

**R590. Insurance, Administration.**

**R590-79. Life Insurance Disclosure Rule.**

**R590-79-1. Authority.**

This rule is adopted and promulgated pursuant to Section 31A-2-201(3) [~~which empowers the Commissioner of Insurance to make reasonable rules necessary for, or as an aid to, the effectuation of any provision of the Insurance Code~~] 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~~] and improve the purchaser's understanding of the basic features of the policy being purchased or under consideration for purchase [~~and to improve the ability of the purchaser to evaluate the relative costs of similar plans of life insurance~~].

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 [~~non term group life insurance and~~] preneed funeral contracts or prearrangements; [as provided herein. These] 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.
- 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 [~~and which is subject to regulation by the Securities and Exchange Commission.~~
- F. ~~The provisions of this rule will take effect January 1, 1997].~~

**R590-79-4. Definitions.**

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

A. Buyer's Guide. A Buyer's Guide is a document which contains, and is limited to, the language contained in the "[1996] Life Insurance Buyer's Guide," as ~~[published]~~ adopted and amended by, and available from the National Association of Insurance Commissioners, ~~[1996 edition,]~~ which is incorporated in this rule by reference.

~~[B.—Guaranteed Rate Schedule.—The Guaranteed Rate Schedule is a schedule showing the maximum premiums that will be charged or the minimum cash values or death or other benefits that will be available, if there is no change in the basis of these items as guaranteed in the policy at the time of issue.~~

~~—C. Equivalent Level Death Benefit. The Equivalent Level Death Benefit of a policy or term life insurance rider is an amount calculated as follows:~~

~~—1. Accumulate the amount payable upon death, regardless of the cause of death, at the beginning of each policy year for ten and 20 years at 5% interest compounded annually to the end of the tenth and twentieth policy years respectively.~~

~~—2. Divide each accumulation of Step 1 by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step 1 over the respective periods stipulated in Step 1. If the period is ten years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.]~~

B. Current Scale of Nonguaranteed Elements. 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.

~~[D]~~ C. Generic Name. Generic name means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

D. Nonguaranteed Elements. 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.—Cost Comparison Indexes.~~

~~—1. Surrender Cost Comparison Index — Guaranteed Basis.—The Surrender Cost Comparison Index — Guaranteed Basis — is calculated by applying the following steps, assuming that the company charges the maximum premiums and provides the minimum cash values and, provides the minimum death benefits allowed by the policy, and, if the policy is participating, pays no dividends.~~

~~—a. Determine the cash surrender value, if any, available at the end of the tenth and twentieth policy years, based on the company's Guaranteed Rate Schedule.~~

~~—b. Divide the result of Step a by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step a over the respective periods stipulated in Step a. If the period is ten years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.~~

~~c. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider, based on the company's Guaranteed Rate Schedule, at 5% interest compounded annually to the end of the period stipulated in Step a and dividing the result by the respective factors stated in Step b. (This amount is the annual premium payable for a level premium plan.)~~

~~d. Subtract the result of Step b from Step c.~~

~~e. Divide the result of Step d by the number of thousands of the Equivalent Level Death Benefit, using the company's Guaranteed Rate Schedule to determine the amount payable upon death, to arrive at the Surrender Cost Comparison Index — Guaranteed Basis.~~

~~(2) Net payment Cost Comparison Index — Guaranteed Basis. The Net Payment Cost Comparison Index — Guaranteed Basis is calculated in the same manner as the comparable Surrender Cost Comparison Index — Guaranteed Basis, except that the cash surrender value and any terminal dividend are set at zero.]~~

E. Policy Data. 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. Policy Summary.

(1) [~~For the purposes of this rule,~~] Policy summary means a written statement describing only the guaranteed elements of the policy. [~~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 does not have to be provided]. 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 [~~agent~~] producer, or, if no [~~agent~~] 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, which ever 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 Cost Comparison Indexes for ten and 20 years but in no case beyond the premium paying period. Indexes shall be shown on the Guaranteed Basis. Separate indexes shall be displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for the basic policies or optional riders covering more than one life.~~

~~— (h) A statement in close proximity to the Cost Comparison Indexes that an explanation of the intended use of the indexes is provided in the Life Insurance Buyer's Guide.]~~

~~[(i)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. 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, to all prospective purchasers, a Buyer's Guide and either a policy summary or a life illustration~~[7]~~ 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 and a policy summary to any prospective purchaser upon request.

C. Flexible Premium and Benefit Policies. For policies commonly called "universal life insurance policies," which:

(1) Permit the policy owner to vary, independently of each other, the amount or timing of premium payments, or the amount payable on death; and

(2) Provide for a cash value that is based on separately identified interest credits and mortality and expense charges made to the policy.

All indexes and other data shall be displayed assuming specific schedules of anticipated premiums and death benefits at issue.

In addition to all other information required by this rule, 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.

[D]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 [~~as defined in Section 4(G) above~~] 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 [~~agent~~]producer or [~~agents~~]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 [~~and also to include the agent sales kit and all other sales promotion and marketing material~~]. 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. [~~An agent~~] 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 [~~agent~~] producer and inform the prospective purchaser of the full name of the insurance company which the [~~agent~~] producer is representing to the buyer. In sales situations in which [~~an agent~~] 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 [~~agent~~]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. A statement regarding the use of the Cost Comparison Indexes shall include an explanation to the effect that the indexes are useful only for the comparison of the relative costs of two or more similar policies.~~

~~E. A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life insurance policies. Such a system may be used for the purpose of demonstrating the cash flow pattern of a policy if such presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.]~~

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.

~~[F]E.~~ For a life insurance [~~policies~~]policy or certificate with a death benefit not exceeding [~~\$10,000~~]\$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.

~~[G]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, consistent, and not misleading. If asterisks are used to reference footnotes, the asterisk must be clear and easily seen.

~~[H]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 ~~may~~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: ~~May 1, 1998~~2009**

**Notice of Continuation: September 27, 2004**

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