

[First Reprint]

**ASSEMBLY, No. 4457**

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**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

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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 reported by the Assembly State and Local Government Committee on June 24, 2024, with amendments.



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),  
14 are the beneficiaries, assignees or payees, including health care  
15 providers rendering services covered under health insurance  
16 policies or certificates, of the persons covered under paragraph (2)  
17 of this 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  
21 who:

22 (a) are residents, or

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

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

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

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

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

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

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

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

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ASL committee amendments adopted June 24, 2024.

1 (4) For structured settlement annuities specified in subsection b.  
2 of this section, paragraphs (1) and (2) of this subsection shall not  
3 apply, and P.L.1991, c.208 (C.17B:32A-1 et seq.) shall (except as  
4 provided in paragraphs (5) and (6) of this subsection) provide  
5 coverage to a person who is a payee under a structured settlement  
6 annuity (or beneficiary of a payee if the payee is deceased) if the  
7 payee:

8 (a) is a resident, regardless of where the contract owner resides;  
9 or

10 (b) is not a resident, but only under both of the following  
11 conditions:

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

17 (ii) the payee (or beneficiary) and the contract owner are not  
18 eligible for coverage by the association of the state in which the  
19 payee or contract owner resides.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (ii) the rate of interest specified in the standard valuation law, or  
36 the rules of this State for determining the minimum standard for the  
37 valuation of policies or contracts issued during the year of  
38 insolvency; and

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

47 (4) any plan or program of an employer, association or similar  
48 entity to provide life, health, or annuity benefits to its employees or

1 members to the extent that such plan or program is self-funded or  
2 uninsured, including, but not limited to, benefits payable by an  
3 employer, association or similar entity under:

4 (a) a Multiple Employer Welfare Arrangement as defined in the  
5 Employee Retirement Income Security Act of 1974 (29 U.S.C.  
6 s.1002);

7 (b) a minimum premium group insurance plan;

8 (c) a stop-loss group insurance plan; or

9 (d) an administrative services only contract;

10 (5) any portion of a policy or contract to the extent that it  
11 provides dividends or experience rating credits, or provides that any  
12 fees or allowances be paid to any person, including the owner of the  
13 policy or contract, in connection with the service to or  
14 administration of that policy or contract;

15 (6) any policy or contract issued in this State by a member  
16 insurer at a time when it was not licensed or did not have a  
17 certificate of authority to issue that policy or contract in this State;

18 (7) any unallocated annuity contract issued to an employee  
19 benefit plan covered by the Pension Benefit Guaranty Corporation  
20 and whose benefits will be paid under such system;

21 (8) any portion of any unallocated annuity contract which is not  
22 issued to or in connection with a specific plan providing benefits to  
23 employees or an association of natural persons;

24 (9) a portion of a policy or contract to the extent it provides for  
25 interest or other changes in value to be determined by the use of an  
26 index or other external reference stated in the policy or contract, but  
27 which has not been credited to the policy or contract, or as to which  
28 the policy or contract owner's rights are subject to forfeiture, as of  
29 the date the member insurer becomes an impaired or insolvent  
30 insurer under P.L.1991, c.208 (C.17B:32A-1 et seq.), whichever is  
31 earlier. If a policy or contract's interest or changes in value are  
32 credited less frequently than annually, then for purposes of  
33 determining the values that have been credited and are not subject  
34 to forfeiture under this paragraph, the interest or change in value  
35 determined by using the procedures defined in the policy or contract  
36 shall be credited as if the contractual date of crediting interest or  
37 changing values was the date of impairment or insolvency,  
38 whichever is earlier, and shall not be subject to forfeiture;

39 (10) a policy or contract providing any hospital, medical,  
40 prescription drug, or other health care benefits pursuant to Medicare  
41 Parts C or D or the Medicaid program, 42 U.S.C. ss.1396 et seq.,  
42 including the Children's Health Insurance Program (CHIP) which  
43 provides health coverage to eligible children, either through  
44 Medicaid or separate CHIP programs, or any regulations issued  
45 pursuant thereto, or the "Family Health Care Coverage Act,"  
46 P.L.2005, c.156 (C.30:4J-8 et seq.), or

47 (11) structured settlement annuity benefits to which a payee (or  
48 beneficiary) has transferred rights in a structured settlement

1 factoring transaction as defined pursuant to section 5891 of the  
2 federal Internal Revenue Code, 26 U.S.C. s.5891(c)(3)(A),  
3 regardless of whether the transaction occurred before or after that  
4 section became effective.

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

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

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

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

16 (a) \$500,000 in life insurance death benefits, but not more than  
17 \$100,000 in net cash surrender and net cash withdrawal values for  
18 life insurance;

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

26 (3) with respect to any one unallocated annuity contract,  
27 \$2,000,000 in benefits; or

28 (4) with respect to any one group, blanket, or individual accident  
29 or health insurance or group, blanket or individual accident or  
30 health insurance policy, unlimited benefits;

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

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

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

1 to covered policies or reimbursed to the association pursuant to its  
2 subrogation and assignment rights.

3 f. A provider of health care services, in order to receive  
4 payment directly from the association upon a claim of the provider  
5 against an insured or enrollee, shall agree to forgive the insured of  
6 20% of the obligation which would otherwise be paid by the  
7 member insurer had it not been insolvent. The obligations of  
8 solvent member insurers to pay all or part of the covered claim are  
9 not diminished by the forgiveness provided in this subsection. The  
10 association is not bound by an assignment of benefits executed with  
11 respect to the coverage provided by the insolvent insurer. The  
12 association may aggregate all claims owed health care providers  
13 when negotiating direct payment of claims of all covered  
14 individuals.

15 (cf: P.L.2022, c.98, s.2)

16

17 2. This act shall take effect <sup>1</sup>【on the 90th day next following  
18 enactment and shall apply to annuity policies, plans, or contracts  
19 issued or renewed on or after that date】 immediately<sup>1</sup>.