



## Ohio Administrative Code

### Rule 3901-6-16 Annuity nonforfeiture product standards.

Effective: July 11, 2012

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#### (A) Purpose

The purpose of this rule is to amplify section 3915.073 of the Revised Code and to define the maturity date used for the purpose of calculating nonforfeiture values for annuity contracts filed in this state and to establish rules relative to the calculation of nonforfeiture values for certain product features and designs used in annuity contracts issued in this state.

#### (B) Authority

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041 and 3901.21 of the Revised Code.

#### (C) Scope

This rule applies to all annuity contracts issued ninety days after the effective date of this rule and not specifically excluded in division (B) of section 3915.073 of the Revised Code.

#### (D) No private cause of action

Nothing herein shall be construed to create or imply a private cause of action for a violation of this rule.

#### (E) Definitions

As used in this rule:

(1) "Prospective test" is the nonforfeiture test, included in the filed actuarial memorandum, used to demonstrate compliance with division (F) of section 3915.073 of the Revised Code.



(2) "Retrospective test" is the nonforfeiture test, included in the filed actuarial memorandum, used to demonstrate compliance with division (D) of section 3915.073 of the Revised Code.

(F) Nonforfeiture standards for annuities

(1) Maturity date. For the purpose of the prospective test, notwithstanding the language of the contract, the maturity date shall be the later of the tenth contract anniversary or the contract anniversary following the annuitant's seventieth birthday. The contract anniversary used as the maturity date should be considered as the first day of the year following the contract anniversary (not including any premium payments for that year) and the discounting process should be determined on a curtate (full integral year) basis.

(a) Maturity value used to demonstrate compliance with the prospective test shall be the contract account value.

(b) No surrender charge is permitted on or past the maturity date.

(2) Non-level guaranteed interest rates. If the contract has non-level interest rate guarantees over the period of time for which interest rates are guaranteed, then, for the purposes of the prospective test, the maturity value shall be discounted at an interest rate not to exceed one per cent higher than the level imputed interest rate that produces a maturity value equal to that produced by the interest rates specified in the contract. The level imputed interest rate shall be derived such that gross considerations, net of any expense loads specified in the contract, accumulated at such level imputed interest rate equals gross consideration, net of any expense loads specified in the contract accumulated at the rate or rates specified in the contract.

(3) Rolling surrender charges. For contracts where surrender charge scales are measured from the date of each premium payment, minimum value compliance may be demonstrated assuming each premium payment is treated as a separate single premium contract. For purposes of determining the maturity date for each single premium, that date shall be the later of the tenth anniversary of the payment or the annuitant's seventieth birthday. If minimum value compliance is to be demonstrated in this fashion, the retrospective test minimum values shall be the greater of those based on the



contract being treated either as a single contract providing for flexible premiums or as a single contract with each premium being considered a single premium contract.

(4) CD annuities. Annuity products with surrender charges that periodically renew and credited interest rate guarantee periods that periodically renew, sometimes referred to as "CD annuities", are compliant with the nonforfeiture tests provided:

(a) The contract provides for a time period of at least thirty days at each renewal, during which the contract may be surrendered without surrender charges or other penalties.

(b) For prospective test compliance, testing should be performed only once at issue and the surrender charge should be set to zero at every duration beyond the expiration of the initial interest guarantee period.

(c) In demonstrating prospective test compliance, for any period after the expiration of the initial interest guarantee period, the guaranteed credited rate assumed should be the minimum rate guaranteed in the contract.

(d) For a given interest guarantee period, the surrender charge percentage applicable at any renewal duration of that guarantee period should not exceed that for the comparable initial guarantee period duration.

(5) Bonus benefits. The following applies to annuity products that provide an interest bonus, a premium bonus, a persistency bonus or any other amounts and or percentages that are credited to the premiums paid, account value, cash value, cash surrender value or maturity value under a specified condition, other than benefits of the type described above that are provided through any pattern of non-level interest rate guarantees that may be similar to but are not specifically referred to as bonuses or additional credits.

(a) For purposes of demonstrating nonforfeiture compliance, the following requirements apply to bonus benefits:

(i) For purposes of the retrospective test, any bonus amounts are not to be considered gross



considerations;

(ii) For purposes, of the prospective test, the bonus amount, accumulated at interest using the rate or rates specified in the contract, is to be considered part of the contract maturity value. The maturity value shall be discounted at an interest rate not to exceed one per cent higher than the level imputed interest rate that produces a maturity value equal to that produced by the interest rate or rates specified in the contract. The level imputed interest rate shall be derived such that gross considerations, net of any expense loads specified in the contract, accumulated at such level imputed interest rate equals gross considerations, net of any expense loads specified in the contract, plus the bonus accumulated at the rate or rates specified in the contract to the maturity date.

(b) Conditions under which bonus benefits may be forfeited; the contract may, at the option of the company, deduct from the account value the amount of any bonus benefit credited, provided the following conditions are met:

(i) The conditions for forfeiture are described in the contract;

(ii) Forfeiture of the bonus will not reduce the cash value below the minimum nonforfeiture benefit as required under this rule;

(iii) No bonus will be forfeited on or after the maturity date.

(c) Notwithstanding paragraph (F)(5)(a) of this rule, annuitization bonuses that are simply an additional percentage applied to the account value at annuitization do not need to be considered part of the maturity value for the purpose of the prospective test but shall be disclosed in the contract.

(6) Market value adjustments. Contracts that contain a market value adjustment (MVA) must comply with the retrospective test including application of the MVA. For the purposes of the prospective test, the MVA may be disregarded.

(G) Severability

If any paragraph, term or provision of this rule is adjudged invalid for any reason, the judgment shall



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not affect, impair or invalidate any other paragraph, term or provision of this rule, but the remaining paragraphs, terms and provisions shall be and continue in full force and effect.