

[First Reprint]

SENATE, No. 3371

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED JUNE 3, 2024

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator ROBERT W. SINGER

District 30 (Monmouth and Ocean)

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 Senate Commerce Committee on June 10, 2024, with amendments.



(Sponsorship Updated As Of: 6/28/2024)

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:

¹Senate SCM committee amendments adopted June 10, 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 ¹【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】 immediately¹.