

IN THE SENATE

SENATE BILL NO. 1109, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO ANNUITY CONTRACTS; AMENDING SECTION 41-1836, IDAHO CODE, TO PROVIDE THAT CERTAIN EXEMPTIONS AND PROTECTIONS SHALL NOT APPLY TO CERTAIN DEFERRED ANNUITY CONTRACTS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-1836, Idaho Code, be, and the same is hereby amended to read as follows:

41-1836. EXEMPTION OF PROCEEDS -- ANNUITY CONTRACTS -- ASSIGNABILITY OF RIGHTS. (1) The benefits, rights, privileges and options which under any annuity contract heretofore or hereafter issued are due or prospectively due the annuitant, shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers, or options, nor shall creditors be allowed to interfere with or terminate the contract, except:

(a) As to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payments to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the annuity contract, the annuitant and the payments sought to be avoided on the ground of fraud.

(b) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he is an annuitant, shall not at any time exceed one thousand two hundred fifty dollars (\$1,250) per month for the length of time represented by such installments, and that such periodic payments in excess of one thousand two hundred fifty dollars (\$1,250) per month shall be subject to garnishee execution to the same extent as are wages and salaries.

(c) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he is an annuitant, shall at any time exceed payment at the rate of one thousand two hundred fifty dollars (\$1,250) per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the annuitant to other creditors under prior court orders.

(d) As to any deferred annuity contract having a cash surrender provision and from which no periodic payments are being made, the cash

1 surrender value of the deferred annuity contract, not to exceed premi-
2 ums paid into the deferred annuity contract within six (6) months prior
3 to the filing of a bankruptcy petition, as defined in 11 U.S.C. section
4 101, or the date of attachment or levy on execution, as defined in sec-
5 tion 11-201, Idaho Code, whichever is applicable.

6 (2) If the contract so provides, the benefits, rights, privileges or
7 options accruing under such contract to a beneficiary or assignee shall
8 not be transferable nor subject to commutation, and if the benefits are
9 payable periodically or at stated times, the same exemptions and exceptions
10 contained herein for the annuitant, shall apply with respect to such bene-
11 ficiary or assignee.

12 (3) An annuity contract within the meaning of this section shall be any
13 obligation to pay certain sums at stated times, during life or lives, or for
14 a specified term or terms, issued for a valuable consideration, regardless
15 of whether or not such sums are payable to one (1) or more persons, jointly or
16 otherwise, but does not include payments under life insurance contracts at
17 stated times during life or lives, or for a specified term or terms.

18 (4) This section shall not be affected by the terms of section 15-6-107,
19 Idaho Code.