

DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF AGENT AND AGENCY SERVICES
NOTICE OF PROPOSED RULE MAKING

RULE NO: 69B-162.011, F.A.C. RULE TITLE: 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 the circumstances under which an annuity contract may be cancelled for an unconditional refund. In addition to mandatory formatting requirements, the proposed rule amendment requires annuity cover pages to contain specific cautionary language that informs consumers of the risks, policy features and contact sources for those seeking additional information or to report complaints.

SUMMARY: The proposed rule amendment sets forth the requirements for the design and content for annuity cover pages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Division has prepared a Statement of estimated Regulatory Costs which indicates that the proposed rule will not have an impact on small business. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

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

LAW IMPLEMENTED: 624.307(1), 624.308, 626.99(4)(c), 627.4131, 627.4554, F.S.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A RULE HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, August 16, 2011 @ 10:30 AM

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE 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 FULL TEXT OF THE PROPOSED RULE 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 Unconditional 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 the following statement regarding possible liquidity restrictions and the long term characteristics of an annuity contract: "Please be aware that the purchase of an annuity is a long term commitment and may restrict access to your funds."

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

f. On the cover page of any 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."

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

h. 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. Contact information for the Florida Department of Financial Services, Division of Consumer Services, to include its toll-free help-line number and link to the Division's "Understanding Coverage" page located at <http://is.gd/FLinsurance>.

(3)(2) No Change.

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

(a) through (g) No Change.

Rulemaking Authority 624.308(1), 626.016, 627.4554(109), F.S. Law Implemented 624.307(1), 624.308, 626.99(4)(c), 627.4554, F.S. History--New 12-25-09, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Brinkley, Special Investigator, Bureau of Investigation, Division of Agent & Agency Services, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:

Jeff Atwater, Chief of Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 19, 2010