS FOR SUCH DISAPPROVAL; AND

17 (3) THE PROVISIONS OF THIS SUBSECTION SHALL NOT BE DEEMED TO AUTHORIZE
18 THE SUPERINTENDENT TO PROMULGATE ANY RULE OR REGULATION, CIRCULAR LETTER
19 OR DIRECTIVE, THAT IN ANY WAY EXPANDS THE SUPERINTENDENT'S AUTHORITY TO
20 (I) APPROVE OR REGULATE THE INSURER'S ENTIRE INVESTMENT PORTFOLIO OR
21 INVESTMENT STRATEGY OR THE ASSETS HELD IN OR RELATED TO THE ALTERNATIVE
22 ACCOUNT, OR (II) IMPOSE STANDARDS ON CORPORATE GOVERNANCE THAT ARE
23 EITHER STRICTER OR CONTRARY TO THE PROVISIONS CONTAINED IN THIS ARTICLE
24 OR THE BUSINESS CORPORATION LAW.

25 S 3. Clause (V) of item (ii) of subparagraph (J) of paragraph 2 of
26 subsection (a) of section 6901 of the insurance law, as added by chapter
27 605 of the laws of 2004, is amended to read as follows:

28 (V) the financial guaranty insurance policies provide that if, prior
29 to payment by the insurer under the financial guaranty insurance poli-
30 cies, the guaranty fund has paid a claim under such contracts for an
31 amount that, when added to the amount payable under the financial guar-
32 anty insurance policies, would exceed the amount owed under such
33 contracts, then the financial guaranty insurer shall pay the portion of
34 the amount payable in excess of the contract amounts to the guaranty
35 fund instead of to the beneficiary under such contracts; [or]

36 S 4. Subparagraph (K) of paragraph 2 of subsection (a) of section 6901
37 of the insurance law, as relettered by chapter 605 of the laws of 2004,
38 is relettered subparagraph (L) and a new subparagraph (K) is added to
39 read as follows:

40 (K) GROUP OR INDIVIDUAL ANNUITY CONTRACTS OR CERTIFICATES AUTHORIZED
41 BY SUBSECTION (G) OF SECTION FOUR THOUSAND TWO HUNDRED FORTY OF THIS
42 CHAPTER; OR

43 S 5. This act shall take effect immediately.