

**40-4,104. Same; minimum values; rules and regulations.** The minimum values as specified in K.S.A. 2016 Supp. 40-4,105, 40-4,106, 40-4,107, 40-4,108 and 40-4,110, and amendments thereto, 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 and amendments thereto.

(a) (1) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest as indicated in subsection (b) of the net considerations, as hereinafter defined, paid prior to such time, decreased by the sum of subparagraphs (A) through (D) below:

- (A) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in subsection (b).
- (B) An annual contract charge of \$50, accumulated at rates of interest as indicated in subsection (b).
- (C) Any premium tax paid by the company for the contract, accumulated at rates of interest as indicated in subsection (b).
- (D) The amount of any indebtedness to the company on the contract, including interest due and accrued.

(2) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to 87.5% of the gross considerations credited to the annuity contract during that contract year.

(b) 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 annuity contract if the interest rate will be reset:

(1) The five-year constant maturity treasury rate reported by the federal reserve as of a date, or average over a period, rounded to the nearest 1/20th of one percent, specified in the contract no longer than 15 months prior to the annuity contract's issue date or redetermination date of paragraph (4) of subsection (b) of this section and amendments thereto;

(2) reduced by 125 basis points;

(3) where the resulting interest rate is not less than one percent; and

(4) the interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, shall be stated in the annuity 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.

(c) During the period or term that an annuity contract provides substantive participation in an equity indexed benefit, such annuity contract may increase the reduction described in paragraph (2) of subsection (b) above by up to an additional 100 basis points to reflect the value of the equity index benefit. The present value at the issue date of such annuity contract, and at each redetermination date thereafter, of the additional reduction shall 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. Lacking such a demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

(d) The commissioner may adopt rules and regulations to implement the provisions of subsection (c) of this section, and amendments thereto, and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for annuity contracts that provide substantive participation in an equity index benefit and for such other annuity contracts that the commissioner determines adjustments are justified.

**History:** L. 2004, ch. 18, § 4; July 1.