

# COMMONWEALTH OF VIRGINIA



STEVEN T. FOSTER  
COMMISSIONER OF INSURANCE

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## STATE CORPORATION COMMISSION

### BUREAU OF INSURANCE

October 15, 1992

### Administrative Letter 1992-20

TO: All Insurers Licensed to Market Life Insurance and Annuities in Virginia

RE: House Bill 660 - Effective July 1, 1992  
Modified Guaranteed Life Insurance and Modified Guaranteed Annuities

The 1992 Virginia General Assembly passed House Bill 660, a copy of which is attached for your review. This bill provides definitions of modified guaranteed life insurance and annuities as well as providing requirements for investments, separate accounts and the authority to issue these contracts. Section 38.2-3113.1.D. of the Code of Virginia provides that an insurer must satisfy the Commission "that its condition and methods of operation in connection with the issuance of modified guaranteed contracts will not render its operation hazardous to the public or to its policyholders in this Commonwealth." The qualifications an insurer must meet in order to be licensed are also set forth in this subsection.

I am aware that some insurers have submitted policy forms covered by this bill prior to July 1, 1992 and that they have been approved or filed by the Bureau of Insurance. After extensive review, I have determined that these forms should not continue to be marketed in Virginia until the insurer issuing these contracts is granted specific authority to do so as provided in Section 38.2-3113.1.D. of the Code of Virginia.

In view of this, I am notifying you that as of December 15, 1992, approval or filing of all modified guaranteed life insurance and annuity forms is withdrawn as provided in Section 38.2-316.F. of the Code of Virginia. In order for forms to be marketed subsequent to December 15, 1992, your company must apply for and receive specific authority to market modified guaranteed life and annuity contracts, and your forms must be reviewed and approved pursuant to the requirements of House Bill 660 and any regulations issued by the State Corporation Commission.

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**IT IS VERY IMPORTANT THAT THE ATTACHED SURVEY BE COMPLETED, SIGNED BY AN OFFICER OF YOUR COMPANY, AND RETURNED TO US NO LATER THAN NOVEMBER 15, 1992.**

Questions regarding the implementation of this letter should be addressed, in writing, to the appropriate person named below.

Policy Form Questions

Mr. Robert L. Wright  
Supervisor  
Life and Health Forms and Rates Section  
State Corporation Commission  
Bureau of Insurance  
P. O. Box 1157  
Richmond, Virginia 23209

Licensing Questions

Mr. Andy Delbridge  
Supervisor  
Company Licensing Section  
State Corporation Commission  
Bureau of Insurance  
P. O. Box 1157  
Richmond, Virginia 23209

Sincerely yours,



Steven T. Foster  
Commissioner of Insurance

STF/ds  
Attachment

Survey

Name of Company \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name of Officer of Company Certifying the Information in this Survey:

Signature \_\_\_\_\_

Title \_\_\_\_\_

Telephone \_\_\_\_\_

1. Has your company received approval or had modified life insurance or modified guaranteed annuity forms filed for informational purposes in Virginia.

Yes \_\_\_\_\_

No \_\_\_\_\_

Please provide form numbers and approval dates.

Please Return This Survey To:

Mr. Robert L. Wright, CLU, CIE  
Supervisor, Forms and Rates Section  
Life and Health Division  
Bureau of Insurance  
P. O. Box 1157  
Richmond, Virginia 23209

**RESPONSE IS REQUIRED NO LATER THAN NOVEMBER 15, 1992.**

# 1992 SESSION

## VIRGINIA ACTS OF ASSEMBLY - CHAPTER 210

*An Act to amend and reenact §§ 38.2-102, 38.2-106 and 38.2-3219 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 38.2-105.1, 38.2-107.1, 38.2-1443.1 and 38.2-3113.1, relating to modified guaranteed life and modified guaranteed annuity insurance contracts.*

[H 660]

Approved MAR 5 1992

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-102, 38.2-106 and 38.2-3219 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 38.2-105.1, 38.2-107.1, 38.2-1443.1 and 38.2-3113.1 as follows:

§ 38.2-102. Life.—“Life insurance” means insurance upon the lives of human beings. “Life insurance” includes policies that also provide (i) endowment benefits; (ii) additional benefits in the event of death, dismemberment, or loss of sight by accident or accidental means; (iii) additional benefits to safeguard the contract from lapse or to provide a special surrender value, a special benefit or an annuity, in the event of total and permanent disability of the insured; and (iv) optional modes of settlement of proceeds. As used in this title, unless the context requires otherwise, “life insurance” shall be deemed to include “credit life insurance,” “industrial life insurance,” and “variable life insurance ” and “modified guaranteed life insurance .”

§ 38.2-105.1. Modified guaranteed life insurance.—“Modified guaranteed life insurance” means any policy or contract of life insurance in which the benefits are guaranteed if held for specified periods and nonforfeiture values are based upon a market-value adjustment formula if held for shorter periods. The formula may or may not reflect the investment experience of any separate account which may be maintained by the insurer for the policy or contract as provided for in § 38.2-3113.1.

§ 38.2-106. Annuities.—“Annuities” means all agreements to make periodic payments in fixed dollar amounts pursuant to the terms of a contract for a stated period of time or for the life of the person or persons specified in the contract. “Annuities” does not include contracts defined in § 38.2-102.

As used in this title, unless the context requires otherwise, “annuity” shall be deemed to include “variable annuity ” and “modified guaranteed annuity .”

§ 38.2-107.1. Modified guaranteed annuity.—“Modified guaranteed annuity” means any agreement or contract for an annuity in which the benefits are guaranteed if held for specified periods and nonforfeiture values are based upon a market-value adjustment formula if held for shorter periods. The formula may or may not reflect the investment experience of any separate account which may be maintained by the insurer for the agreement or contract as provided for in § 38.2-3113.1.

§ 38.2-1443.1. Investment of amounts allocated to separate accounts for modified guaranteed life insurance and modified guaranteed annuities.—A. Unless otherwise provided by regulation, the amounts allocated to separate accounts for modified guaranteed life insurance and modified guaranteed annuities, pursuant to the provisions of § 38.2-3113.1, and accumulations on them, may be invested and reinvested by a domestic insurer in any type of Category 1 investment.

B. Investments made pursuant to this section shall be taken into account in applying the investment limitations of §§ 38.2-1413 and 38.2-1414 to investments made by the insurer, by combining the investments under this section with all other investments subject to such limitations. In addition to the general account meeting these investment limitations, both the separate account and the general account together shall meet these investment limitations. The limitations of §§ 38.2-1413 and 38.2-1414 shall not otherwise apply to investments made pursuant to this section.

§ 38.2-3113.1. Modified guaranteed life insurance and modified guaranteed annuities; separate accounts; authority to issue; statements required; regulations to be issued; approval expenses.—A. For purposes of this section, “modified guaranteed contracts” means modified guaranteed life insurance or modified guaranteed annuity contracts. The provisions of this section apply only to such contracts.

B. A domestic insurer that issues modified guaranteed contracts may establish one or more separate accounts in connection with these types of contracts. All amounts received by the insurer to provide benefits under contracts for which separate accounts have been

established shall be added to the appropriate separate account. Unless provided otherwise in the contract and approved by the Commission in its discretion, the assets of any such separate account shall be chargeable with liabilities arising out of any other business the insurer may conduct.

C. A foreign or alien insurer licensed to do business in this Commonwealth may be licensed to deliver or issue for delivery modified guaranteed contracts in this Commonwealth only if authorized to issue such contracts under the laws of its domicile.

D. No domestic, foreign, or alien insurer shall be licensed to deliver or issue for delivery modified guaranteed contracts in this Commonwealth, until the insurer has satisfied the Commission that its condition and methods of operation in connection with the issuance of modified guaranteed contracts will not render its operation hazardous to the public or to its policyholders in this Commonwealth. In determining the qualifications of an insurer to deliver or issue for delivery such modified guaranteed contracts in this Commonwealth, the Commission shall consider, but shall not be limited to considering, the following: (i) the history and financial condition of the insurer; (ii) the character, responsibility, and general fitness of the officers and directors of the insurer; and (iii) in the case of a foreign or alien insurer, whether the regulation provided by the laws of its domicile provides a degree of protection to policyholders and the public substantially equal to that provided by this section and any rules and regulations issued by the Commission.

E. Each insurer that has established any separate accounts in connection with modified guaranteed contracts, and delivers or issues for delivery modified guaranteed contracts in this Commonwealth shall file with the Commission, in addition to the annual statement required by § 38.2-1300, any other periodic or special reports the Commission prescribes.

F. Any modified guaranteed contract delivered or issued for delivery in this Commonwealth, and any certificate evidencing nonforfeiture benefits that vary according to a market-value adjustment formula issued pursuant to any life insurance or annuity contract issued on a group basis shall (i) contain, on its first page, a prominent statement that the nonforfeiture values may increase or decrease, based on the market-value adjustment formula in the contract, and (ii) for modified guaranteed life insurance only, be accompanied by a written disclosure to the purchaser of the policy's "interest adjusted net cost index" in compliance with regulations or forms approved by the Commission.

G. The Commission may promulgate reasonable regulations applicable to modified guaranteed contracts and to any separate accounts that may be established in connection with such contracts.

H. Reasonable actuarial expenses incurred in connection with approval of a modified contract shall be paid by the person seeking approval of such a contract.

§ 38.2-3219. Applicability.—Sections ~~38.2-3219~~ 38.2-3220 through 38.2-3229 shall not apply to any (i) reinsurance; (ii) group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under § 408 of the Internal Revenue Code, as amended; (iii) premium deposit fund; (iv) variable annuity; (v) investment annuity; (vi) immediate annuity; (vii) deferred annuity contract after annuity payments have commenced; (viii) reversionary annuity; ~~or~~ (ix) *modified guaranteed annuity*; or (x) contract delivered outside this Commonwealth through an agent or other representative of the insurer issuing the contract.