

SENATE, No. 3371

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 3, 2024

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

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.

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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:

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- 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.

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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

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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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17 **STATEMENT**

18
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.