

# ASSEMBLY, No. 4457

## STATE OF NEW JERSEY 221st LEGISLATURE

INTRODUCED JUNE 3, 2024

**Sponsored by:**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**SYNOPSIS**

Revises limits for net cash surrender and net cash withdrawal values for certain annuity policies and contracts from \$100,000 to \$250,000.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning annuity policies and contracts and amending  
2 P.L.1991, c.208.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 3 of P.L.1991, c.208 (C.17B:32A-3) is amended to  
8 read as follows:

9 3. a. P.L.1991, c.208 (C.17B:32A-1 et seq.) shall provide  
10 coverage, for the policies and contracts specified in subsection b. of  
11 this section, to:

12 (1) persons who, regardless of where they reside (except for  
13 nonresident certificate holders under group policies or contracts), are  
14 the beneficiaries, assignees or payees, including health care providers  
15 rendering services covered under health insurance policies or  
16 certificates, of the persons covered under paragraph (2) of this  
17 subsection; and

18 (2) persons who are owners of or certificate holders or enrollees  
19 under those policies or contracts (other than unallocated annuity  
20 contracts, and structured settlement annuities) and in each case who:

21 (a) are residents, or

22 (b) are not residents, but only if:

23 (i) the member insurers which issued the policies or contracts are  
24 domiciled in this State;

25 (ii) those member insurers, health service corporations, hospital  
26 service corporations, medical service corporations, or health  
27 maintenance organizations never held a license or certificate of  
28 authority in the states in which those persons reside;

29 (iii) those states have associations and coverage provisions with  
30 respect to residency similar to the association created by P.L.1991,  
31 c.208 (C.17B:32A-1 et seq.); and

32 (iv) those persons are not eligible for coverage by those  
33 associations.

34 (3) For unallocated annuity contracts specified in subsection b. of  
35 this section, paragraphs (1) and (2) of this subsection shall not apply,  
36 and P.L.1991, c.208 (C.17B:32A-1 et seq.) shall (except as provided  
37 in paragraphs (5) and (6) of this subsection) provide coverage to  
38 persons who are the owners of the unallocated annuity contracts:

39 (a) if the contracts are issued to or in connection with a specific  
40 benefit plan whose plan sponsor has its principal place of business in  
41 this State; and

42 (b) issued to or in connection with government lotteries if the  
43 owners are residents.

44 (4) For structured settlement annuities specified in subsection b.  
45 of this section, paragraphs (1) and (2) of this subsection shall not

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 apply, and P.L.1991, c.208 (C.17B:32A-1 et seq.) shall (except as  
2 provided in paragraphs (5) and (6) of this subsection) provide  
3 coverage to a person who is a payee under a structured settlement  
4 annuity (or beneficiary of a payee if the payee is deceased) if the  
5 payee:

6 (a) is a resident, regardless of where the contract owner resides; or  
7 (b) is not a resident, but only under both of the following  
8 conditions:

9 (i) the contract owner of the structured settlement annuity is a  
10 resident or is not a resident but the insurer that issued the settlement  
11 annuity is domiciled in New Jersey and the state in which the contract  
12 owner resides has an association similar to the association created by  
13 P.L.1991, c.208 (C.17B:32A-1 et seq.); and

14 (ii) the payee (or beneficiary) and the contract owner are not  
15 eligible for coverage by the association of the state in which the  
16 payee or contract owner resides.

17 (5) P.L.1991, c.208 (C.17B:32A-1 et seq.) shall not provide  
18 coverage to a person:

19 (a) who is a payee (or beneficiary) of a contract owner resident of  
20 this State, if the payee (or beneficiary) is afforded any coverage by  
21 the association of another state;

22 (b) covered under paragraph (3) of this subsection, if any coverage  
23 is provided by the association of another state to the person; or

24 (c) who acquires rights to receive payments through a structured  
25 settlement factoring transaction as defined in section 5891 of the  
26 federal Internal Revenue Code, 26 U.S.C. s.5891(c)(3)(A), regardless  
27 of whether the transaction occurred before or after that section  
28 became effective.

29 (6) P.L.1991, c.208 (C.17B:32A-1 et seq.) is intended to provide  
30 coverage to a person who is a resident of this State and, in special  
31 circumstances, to a nonresident. In order to avoid duplicate  
32 coverage, if a person who would otherwise receive coverage under  
33 P.L.1991, c.208 (C.17B:32A-1 et seq.) is provided coverage under  
34 the law of another state, the person shall not be provided coverage  
35 under P.L.1991, c.208 (C.17B:32A-1 et seq.). In determining the  
36 application of the provisions of this paragraph in situations where a  
37 person could be covered by the association of more than one state,  
38 whether as an owner, payee, enrollee, beneficiary or assignee,  
39 P.L.1991, c.208 (C.17B:32A-1 et seq.) shall be construed in  
40 conjunction with other state laws to result in coverage by only one  
41 association.

42 b. P.L.1991, c.208 (C.17B:32A-1 et seq.) shall provide coverage  
43 to the persons specified in subsection a. of this section for policies or  
44 contracts of:

45 (1) direct, non-group life insurance, health insurance (which for  
46 the purposes of P.L.1991, c.208 (C.17B:32A-1 et seq.) includes  
47 health service corporation contracts, hospital service corporation  
48 contracts, medical service corporation contracts, and health

1 maintenance organization subscriber contracts and certificates), or  
2 annuities and supplemental policies or contracts, for certificates  
3 under direct group life insurance, health insurance, annuities and  
4 supplemental policies and contracts, for individual and group long-  
5 term care insurance policies and contracts, and for unallocated  
6 annuity contracts, issued by member insurers, except as limited by  
7 P.L.1991, c.208 (C.17B:32A-1 et seq.); and

8 (2) policies or contracts issued by medical service corporations  
9 declared to be insolvent or impaired by a court of competent  
10 jurisdiction on or after September 1, 1987, but prior to the effective  
11 date of P.L.1991, c.208 (C.17B:32A-1 et seq.), except as otherwise  
12 limited by P.L.1991, c.208 (C.17B:32A-1 et seq.).

13 c. Except as otherwise provided in subsection d. of this section,  
14 P.L.1991, c.208 (C.17B:32A-1 et seq.) shall not provide coverage  
15 for:

16 (1) any portion of a policy or contract not guaranteed by the  
17 member insurer, or under which the risk is borne by the policy or  
18 contract owner;

19 (2) any policy or contract of reinsurance, unless assumption  
20 certificates have been issued;

21 (3) any portion of a policy or contract to the extent that the rate of  
22 interest on which it is based:

23 (a) averaged over the four-year period prior to the date on which  
24 the association becomes obligated with respect to that policy or  
25 contract, exceeds the lesser of:

26 (i) the rate of interest determined by subtracting three percentage  
27 points from Moody's Corporate Bond Yield Average averaged for  
28 that same four-year period, or for such lesser period if the policy or  
29 contract was issued less than four years before the association  
30 became obligated, or

31 (ii) the rate of interest specified in the standard valuation law, or  
32 the rules of this State for determining the minimum standard for the  
33 valuation of policies or contracts issued during the year of  
34 insolvency; and

35 (b) on and after the date on which the association becomes  
36 obligated with respect to that policy or contract, exceeds the rate of  
37 interest determined by subtracting four percentage points from  
38 Moody's Corporate Bond Yield Average as most recently available;  
39 except that the limitation of this paragraph shall not preclude the  
40 association from providing more extensive coverage if it is  
41 proceeding under the authority of section 7 of P.L.1991, c.208  
42 (C.17B:32A-7);

43 (4) any plan or program of an employer, association or similar  
44 entity to provide life, health, or annuity benefits to its employees or  
45 members to the extent that such plan or program is self-funded or  
46 uninsured, including, but not limited to, benefits payable by an  
47 employer, association or similar entity under:

- 1 (a) a Multiple Employer Welfare Arrangement as defined in the  
2 Employee Retirement Income Security Act of 1974 (29 U.S.C.  
3 s.1002);
- 4 (b) a minimum premium group insurance plan;
- 5 (c) a stop-loss group insurance plan; or
- 6 (d) an administrative services only contract;
- 7 (5) any portion of a policy or contract to the extent that it provides  
8 dividends or experience rating credits, or provides that any fees or  
9 allowances be paid to any person, including the owner of the policy  
10 or contract, in connection with the service to or administration of that  
11 policy or contract;
- 12 (6) any policy or contract issued in this State by a member insurer  
13 at a time when it was not licensed or did not have a certificate of  
14 authority to issue that policy or contract in this State;
- 15 (7) any unallocated annuity contract issued to an employee benefit  
16 plan covered by the Pension Benefit Guaranty Corporation and  
17 whose benefits will be paid under such system;
- 18 (8) any portion of any unallocated annuity contract which is not  
19 issued to or in connection with a specific plan providing benefits to  
20 employees or an association of natural persons;
- 21 (9) a portion of a policy or contract to the extent it provides for  
22 interest or other changes in value to be determined by the use of an  
23 index or other external reference stated in the policy or contract, but  
24 which has not been credited to the policy or contract, or as to which  
25 the policy or contract owner's rights are subject to forfeiture, as of  
26 the date the member insurer becomes an impaired or insolvent insurer  
27 under P.L.1991, c.208 (C.17B:32A-1 et seq.), whichever is earlier.  
28 If a policy or contract's interest or changes in value are credited less  
29 frequently than annually, then for purposes of determining the values  
30 that have been credited and are not subject to forfeiture under this  
31 paragraph, the interest or change in value determined by using the  
32 procedures defined in the policy or contract shall be credited as if the  
33 contractual date of crediting interest or changing values was the date  
34 of impairment or insolvency, whichever is earlier, and shall not be  
35 subject to forfeiture;
- 36 (10) a policy or contract providing any hospital, medical,  
37 prescription drug, or other health care benefits pursuant to Medicare  
38 Parts C or D or the Medicaid program, 42 U.S.C. ss.1396 et seq.,  
39 including the Children's Health Insurance Program (CHIP) which  
40 provides health coverage to eligible children, either through  
41 Medicaid or separate CHIP programs, or any regulations issued  
42 pursuant thereto, or the "Family Health Care Coverage Act,"  
43 P.L.2005, c.156 (C.30:4J-8 et seq.), or
- 44 (11) structured settlement annuity benefits to which a payee (or  
45 beneficiary) has transferred rights in a structured settlement factoring  
46 transaction as defined pursuant to section 5891 of the federal Internal  
47 Revenue Code, 26 U.S.C. s.5891(c)(3)(A), regardless of whether the  
48 transaction occurred before or after that section became effective.

1 d. The exclusion from coverage referenced in paragraph (3) of  
2 subsection c. of this section shall not apply to any portion of a policy  
3 or contract, including a rider, that provides a long-term care or any  
4 other health insurance benefits.

5 e. The benefits for which the association may become liable  
6 shall in no event exceed the lesser of:

7 (1) the contractual obligations for which the member insurer is  
8 liable or would have been liable if it were not an impaired or  
9 insolvent insurer; or

10 (2) with respect to one life, regardless of the number of policies or  
11 contracts:

12 (a) \$500,000 in life insurance death benefits, but not more than  
13 \$100,000 in net cash surrender and net cash withdrawal values for  
14 life insurance;

15 (b) \$500,000 in present value annuity benefits, including net cash  
16 surrender and net cash withdrawal values, but not more than  
17 ~~[\$100,000]~~ \$250,000 in net cash surrender and net cash withdrawal  
18 values for annuity benefits; provided, however, that in no event shall  
19 the association be liable to expend more than \$500,000 in the  
20 aggregate with respect to any one individual under this paragraph (2);  
21 or

22 (3) with respect to any one unallocated annuity contract,  
23 \$2,000,000 in benefits; or

24 (4) with respect to any one group, blanket, or individual accident  
25 or health insurance or group, blanket or individual accident or health  
26 insurance policy, unlimited benefits;

27 (5) with respect to each individual participating in a governmental  
28 retirement benefit plan established under sections 401, 403(b), or 457  
29 of the U.S. Internal Revenue Code, 26 U.S.C. ss.401, 403(b), and  
30 457, covered by an unallocated annuity contract or the beneficiaries  
31 of each such individual if deceased, in the aggregate, \$500,000 in  
32 present value annuity benefits, including net cash surrender and net  
33 cash withdrawal values; and

34 (6) with respect to each payee of a structured settlement annuity  
35 (or beneficiary or beneficiaries of the payee if deceased), \$500,000  
36 in present value annuity benefits, in the aggregate, including net cash  
37 surrender and net cash withdrawal values, if any.

38 (7) The limitations set forth in this subsection are limitations on  
39 the benefits for which the association is obligated before taking into  
40 account either its subrogation and assignment rights or the extent to  
41 which those benefits could be provided out of the assets of the  
42 impaired or insolvent insurer attributable to covered policies. The  
43 costs of the obligation of the association under P.L.1991, c.208  
44 (C.17B:32A-1 et seq.) may be met by the use of assets attributable to  
45 covered policies or reimbursed to the association pursuant to its  
46 subrogation and assignment rights.

47 f. A provider of health care services, in order to receive payment  
48 directly from the association upon a claim of the provider against an

1 insured or enrollee, shall agree to forgive the insured of 20% of the  
2 obligation which would otherwise be paid by the member insurer had  
3 it not been insolvent. The obligations of solvent member insurers to  
4 pay all or part of the covered claim are not diminished by the  
5 forgiveness provided in this subsection. The association is not bound  
6 by an assignment of benefits executed with respect to the coverage  
7 provided by the insolvent insurer. The association may aggregate all  
8 claims owed health care providers when negotiating direct payment  
9 of claims of all covered individuals.  
10 (cf: P.L.2022, c.98, s.2)

11  
12 2. This act shall take effect on the 90th day next following  
13 enactment and shall apply to annuity policies, plans, or contracts  
14 issued or renewed on or after that date.

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STATEMENT

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19 This bill revises the limits for net cash surrender and net cash  
20 withdrawal values for certain annuity policies and contracts from  
21 \$100,000 to \$250,000.

22 Under the bill, the New Jersey Life and Health Guaranty  
23 Association will pay a policyholder of an annuity policy or contract  
24 up to \$250,000 for any net cash surrender or net cash withdrawal that  
25 a policyholder makes on an annuity issued by a member insurance  
26 company that becomes insolvent. Current law only allows the  
27 association to pay a policyholder up to \$100,000 for a net cash  
28 surrender or net cash withdrawal made on an annuity issued by a  
29 now-insolvent member insurance company.