

R590. Insurance, Administration. (Effective 11-24-09)

R590-79. Life Insurance Disclosure Rule.

R590-79-1. Authority.

This rule is adopted and promulgated pursuant to Section 31A-2-201(3) wherein the commissioner may make rules to implement the provisions of Title 31A, and Section 31A-22-425(1) wherein the commissioner may make rules to establish standards for buyer's guides and disclosures.

R590-79-2. Purpose.

The purpose of this rule is to require insurers to deliver to purchasers of life insurance, information which will improve the purchaser's ability to select a plan of life insurance most appropriate for the purchaser's needs and improve the purchaser's understanding of the basic features of the policy being purchased or under consideration for purchase.

This rule does not prohibit the use of additional material which is not in violation of this rule or any other statute or rule.

R590-79-3. Scope.

Except as hereinafter exempted, this rule shall apply to any solicitation, negotiation or procurement of life insurance occurring within this state. This rule shall apply to any issuer of life insurance contracts including fraternal benefit societies.

Unless otherwise specifically included, this rule shall not apply to:

- A. annuities;
- B. credit life insurance;
- C. group life insurance (except for disclosures relating to preneed funeral contracts or prearrangements. These disclosure requirements shall extend to the issuance or delivery of certificates as well as to the master policy);
- D. life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), as amended; or
- E. variable life insurance under which the amount and duration of the death benefits and cash values vary according to the investment experience of a separate account.

R590-79-4. Definitions.

In addition to the definitions in Section 31A-1-301, the following definitions shall apply for the purposes of this rule:

- A. A Buyer's Guide means a document which contains, and is limited to, the language contained in the "Life Insurance Buyer's Guide," as adopted and amended by, and available from the National Association of Insurance Commissioners, 2000 edition, which is incorporated in this rule by reference.
- B. Current Scale of Nonguaranteed Elements means a formula or other mechanism that produces values for an illustration as if there is no change in the basis of those values after the time of illustration.
- C. Generic name means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

D. Nonguaranteed Elements means the premiums, credited interest rates including any bonus, benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.

E. Policy Data means a display or schedule of numerical values, both guaranteed and nonguaranteed for each policy year or a series of designated policy years of the following information: illustrated annual, other periodic, and terminal dividends; premiums; death benefits; cash surrender values; and endowment benefits.

F. (1) Policy summary means a written statement describing only the guaranteed elements of the policy. A policy summary must include the following information:

(a) A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

(b) The name and address of the insurance producer, or, if no producer is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary.

(c) The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

(d) The generic name of the basic policy and each rider.

(e) The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including, but not necessarily limited to, the tenth and twentieth policy years, and at least one age from 60 through 65 or maturity, whichever is earlier.

(i) The annual premium for the basic policy.

(ii) The annual premium for each optional rider.

(iii) Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.

(iv) Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.

(v) Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.

(f) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is adjustable, the policy summary shall indicate the maximum annual percentage rate, and shall also indicate that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and the applicable law.

(g) The date on which the policy summary is prepared.

(2) The policy summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in item F.(1)(e) of this section shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, death benefits shall be displayed separately for each insured or for each class of insureds if death

benefits do not differ within the class. Zero amounts shall be displayed as zero and may not be displayed as a blank space.

(3) If an illustration subject to the requirements of R590-177, Life Insurance Illustrations Rule, is used in the sale of a policy, a policy summary is not required.

G. Preneed Funeral Contract or Prearrangement means an agreement by or for an individual before that individual's death relating to the purchase or provisions of specific funeral or cemetery merchandise or services.

R590-79-5. Disclosure Requirements.

A. The insurer shall provide a Buyer's Guide and either a policy summary or a life illustration that is in compliance with Rule R590-177, Life Insurance Illustrations Rule, when the policy is delivered or prior to delivery of the policy if so requested.

B. The insurer shall provide a Buyer's Guide to any prospective purchaser upon request.

C. Flexible Premium and Benefit Policies. For policies commonly called "universal life insurance" and similarly structured policies, the policy summary shall indicate when the policy will expire based on the interest rates and mortality rates and other charges guaranteed in the policy and the anticipated or assumed annual premiums shown in the policy summary.

D. Requirements applicable to existing policies.

Upon request by the policyholder, the insurer shall furnish either policy data or an in force illustration as follows:

(1) For policies issued prior to January 1, 1997, the effective date of R590-177, Life Insurance Illustrations Rule, the insurer shall furnish policy data, or at its option, an in force illustration meeting the requirements of R590-177, Life Insurance Illustrations Rule.

(2) For policies issued on or after January 1, 1997 that were declared not to be used with an illustration, the insurer shall furnish policy data, limited to guaranteed values, if it has chosen not to furnish an in force illustration meeting the requirements of R590-177, Life Insurance Illustrations Rule.

(3) If the policy was issued on or after January 1, 1997 and declared to be used with an illustration, an in force illustration shall be provided.

(4) Unless otherwise requested, the policy data shall be provided for 20 consecutive years beginning with the previous policy anniversary. The statement of policy data shall include nonguaranteed elements according to the current scale, the amount of outstanding policy loans, and the current policy loan interest rate. Policy values shown shall be based on the current application of nonguaranteed elements in effect at the time of the request. The insurer may charge a reasonable fee for the preparation of the statement after providing one annually without charge.

E. Preneed Funeral Contracts or Prearrangements. The following information shall be adequately disclosed at the time an application is made prior to accepting the applicant's initial premium or deposit, for a preneed funeral contract or prearrangement, which is funded or to be funded by a life insurance policy:

(1) The fact that a life insurance policy is involved or being used to fund a prearrangement;

(2) The nature of the relationship among the soliciting producer or producers, the provider of the funeral or cemetery merchandise or services, the administrator and any other person;

- (3) The relationship of the life insurance policy to the funding of the prearrangement and the nature and existence of any guarantees relating to the prearrangement;
- (4) The impact on the prearrangement:
 - (a) of any changes in the life insurance policy including but not limited to changes in the assignment, beneficiary designation or use of the proceeds;
 - (b) of any penalties to be incurred by the policyholder as a result of failure to make premium payments; and
 - (c) of any penalties to be incurred or monies to be received as a result of cancellation or surrender of the life insurance policy;
- (5) A list of the merchandise and services which are applied or contracted for in the prearrangement and all relevant information concerning the price of the funeral services, including an indication that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need;
- (6) All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy and the amount actually needed to fund the prearrangement;
- (7) Any penalties or restrictions, including but not limited to geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services or the prearrangement guarantee;
- (8) The fact that a sales commission or other form of compensation is being paid and if so, the identity of such individuals or entities to whom it is paid.

R590-79-6. General Requirements.

A. Each insurer shall maintain, at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this rule. Such file shall contain one copy of each authorized form for a period of three years following the date of its last authorized use.

B. A producer shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he or she is acting as a life insurance producer and inform the prospective purchaser of the full name of the insurance company which the producer is representing to the buyer. In sales situations in which a producer is not involved, the insurer shall identify its full name. A presentation commences with an initial contact with a prospective purchaser in person, by telephone, by electronic communication, or by way of printed materials, particularly where rates or values are quoted or when policy or contract representations are made.

C. Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used unless properly licensed if required or in such a way as to imply that the insurance producer is generally engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case and represented by way of required disclosure.

D. Any reference to nonguaranteed elements shall include a statement that the item is not guaranteed and is based on the company's current scale of nonguaranteed elements (use appropriate special term such as "current dividend" or "current rate" scale.) If a nonguaranteed element would be reduced by the existence of a policy loan, a statement to that effect shall be included in any reference to nonguaranteed elements. A presentation or depiction of a policy issued on or after January 1, 1997 that includes nonguaranteed elements over a period of years shall be governed by R590-177, Life Insurance Illustrations Rule.

E. For a life insurance policy or certificate with a death benefit not exceeding \$15,000, the insurer shall provide disclosure of the following:

(1) limited death benefits whenever a policy limits death benefits during a period following the inception date of coverage;

(2) the possibility that premiums paid over several years may exceed the death benefit whenever that possibility exists.

The disclosure shall be provided to the applicant no later than delivery of the policy or certificate.

F. The policy summary, the life illustration that is subject to the requirements of R590-177, Life Insurance Illustrations Rule, and all other sales materials must be complete and not misleading. If asterisks are used to reference footnotes, the asterisk must be clear and easily seen.

G. For the purposes of this rule, the annual premium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

H. If the policy will lapse under the guaranteed assumptions unless a premium higher than the planned premium is paid, that fact must be disclosed and the date, policy duration, or attained age of lapse must be disclosed in the policy summary and any periodic report.

R590-79-7. Failure to Comply.

Failure of an insurer to provide or deliver a Buyer's Guide and either a policy summary or life illustration subject to the requirements of R590-177, Life Insurance Illustrations Rule, as provided in this rule shall constitute an omission which misrepresents the benefits, advantages, conditions or terms of an insurance policy.

R590-79-8. Severability.

If any provision of this rule or application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of this provision to other persons or circumstances shall not be affected.

R590-79-9. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-79-10. Enforcement Date.

The commissioner will begin enforcing this revised rule 45 days after its effective date.

KEY: insurance law

Date of Enactment or Last Substantive Amendment: 2009

Notice of Continuation: September 27, 2004

Authorizing, and Implemented or Interpreted Law: 31A-2-201