

**ASSEMBLY, No. 479**

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**STATE OF NEW JERSEY**

**214th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**  
**Assemblywoman JOAN M. VOSS**  
**District 38 (Bergen)**

**SYNOPSIS**

Increases New Jersey Life and Health Insurance Guaranty Association payment cap to \$250,000 for certain annuities.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1   **AN ACT** concerning the liability of the New Jersey Life and Health  
 2       Insurance Guaranty Association for certain annuities and  
 3       amending P.L.1991, c.208.

4  
 5       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
 6       *of New Jersey:*

7  
 8       1.   Section 3 of P.L.1991, c.208 (C.17B:32A-3) is amended to  
 9       read as follows:

10       3.   a.   This act shall provide coverage, for the policies and  
 11       contracts specified in subsection b. of this section, to:

12       (1) persons who, regardless of where they reside (except for  
 13       nonresident certificate holders under group policies or contracts),  
 14       are the beneficiaries, assignees or payees of the persons covered  
 15       under paragraph (2) of this subsection; and

16       (2) persons who are owners of or certificate holders under those  
 17       policies or contracts, or in the case of unallocated annuity contracts,  
 18       to the persons who are the contract holders and who:

19       (a) are residents, or

20       (b) are not residents, but only if:

21       (i) the insurers which issued the policies or contracts are  
 22       domiciled in this State;

23       (ii) those insurers never held a license or certificate of authority  
 24       in the states in which those persons reside;

25       (iii) those states have associations and coverage provisions with  
 26       respect to residency similar to the association created by this act;  
 27       and

28       (iv) those persons are not eligible for coverage by those  
 29       associations.

30       b.   This act shall provide coverage to the persons specified in  
 31       subsection a. of this section for:

32       (1) direct, non-group life, health, annuity and supplemental  
 33       policies or contracts, for certificates under direct group life, health,  
 34       annuity and supplemental policies and contracts, for individual and  
 35       group long-term care insurance policies and contracts, and for  
 36       unallocated annuity contracts, issued by member insurers, except as  
 37       limited by this act; and

38       (2) policies or contracts issued by medical service corporations  
 39       declared to be insolvent or impaired by a court of competent  
 40       jurisdiction on or after September 1, 1987, but prior to the effective  
 41       date of this act, except as otherwise limited by this act.

42       c.   This act shall not provide coverage for:

43       (1) any portion of a policy or contract not guaranteed by the  
 44       insurer, or under which the risk is borne by the policy or contract  
 45       holder;

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
 not enacted and is intended to be omitted in the law.

      Matter underlined thus is new matter.

- 1       (2) any policy or contract of reinsurance, unless assumption  
2       certificates have been issued;
- 3       (3) any portion of a policy or contract to the extent that the rate  
4       of interest on which it is based:
- 5       (a) averaged over the four-year period prior to the date on which  
6       the association becomes obligated with respect to that policy or  
7       contract, exceeds the lesser of:
- 8       (i) the rate of interest determined by subtracting three  
9       percentage points from Moody's Corporate Bond Yield Average  
10      averaged for that same four-year period, or for such lesser period if  
11      the policy or contract was issued less than four years before the  
12      association became obligated, or
- 13      (ii) the rate of interest specified in the standard valuation law, or  
14      the rules of this State for determining the minimum standard for the  
15      valuation of policies or contracts issued during the year of  
16      insolvency; and
- 17      (b) on and after the date on which the association becomes  
18      obligated with respect to that policy or contract, exceeds the rate of  
19      interest determined by subtracting four percentage points from  
20      Moody's Corporate Bond Yield Average as most recently available;  
21      except that the limitation of this paragraph shall not preclude the  
22      association from providing more extensive coverage if it is  
23      proceeding under the authority of section 7 of this act;
- 24      (4) any plan or program of an employer, association or similar  
25      entity to provide life, health, or annuity benefits to its employees or  
26      members to the extent that such plan or program is self-funded or  
27      uninsured, including, but not limited to, benefits payable by an  
28      employer, association or similar entity under:
- 29      (a) a Multiple Employer Welfare Arrangement as defined in the  
30      Employee Retirement Income Security Act of 1974 (29 U.S.C.  
31      s.1002);
- 32      (b) a minimum premium group insurance plan;
- 33      (c) a stop-loss group insurance plan; or
- 34      (d) an administrative services only contract;
- 35      (5) any portion of a policy or contract to the extent that it  
36      provides dividends or experience rating credits, or provides that any  
37      fees or allowances be paid to any person, including the holder of the  
38      policy or contract, in connection with the service to or  
39      administration of that policy or contract;
- 40      (6) any policy or contract issued in this State by a member  
41      insurer at a time when it was not licensed or did not have a  
42      certificate of authority to issue that policy or contract in this State;
- 43      (7) any unallocated annuity contract issued to an employee  
44      benefit plan covered by the Pension Benefit Guaranty Corporation  
45      and whose benefits will be paid under such system; and

1 (8) any portion of any unallocated annuity contract which is not  
2 issued to or in connection with a specific plan providing benefits to  
3 employees or an association of natural persons.  
4 d. The benefits for which the association may become liable  
5 shall in no event exceed the lesser of:  
6 (1) the contractual obligations for which the insurer is liable or  
7 would have been liable if it were not an impaired or insolvent  
8 insurer; or  
9 (2) with respect to any one insured individual, regardless of the  
10 number of policies or contracts:  
11 (a) \$500,000 in life insurance death benefits, but not more than  
12 \$100,000 in net cash surrender and net cash withdrawal values for  
13 life insurance;  
14 (b) \$500,000 in present value annuity benefits, including net  
15 cash surrender and net cash withdrawal values, but not more than  
16 ~~[\$100,000]~~ \$250,000 in net cash surrender and net cash withdrawal  
17 values for annuity benefits; provided, however, that in no event  
18 shall the association be liable to expend more than \$500,000 in the  
19 aggregate with respect to any one individual under this paragraph  
20 (2); or  
21 (3) with respect to any one unallocated annuity contract,  
22 \$2,000,000 in benefits; or  
23 (4) with respect to any one group, blanket, or individual  
24 accident or health insurance or group, blanket or individual accident  
25 or health insurance policy, unlimited benefits.  
26 e. A provider of health care services, in order to receive  
27 payment directly from the association upon a claim of the provider  
28 against an insured, shall agree to forgive the insured of 20% of the  
29 obligation which would otherwise be paid by the insurer had it not  
30 been insolvent. The obligations of solvent insurers to pay all or part  
31 of the covered claim are not diminished by the forgiveness provided  
32 in this subsection. The association is not bound by an assignment  
33 of benefits executed with respect to the coverage provided by the  
34 insolvent insurer. The association may aggregate all claims owed  
35 health care providers when negotiating direct payment of claims of  
36 all covered individuals.  
37 (cf: P.L.1991, c.208, s.3)

38  
39 2. This act shall take effect on the first day of the seventh  
40 month next following enactment and shall apply to covered claims  
41 resulting from insolvencies occurring on or after that date.  
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#### 44 STATEMENT

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46 This bill increases the liability of the New Jersey Life and Health  
47 Insurance Guaranty Association from \$100,000 to \$250,000, to

1 cover the value of benefits up to this amount for annuities that have  
2 not reached maturity at the time an insurer becomes insolvent.  
3 Under the “New Jersey Life and Health Insurance Guaranty  
4 Association Act,” P.L.1991, c.208 (C.17B:32A-1 et seq.), the  
5 association acts as an insurance backstop, up to established  
6 statutory limits, whenever an insurer issuing certain life and health  
7 insurance policies or annuities becomes insolvent.