

DEPARTMENT OF FINANCIAL SERVICES

DIVISION OF AGENT AND AGENCY SERVICES

NOTICE OF PROPOSED RULE DEVELOPMENT

RULE NUMBER:

RULE TITLE:

69B-162.011, F.A.C.

Suitability and Disclosure in Annuity Contracts-Forms Required

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to revise the existing rule to reflect certain provisions of Senate Bill 2176, a general insurance bill passed by the 2010 Legislature. The relevant statute, 626.99(4)(c), F.S., has been amended to require cover pages for fixed and variable annuity contracts. The effect of the proposed rule is to provide clear and concise information to consumers regarding their rights to cancel annuity contracts and to receive unconditional refunds. In addition to the mandatory formatting requirements, the proposed rule amendment requires that annuity cover pages contain specific cautionary language to inform consumers of the risks, policy features and contact sources for those seeking additional information or to report complaints.

SUBJECT AREA TO BE ADDRESSED: Annuity Policy Cover Pages.

SPECIFIC AUTHORITY: 624.308(1), 626.016, 627.4554(10), F.S.

LAW IMPLEMENTED: 624.307(1), 626.308, 626.99(4)(c), 627.4131, 627.4554, F.S.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

DATE AND TIME: Monday, December 13, 2010 @ 10:00 AM

PLACE: Room 116 Larson Building, 200 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Richard Brinkley, Special Investigator, Bureau of Investigation, Division of Agent & Agency Services, Florida Department of Financial Services, 200 E. Gaines Street, Tallahassee, Florida 32399-0320, (850) 413-5654

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69B-162.011, F.A.C. Suitability and Disclosure in Annuity Contracts – Forms Required.

(1) No Change.

(2) Annuity Cover Pages.

(a) Any annuity policy must contain a cover page that is a part of and attached to the annuity policy. The cover page of an annuity policy is a page separate from and prior to the first page of the policy. Information required by the Florida Insurance Code or rules promulgated pursuant thereto to be on the first page of an annuity policy shall not appear on the cover page of the annuity policy unless expressly required by statute or rule to be also on the cover page of the annuity policy.

(b) The top of the cover page shall contain, in 18-point bold type horizontally centered on the page, the heading “Important Time Sensitive Information – Read Immediately.”

(c) The first line below the heading shall contain, in 16-point bold type justified, the statement “Deadline: Right to Cancel and Receive Full Refund”

(d) With the exception of a company logo, the remainder of the type-face on the cover page shall include only the following information as applicable in a minimum of 12-point type:

1. Information for the purchaser on the unconditional refund period as follows:

a. For purchasers age 64 and under you may return your contract for up to 14 days after you receive it.

b. For purchasers age 65 and over you may return your contract for up to 21 days after you receive it.

except for accredited investors. The term “Accredited investor” is defined in Section 627.4554(3)(b), F.S.

c. The company must include either (I) or (II) based on the annuity product type.

(I). On fixed annuities, an unconditional refund of all premiums paid, including any contract fees or charges.

(II). On variable annuities, an unconditional refund equal to the cash surrender value provided in the annuity contract, plus any fees or charges deducted from the premiums or imposed under the contract.

d. Include a statement regarding interest rates to the effect that “Interest rates may have certain limitations. Please refer to your policy for further details.

e. On the cover page of any fixed annuity with a bonus, include the following statement regarding the payment of any bonuses: “It is important that you understand how the bonus feature of your contract works. Please refer to your policy for further details.

f. On the cover page of any fixed annuity policy, include the statement that, “A Buyers Guide is required to be given to you.”

g. On the cover page of any variable annuity policy, include a statement that, “A prospectus and policy summary must be given to you.”

2. Contact information for the issuing company to include the full name of the company, address and telephone number of the contact person/area for consumer help. The information should state it is for policy owners to present inquiries or obtain information about coverage and to provide assistance in resolving complaints

3. Contact information for the selling agent to include the full name, address and telephone number.

4. The Florida Department of Financial Services Consumer Services toll free help-line number.

(3)(2) No Change.

(4)(3) Duties of Insurers and Insurance Agents.

(a) through (g) No Change.

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