



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

**HB5349**

Introduced 01/26/06, by Rep. Frank J. Mautino

#### SYNOPSIS AS INTRODUCED:

5 ILCS 80/4.17

5 ILCS 80/4.27 new

215 ILCS 5/229.4

215 ILCS 5/368f new

from Ch. 73, par. 841.4

Amends the Regulatory Sunset Act to extend the repeal date of certain Articles of the Illinois Insurance Code until January 1, 2017. Amends the Illinois Insurance Code. Extends the repeal date for a Section concerning the Standard Non-forfeiture Law for Individual Deferred Annuities until July 1, 2016. Provides that no Illinois resident activated for military service and no spouse or dependent of that resident who becomes eligible for a government-sponsored health insurance program as a result of the service may be denied reinstatement to the health insurance coverage that lapsed as a result of the military service. Provides that the insurer must receive the request for reinstatement within a certain time period. Requires insurers to provide written notice to policyholders of the right to reinstatement. Provides that the requirement of reinstatement does not apply to certain types of policies. Authorizes the Secretary of Financial and Professional Regulation to adopt rules. Effective immediately.

LRB094 19325 LJB 54976 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**  
 3 **represented in the General Assembly:**

4 Section 5. The Regulatory Sunset Act is amended by changing  
 5 Section 4.17 and by adding Section 4.27 as follows:

6 (5 ILCS 80/4.17)

7 Sec. 4.17. Acts repealed on January 1, 2007. The following  
 8 are repealed on January 1, 2007:

9 The Boiler and Pressure Vessel Repairer Regulation  
 10 Act.

11 The Structural Pest Control Act.

12 ~~Articles II, III, IV, V, V 1/2, VI, VIIA, VIIB, VIIC,~~  
 13 ~~XVII, XXXI, XXXI 1/4, and XXXI 3/4 of the Illinois~~  
 14 ~~Insurance Code.~~

15 The Clinical Psychologist Licensing Act.

16 The Illinois Optometric Practice Act of 1987.

17 The Medical Practice Act of 1987.

18 The Environmental Health Practitioner Licensing Act.

19 (Source: P.A. 92-837, eff. 8-22-02.)

20 (5 ILCS 80/4.27 new)

21 Sec. 4.27. Act repealed on January 1, 2017. The following  
 22 are repealed on January 1, 2017:

23 Articles II, III, IV, V, V 1/2, VI, VIIA, VIIB, VIIC, XVII,  
 24 XXXI, XXXI 1/4, and XXXI 3/4 of the Illinois Insurance Code.

25 Section 10. The Illinois Insurance Code is amended by  
 26 changing Section 229.4 and by adding Section 368f as follows:

27 (215 ILCS 5/229.4) (from Ch. 73, par. 841.4)

28 (Section scheduled to be repealed on July 1, 2006)

29 Sec. 229.4. Standard Non-forfeiture Law for Individual

1 Deferred Annuities.

2 (1) No contract of annuity issued on or after the operative  
3 date of this Section except as stated in subsection (11) shall  
4 be delivered or issued for delivery in this State unless it  
5 contains in substance the following provisions or  
6 corresponding provisions which in the opinion of the Director  
7 are at least as favorable to the contract holder upon cessation  
8 of payment of considerations under the contract:

9 (a) That upon cessation of payment of considerations  
10 under a contract, the company will grant a paid-up annuity  
11 benefit on a plan stipulated in the contract of such value  
12 as is specified in subsections (3), (4), (5), (6) and (8).

13 (b) If a contract provides for a lump sum settlement at  
14 maturity, or at any other time, that upon surrender of the  
15 contract at or prior to the commencement of any annuity  
16 payments, the company will pay in lieu of any paid-up  
17 annuity benefit a cash surrender benefit of such amount as  
18 is specified in subsections (3), (4), (6) and (8). The  
19 company shall reserve the right to defer the payment of  
20 such cash surrender benefit for a period of 6 months after  
21 demand therefor with surrender of the contract.

22 (c) A statement of the mortality table, if any, and  
23 interest rates used in calculating any minimum paid-up  
24 annuity, cash surrender or death benefits that are  
25 guaranteed under the contract, together with sufficient  
26 information to determine the amount of such benefits.

27 (d) A statement that any paid-up annuity, cash  
28 surrender or death benefits that may be available under the  
29 contract are not less than the minimum benefits required by  
30 any statute of the state in which the contract is delivered  
31 and an explanation of the manner in which such benefits are  
32 altered by the existence of any additional amounts credited  
33 by the company to the contract, any indebtedness to the  
34 company on the contract or any prior withdrawals from or  
35 partial surrenders of the contract.

36 Notwithstanding the requirements of this subsection, any

1 deferred annuity contract may provide that if no considerations  
2 have been received under a contract for a period of 2 full  
3 years and the portion of the paid-up annuity benefit at  
4 maturity on the plan stipulated in the contract arising from  
5 considerations paid prior to such period would be less than  
6 \$20.00 monthly, the company may at its option terminate such  
7 contract by payment in cash of the present value of such  
8 portion of the paid-up annuity benefit, calculated on the basis  
9 of the mortality table, if any, and interest rate specified in  
10 the contract for determining the paid-up annuity benefit, and  
11 by such payment shall be relieved of any further obligation  
12 under such contract.

13 (2) The minimum values as specified in subsections (3),  
14 (4), (5), (6) and (8) of any paid-up annuity, cash surrender or  
15 death benefits available under an annuity contract shall be  
16 based upon minimum nonforfeiture amounts as defined in this  
17 subsection.

18 (a) With respect to contracts providing for flexible  
19 considerations, the minimum nonforfeiture amount at any  
20 time at or prior to the commencement of any annuity  
21 payments shall be equal to an accumulation up to such time  
22 at a rate of interest of 3% per annum of percentages of the  
23 net considerations, as hereinafter defined, paid prior to  
24 such time, decreased by the sum of (i) any prior  
25 withdrawals from or partial surrenders of the contract  
26 accumulated at a rate of interest of 3% per annum and (ii)  
27 the amount of any indebtedness to the company on the  
28 contract, including interest due and accrued, and  
29 increased by any existing additional amounts credited by  
30 the company to the contract.

31 The net considerations for a given contract year used  
32 to define the minimum nonforfeiture amount shall be an  
33 amount not less than zero and shall be equal to the  
34 corresponding gross considerations credited to the  
35 contract during that contract year less an annual contract  
36 charge of \$30.00 and less a collection charge of \$1.25 per

1 consideration credited to the contract during that  
2 contract year. The percentages of net considerations shall  
3 be 65% of the net consideration for the first contract year  
4 and 87 1/2% of the net considerations for the second and  
5 later contract years. Notwithstanding the provisions of  
6 the preceding sentence, the percentage shall be 65% of the  
7 portion of the total net consideration for any renewal  
8 contract year which exceeds by not more than two times the  
9 sum of those portions of the net considerations in all  
10 prior contract years for which the percentage was 65%.

11 (a-5) Notwithstanding the provisions of paragraph (a)  
12 of this subsection, the minimum nonforfeiture amount for  
13 any contract issued on or after July 1, 2002 and before  
14 July 1, 2005 shall be based on a rate of interest of 1.5%  
15 per annum.

16 (b) With respect to contracts providing for fixed  
17 scheduled considerations, minimum nonforfeiture amounts  
18 shall be calculated on the assumption that considerations  
19 are paid annually in advance and shall be defined as for  
20 contracts with flexible considerations which are paid  
21 annually, with two exceptions:

22 (i) The portion of the net consideration for the  
23 first contract year to be accumulated shall be the sum  
24 of 65% of the net consideration for the first contract  
25 year plus 22 1/2% of the excess of the net  
26 consideration for the first contract year over the  
27 lesser of the net considerations for the second and  
28 third contract years.

29 (ii) The annual contract charge shall be the lesser  
30 of (A) \$30.00 or (B) 10% of the gross annual  
31 consideration.

32 (c) With respect to contracts providing for a single  
33 consideration, minimum nonforfeiture amounts shall be  
34 defined as for contracts with flexible considerations  
35 except that the percentage of net consideration used to  
36 determine the minimum nonforfeiture amount shall be equal

1 to 90% and the net consideration shall be the gross  
2 consideration less a contract charge of \$75.00.

3 (3) Any paid-up annuity benefit available under a contract  
4 shall be such that its present value on the date annuity  
5 payments are to commence is at least equal to the minimum  
6 nonforfeiture amount on that date. Such present value shall be  
7 computed using the mortality table, if any, and the interest  
8 rate specified in the contract for determining the minimum  
9 paid-up annuity benefits guaranteed in the contract.

10 (4) For contracts which provide cash surrender benefits,  
11 such cash surrender benefits available prior to maturity shall  
12 not be less than the present value as of the date of surrender  
13 of that portion of the maturity value of the paid-up annuity  
14 benefit which would be provided under the contract at maturity  
15 arising from considerations paid prior to the time of cash  
16 surrender reduced by the amount appropriate to reflect any  
17 prior withdrawals from or partial surrenders of the contract,  
18 such present value being calculated on the basis of an interest  
19 rate not more than 1% higher than the interest rate specified  
20 in the contract for accumulating the net considerations to  
21 determine such maturity value, decreased by the amount of any  
22 indebtedness to the company on the contract, including interest  
23 due and accrued, and increased by any existing additional  
24 amounts credited by the company to the contract. In no event  
25 shall any cash surrender benefit be less than the minimum  
26 nonforfeiture amount at that time. The death benefit under such  
27 contracts shall be at least equal to the cash surrender  
28 benefit.

29 (5) For contracts which do not provide cash surrender  
30 benefits, the present value of any paid-up annuity benefit  
31 available as a nonforfeiture option at any time prior to  
32 maturity shall not be less than the present value of that  
33 portion of the maturity value of the paid-up benefit provided  
34 under the contract arising from considerations paid prior to  
35 the time of the contract is surrendered in exchange for, or  
36 changed to, a deferred paid-up annuity, such present value

1 being calculated for the period prior to the maturity date on  
2 the basis of the interest rate specified in the contract for  
3 accumulating the net considerations to determine such maturity  
4 value, and increased by any existing additional amounts  
5 credited by the company to the contract. For contracts which do  
6 not provide any death benefits prior to the commencement of any  
7 annuity payments, such present values shall be calculated on  
8 the basis of such interest rate and the mortality table  
9 specified in the contract for determining the maturity value of  
10 the paid-up annuity benefit. However, in no event shall the  
11 present value of a paid-up annuity benefit be less than the  
12 minimum nonforfeiture amount at that time.

13 (6) For the purpose of determining the benefits calculated  
14 under subsections (4) and (5), in the case of annuity contracts  
15 under which an election may be made to have annuity payments  
16 commence at optional maturity dates, the maturity date shall be  
17 deemed to be the latest date for which election shall be  
18 permitted by the contract, but shall not be deemed to be later  
19 than the anniversary of the contract next following the  
20 annuitant's seventieth birthday or the tenth anniversary of the  
21 contract, whichever is later.

22 (7) Any contract which does not provide cash surrender  
23 benefits or does not provide death benefits at least equal to  
24 the minimum nonforfeiture amount prior to the commencement of  
25 any annuity payments shall include a statement in a prominent  
26 place in the contract that such benefits are not provided.

27 (8) Any paid-up annuity, cash surrender or death benefits  
28 available at any time, other than on the contract anniversary  
29 under any contract with fixed scheduled considerations, shall  
30 be calculated with allowance for the lapse of time and the  
31 payment of any scheduled considerations beyond the beginning of  
32 the contract year in which cessation of payment of  
33 considerations under the contract occurs.

34 (9) For any contract which provides, within the same  
35 contract by rider or supplemental contract provision, both  
36 annuity benefits and life insurance benefits that are in excess

1 of the greater of cash surrender benefits or a return of the  
2 gross considerations with interest, the minimum nonforfeiture  
3 benefits shall be equal to the sum of the minimum nonforfeiture  
4 benefits for the annuity portion and the minimum nonforfeiture  
5 benefits, if any, for the life insurance portion computed as if  
6 each portion were a separate contract. Notwithstanding the  
7 provisions of subsections (3), (4), (5), (6) and (8),  
8 additional benefits payable (a) in the event of total and  
9 permanent disability, (b) as reversionary annuity or deferred  
10 reversionary annuity benefits, or (c) as other policy benefits  
11 additional to life insurance, endowment, and annuity benefits,  
12 and considerations for all such additional benefits, shall be  
13 disregarded in ascertaining the minimum nonforfeiture amounts,  
14 paid-up annuity, cash surrender and death benefits that may be  
15 required by this section. The inclusion of such additional  
16 benefits shall not be required in any paid-up benefits, unless  
17 such additional benefits separately would require minimum  
18 nonforfeiture amounts, paid-up annuity, cash surrender and  
19 death benefits.

20 (10) After the effective date of this Section, any company  
21 may file with the Director a written notice of its election to  
22 comply with the provisions of this Section after a specified  
23 date before the second anniversary of the effective date of  
24 this Section. After the filing of such notice, then upon such  
25 specified date, which shall be the operative date of this  
26 section for such company, this Section shall become operative  
27 with respect to annuity contracts thereafter issued by such  
28 company. If a company makes no such election, the operative  
29 date of this section for such company shall be the second  
30 anniversary of the effective date of this Section.

31 (11) This Section shall not apply to any reinsurance, group  
32 annuity purchased under a retirement plan or plan of deferred  
33 compensation established or maintained by an employer  
34 (including a partnership or sole proprietorship) or by an  
35 employee organization, or by both, other than a plan providing  
36 individual retirement accounts or individual retirement



1 annuities under Section 408 of the Internal Revenue Code, as  
2 now or hereafter amended, premium deposit fund, variable  
3 annuity, investment annuity, immediate annuity, any deferred  
4 annuity contract after annuity payments have commenced, or  
5 reversionary annuity, nor to any contract which shall be  
6 delivered outside this State through an agent or other  
7 representative of the company issuing the contract.

8 (12) This Section is repealed on July 1, 2016 ~~2006~~.

9 (Source: P.A. 92-541, eff. 7-1-02; 93-873, eff. 8-6-04.)

10 (215 ILCS 5/368f new)

11 Sec. 368f. Military service member insurance  
12 reinstatement.

13 (a) No Illinois resident activated for military service and  
14 no spouse or dependent of the resident who becomes eligible for  
15 a federal government-sponsored health insurance program,  
16 including the TriCare program providing coverage for civilian  
17 dependents of military personnel, as a result of the activation  
18 shall be denied reinstatement into the same individual health  
19 insurance coverage with the health insurer that the resident  
20 lapsed as a result of activation or becoming covered by the  
21 federal government-sponsored health insurance program. The  
22 resident shall have the right to reinstatement in the same  
23 individual health insurance coverage without medical  
24 underwriting, subject to payment of the current premium charged  
25 to other persons of the same age and gender that are covered  
26 under the same individual health coverage. Except in the case  
27 of birth or adoption that occurs during the period of  
28 activation, reinstatement must be into the same coverage type  
29 as the resident held prior to lapsing the individual health  
30 insurance coverage and at the same or, at the option of the  
31 resident, higher deductible level. The reinstatement rights  
32 provided under this subsection (a) are not available to a  
33 resident or dependents if the activated person is discharged  
34 from the military under other than honorable conditions.

35 (b) The health insurer with which the reinstatement is

1 being requested must receive a request for reinstatement no  
2 later than 63 days following the later of (i) deactivation or  
3 (ii) loss of coverage under the federal government-sponsored  
4 health insurance program. The health insurer may request proof  
5 of loss of coverage and the timing of the loss of coverage of  
6 the government-sponsored coverage in order to determine  
7 eligibility for reinstatement into the individual coverage.  
8 The effective date of the reinstatement of individual health  
9 coverage shall be the first of the month following receipt of  
10 the notice requesting reinstatement.

11 (c) All insurers must provide written notice to the  
12 policyholder of individual health coverage of the rights  
13 described in subsection (a) of this Section. In lieu of the  
14 inclusion of the notice in the individual health insurance  
15 policy, an insurance company may satisfy the notification  
16 requirement by providing a single written notice:

17 (1) in conjunction with the enrollment process for a  
18 policyholder initially enrolling in the individual  
19 coverage on or after the effective date of this amendatory  
20 Act of the 94th General Assembly; or

21 (2) by mailing written notice to policyholders whose  
22 coverage was effective prior to the effective date of this  
23 amendatory Act of the 94th General Assembly no later than  
24 90 days following the effective date of this amendatory Act  
25 of the 94th General Assembly.

26 (d) The provisions of subsection (a) of this Section do not  
27 apply to any policy or certificate providing coverage for any  
28 specified disease, specified accident or accident-only  
29 coverage, credit, dental, disability income, hospital  
30 indemnity, long-term care, Medicare supplement, vision care,  
31 or short-term nonrenewable health policy or other  
32 limited-benefit supplemental insurance, or any coverage issued  
33 as a supplement to any liability insurance, workers'  
34 compensation or similar insurance, or any insurance under which  
35 benefits are payable with or without regard to fault, whether  
36 written on a group, blanket, or individual basis.

1       (e) Nothing in this Section shall require an insurer to  
2       reinstate the resident if the insurer requires residency in an  
3       enrollment area and those residency requirements are not met  
4       after deactivation or loss of coverage under the  
5       government-sponsored health insurance program.

6       (f) All terms, conditions, and limitations of the  
7       individual coverage into which reinstatement is made apply  
8       equally to all insureds enrolled in the coverage.

9       (g) The Secretary may adopt rules as may be necessary to  
10       carry out the provisions of this Section.

11       Section 99. Effective date. This Act takes effect upon  
12       becoming law.