

**RCW 48.23.440 Minimum nonforfeiture amounts.** The minimum values as specified in RCW 48.23.450, 48.23.460, 48.23.470, 48.23.480, and 48.23.500 of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(1) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments is equal to an accumulation up to such time at rates of interest as indicated in subsection (2) of this section of the net considerations, as defined in this subsection, paid prior to such time, decreased by the sum of the following:

(a) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in subsection (2) of this section;

(b) An annual contract charge of fifty dollars, accumulated at rates of interest as indicated in subsection (2) of this section;

(c) Any premium tax paid by the insurer for the contract, accumulated at rates of interest as indicated in subsection (2) of this section; and

(d) The amount of any indebtedness to the company on the contract, including interest due and accrued.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent of the gross considerations credited to the contract during that contract year.

(2) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent per annum and the following, which shall be specified in the contract if the interest rate will be reset:

(a) The five-year constant maturity treasury rate reported by the federal reserve as of a date certain, or averaged over a period, rounded to the nearest one-twentieth of one percent, specified in the contract no longer than fifteen months prior to the contract issue date or redetermination date under (d) of this subsection;

(b) Reduced by one hundred twenty-five basis points;

(c) Where the resulting interest rate is not less than one percent; and

(d) The interest rate shall apply to an initial period and may be redetermined for additional periods. The redetermination date, basis, and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.

(3) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in subsection (2)(b) of this section by up to an additional one hundred basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction may not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. If a demonstration is not acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

(4) The commissioner may adopt rules to implement subsection (3) of this section and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that

provide substantive participation in an equity index benefit and for other policies that the commissioner determines justify an adjustment.

(5) Before January 1, 2006, an insurer may issue an annuity policy under this section as in effect on December 31, 2003; or issue an annuity policy under this section as in effect on July 1, 2004. On or after January 1, 2006, an insurer must issue an annuity policy under this section as in effect on or after July 1, 2004. [2004 c 91 § 2; 1982 1st ex.s. c 9 § 24.]

**Effective date—2004 c 91:** See note following RCW 48.23.430.