

**69B-162.011 Suitability and Disclosure in Annuity Contracts – Forms Required.**

(1) Forms Adopted.

Forms DFS-H1-1980, “Annuity Suitability Questionnaire,” (Effective 12-25-09) and DFS-H1-1981, “Disclosure and Comparison of Annuity Contracts” (Effective 12-25-09), are adopted pursuant to Sections 627.4554(4)(b) and (d), F.S., and are hereby incorporated by reference. Copies of each form adopted and incorporated by reference in this rule are available from the Division of Agents and Agency Services, Department of Financial Services, Larson Building, Tallahassee, Florida 32399-0318 or <http://www.myfloridacfo.com/Agents/Licensure/Forms/index.htm>.

(2) Application.

This rule applies exclusively to any recommendation to purchase or exchange an annuity contract as defined in Section 627.4554(3), F.S., made to a senior consumer by an insurance agent or an insurer, which results in the purchase or exchange recommended. A senior consumer is a person 65 years of age or older. In a joint purchase or exchange, if any party is 65 or older the joint purchasers are considered to be senior consumers.

(3) Duties of Insurers and Insurance Agents.

(a) Before executing a purchase or exchange of an annuity to a senior consumer, an insurance agent or an insurer, unless exempted by Section 627.4554(8), F.S., and required by the Financial Industry Regulatory Authority to perform an alternative suitability analysis, must use form DFS-H1-1980, Annuity Suitability Questionnaire incorporated in subsection (1) above, to obtain information in order to determine the suitability of the recommendation.

(b) In addition to obtaining the information required by paragraph (a), before executing a replacement or exchange of an annuity contract to a senior consumer, the insurance agent or insurer must also provide contract comparison information to the senior consumer utilizing form DFS-H1-1981, Disclosure and Comparison of Annuity Contracts, incorporated in subsection (1) above.

(c) The type face for all printed questions or requests for information that will be directly received or answered by the consumer, and all portions of the referenced forms relating to the disclosure requirements pursuant to paragraphs (3)(a) and (b) above, must be of least 12-point type.

(d) Nothing in this rule shall prevent an insurer from adapting the forms adopted in subsection (1) for its use, upon written approval of any modifications by the Department. The Department shall approve an insurer’s modification to the forms provided:

1. The forms still contain all of the same information as the Department forms referenced above;
2. The type size requirement of paragraph (3)(c) above is met;
3. Additional material added to the form does not obscure the information required, or rearrange the required information in such a way as to make it more difficult to find or understand;
4. The revised form does not contain misrepresentations or misleading statements, and is not in any other way in violation of Section 626.9541, F.S.

(e) Insurers are permitted to modify the form to use check-off boxes for indication of investment experience and risk tolerance, but shall not substitute check-off boxes for any other items on the form.

(f) The addition of an insurer’s name, contact information, or trademark; the addition of borders; or changes in font which do not alter type size, do not require prior written approval by the Department.

(g) Approval by the Department does not preclude disapproval by the Florida Office of Insurance Regulation pursuant to any provision of the Florida Insurance Code, and rules adopted there under.

*Rulemaking Authority 624.308(1), 627.4554(9) FS. Law Implemented 627.4554 FS. History–New 12-25-09.*