1977 Senate Bill 360 Date published: **November 7, 1977**

CHAPTER 153, Laws of 1977

AN ACT to renumber 206.181 and 206.201; to renumber and amend 632.44 (4); to amend 623.06 (2) (intro.), (a) and (b), (2a), (2b), (3) (intro.) and (4) to (7), as renumbered, and 632.43 (title) and (6) (b) and (d), as renumbered; and to create 623.06 (4m) and 632.435 of the statutes, relating to standard nonforfeiture and valuation requirements for life insurance and annuity contracts and certification of disability in life insurance policies.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 206.181 of the statutes is renumbered 632.43, and 632.43 (title) and (6) (b) and (d), as renumbered, are amended to read:

632.43 (title) **Standard nonforfeiture law for life insurance.**

(6) (b) In the case of ordinary policies issued on or after the operative date of this paragraph ~~as defined herein~~, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1958 standard ordinary mortality table and the rate of interest, not exceeding ~~3 1/2 per cent~~ 3.5% per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that for any category of ordinary insurance issued on female risks adjusted premiums and present values may be calculated according to an age not more than ~~3~~ 6 years younger than the actual age of the insured. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1958 extended term insurance table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner. After June 14, 1959, any company may file with the commissioner a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date ~~(~~, which shall be the operative date of this paragraph for such company~~)~~, this paragraph shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of this paragraph for such company shall be January 1, 1966.

(d) A rate of interest not exceeding ~~4%~~ 5.5% per annum may be used for ordinary policies or industrial policies, or both, issued on or after June 19, 1974 ~~and before January 1, 1986~~, in lieu of the rate referred to in pars. (b) and (c).

SECTION 2. 206.201 of the statutes is renumbered 623.06, and 623.06 (2) (intro.), (a) and (b), (2a), (2b), (3) (intro.) and (4) to (7), as renumbered, are amended to read:

623.06 (2) (intro.) Except as provided in sub. (2a), the minimum standard for the valuation of all such policies and contracts issued prior to the effective date of this section [see sub. (8) and ~~206.181~~ s. 632.43 (9)] shall be that provided by the laws in effect immediately prior to such date. Except as provided in sub. (2a), the minimum standard for the valuation of all such policies and contracts issued on or after the effective date of this section shall be the ~~Commissioners~~ commissioners reserve valuation ~~method~~ methods defined in subs. (3) to (4m) and ~~(4)~~ (7), with 3-1/2% interest, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after June 19, 1974, and prior to ~~January 1, 1986~~ the effective date of this act (1977), 4% interest, and for policies issued on or after the effective date of this act (1977), 4.5% interest and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioners 1941 standard ordinary mortality table for such policies issued before the operative date of s. ~~206.181~~ 632.43 (6) (b) as defined therein, and the commissioners 1958 standard ordinary mortality table for such policies issued on or after such operative date~~; provided that for~~. For any category of such policies issued on female risks all modified net premiums and present values referred to in this section may be calculated according to an age not more than ~~3~~ 6 years younger than the actual age of the insured.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 standard industrial mortality table for such policies issued prior to the operative date of s. ~~206.181~~ 632.43 (6) (c), and the commissioners 1961 standard industrial mortality table for such policies issued on or after such operative date.

(2a) The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subsection, as defined in sub. (2b), and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the commissioners reserve valuation ~~method~~ methods defined in subs. (3) ~~and (4)~~ to (4m) and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued prior to ~~January 1, 1986~~ the effective date of this act (1977), excluding any disability and accidental death benefits in such contracts--the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner, and 6% interest for single premium immediate annuity contracts, and 4% interest for all other individual annuity and pure endowment contracts.

(b) For individual single premium immediate annuity contracts issued on or after the effective date of this act (1977), excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any modification of the table approved by the commissioner, and 7.5% interest. For other individual annuity and pure endowment contracts issued on or after ~~January 1, 1986~~ the effective date of this act (1977), excluding any disability and accidental death benefits in such contracts--the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner, and ~~3-1/2%~~ 5.5% interest for single premium deferred annuity and pure endowment contracts and 4.5% interest for all other such individual annuity and pure endowment contracts.

(c) For all annuities and pure endowments purchased prior to ~~January 1, 1986~~ the effective date of this act (1977), under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contractsthe 1971 group annuity mortality table, or any modification of this table approved by the commissioner, and 6% interest.

(d) For all annuities and pure endowments purchased on or after ~~January 1, 1986~~ the effective date of this act (1977), under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts--the 1971 group annuity mortality table, or any modification of this table approved by the commissioner, and ~~3-1/2%~~ 7.5% interest.

(2b) After ~~the effective date of sub. (2a) and this subsection (1973)~~ June 19, 1974, any company may file with the commissioner a written notice of its election to comply with sub. (2a) after a specified date before January 1, 1979, which shall be the operative date of sub. (2a) for such company, but a company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no such election, the operative date of sub. (2a) for such company shall be January 1, 1979.

(3) (intro.) ~~Reserves~~ Except as provided in subs. (4m) and (7), reserves according to the ~~Commissioners~~ commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of par. (a) over par. (b), as follows:

(4) Reserves according to the commissioners reserve valuation method for ~~(~~a) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, ~~(~~b) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employe organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the federal internal revenue code, as amended, ~~(~~c) disability and accidental death benefits in all policies

and contracts, and ~~(d)~~ all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of sub. (3), except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

(5) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the effective date of this section, be less than the aggregate reserves calculated in accordance with the method set forth in ~~subsections~~ subs. (3) ~~and (4)~~ to (4m) and (7) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(6) Reserves for all policies and contracts issued prior to the effective date of this section may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date. Reserves for any category of policies, contracts or benefits as established by the commissioner, issued on or after the effective date of this section, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein~~; provided, that reserves for participating life insurance policies issued on or after the effective date of this section may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than one-half per cent the company issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner shall approve~~. Any such company which at any time ~~shall have~~ has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(7) If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract ~~according to the mortality table, rate of interest and~~ calculated by the method used in calculating the reserve thereon~~, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period~~ but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium.

SECTION 4. 623.06 (4m) of the statutes is created to read:

623.06 (4m) This subsection applies to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employe organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the U.S. internal revenue code, as now or hereafter amended. Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

SECTION 5. 632.435 of the statutes is created to read:

632.435 Standard nonforfeiture law for individual deferred annuities. (1) In the case of contracts issued on or after the operative date of this section as defined in sub. (12), no contract of annuity shall be delivered or issued for delivery in this state unless it contains in substance the following provisions or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder:

(a) Upon cessation of payment of considerations under a contract the company will grant a paid-up annuity on a plan stipulated in the contract of such value as is specified in subs. (5) to (8) and (10).

(b) If a contract provides for a lump sum settlement at maturity or at any other time, upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subs. (5), (6), (8) and (10). The company shall reserve the right to defer the payment of such cash surrender benefit for a period of 6 months after demand therefor with surrender of the contract.

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

(e) Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of 2 years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than $20 monthly, the company may terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(4) The minimum values as specified in subs. (5) to (8) and (10) of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as follows:

(a) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of 3% per annum of percentages of the net considerations paid prior to such time, decreased by the sum of any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of 3% per annum and the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. The net considerations for a given contract year for purposes of this subsection shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during the contract year less an annual contract charge of $30 and less a collection charge of $1.25 per consideration credited to the contract during that contract year. The percentages of net considerations shall be 65% of the net consideration for the first contract year and 87.5% of the net considerations for the 2nd and later contract years, except that the percentage shall be 65% of the portion of the total net consideration for any renewal contract year which exceeds by not more than 2 times the sum of those portions of the net considerations in all prior contract years for which the percentage was 65%.

(b) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually except that:

1. The portion of the net consideration for the first contract year to be accumulated shall be the sum of 65% of the net consideration for the first contract year plus 22.5% of the excess of the net consideration for the first contract year over the lesser of the net considerations for the 2nd and 3rd contract years.

2. The annual contract charge shall be the lesser of $30 or 10% of the gross annual consideration.

(c) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to 90% and the net consideration shall be the gross consideration less a contract charge of $75.

(5) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence 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 interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(6) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. No cash surrender benefit shall be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(7) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased

by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit, but the present value of a paid-up annuity benefit shall be not less than the minimum nonforfeiture amount at that time.

(8) For the purpose of determining the benefits calculated under subs. (6) and (7), in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's 70th birthday or the 10th anniversary of the contract, whichever is later.

(9) Any 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 commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(10) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(11) For any 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 subs. (5) to (8) and (10), additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits or 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.

(12) After the effective date of this act (1977), any company may file with the commissioner a written notice of its election to comply with this section after a specified date before the 2nd anniversary of the effective date of this act (1977). After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be the 2nd anniversary of the effective date of this act (1977).

(13) This section does not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship), an employe organization or both (other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the U.S. internal revenue code, as now or hereafter amended), premium deposit fund, variable annuity, investment annuity, immediate annuity, deferred annuity contract after annuity payments have commenced, reversionary annuity or any contract which is delivered outside this state through an agent or other representative of the company issuing the contract.

SECTION 5m. 632.44 (4) of the statutes, as created by chapter ... (Senate Bill 108), laws of 1977, is renumbered 632.51 and amended to read:

632.51 Certifications of disability. Every life insurance company issuing any policy which requires a certification of disability shall ~~provide that~~ accept certification ~~may be provided for and~~ signed by either a chiropractor or physician, within the scope of their respective professional licenses.

SECTION 6. **Cross reference changes.** In the sections of the statutes listed in Column A, the cross references shown in Column B are changed to the cross references shown in Column C:

A	B	C
Statute Sections	Old Cross References	New Cross References
623.04	206.201	623.06
623.06 (8), as re-numbered	206.181	632.43
632.45 (1)	206.181	632.43
632.94 (3)(e)	206.181	632.43

SECTION 7. **Effective date.** The treatment of section 632.44 (4) of the statutes by this act takes effect only if 1977 Senate Bill 108 is enacted into law and in such case it takes effect on the day after its publication or on the same date chapter ... (Senate Bill 108), laws of 1977, takes effect, whichever is later.