

Minimum Standard Nonforfeiture Rate – Green Light, Red Light

May 05, 2021

In December 2020, by amending the Standard Nonforfeiture Law for Individual Deferred Annuities (Model 805), the NAIC gave the green light to lower the minimum standard nonforfeiture rate to 0.15% in response to the persistent low interest rate environment.

For insurers filing with the Interstate Insurance Product Regulation Commission (the Compact), this would have allowed the immediate filing of deferred annuity contracts with the 0.15% nonforfeiture rate, because the Compact standards reference Model 805's minimum rate. However, the Colorado Supreme Court's holding in *Amica Life Insurance Co. v. Wertz* put up a red light. In recognition of the holding that Compact standards may not preempt state statutes, the Compact adopted an emergency rule (ER 1) staying the effectiveness of the new rate until April 2021. Then, on March 23, 2021, the Compact adopted an emergency rule (ER 2) giving a partial green light to the use of the lower minimum standard nonforfeiture rate, contingent on state adoption.

During its March meeting, the Compact sought to resolve the conflict between the Model's 0.15% minimum and states' 1% minimum. The Compact is proposing to add to the Compact standards a definition of "nonforfeiture rate" requiring that the minimum rate "be consistent with the minimum nonforfeiture interest rate prescribed in the law of the state in which the policy is delivered or issued for delivery." The Compact decided to publish the suggested amendments to the uniform standards for consideration. While the amendments are pending, the Compact adopted ER 2, replacing ER 1, permitting a 0.15% minimum nonforfeiture rate immediately upon a state's amendment of its nonforfeiture laws to be consistent with Model 805.

As of April 5, the following states have introduced bills to greenlight a minimum standard nonforfeiture rate as low as 0.15%:

- Arkansas
- Delaware

- Hawaii
- Kansas,
- Minnesota,
- Nebraska
- North Dakota
- Oklahoma
- South Dakota
- Utah

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