



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Insurance

Sarah Palin, Governor
Emil Notti, Commissioner
Linda S. Hall, Director

BULLETIN B 08-04

TO: ALL LICENSEES AND ADMITTED AND SURPLUS LINES INSURERS IN THE STATE OF ALASKA AND OTHER INTERESTED PARTIES

RE: RECENT CHANGES TO THE ALASKA ADMINISTRATIVE CODE (INSURANCE REGULATIONS)

As of July 25, 2008, changes to the Alaska Administrative Code regarding several aspects of insurance regulation went into effect. Except as noted in this bulletin, all affected parties must comply with the new regulatory requirements as of July 25, 2008. The regulations may be viewed on the division's website at: <http://www.dced.state.ak.us/insurance/newregulations.htm>.

This bulletin provides an overview of some of the important changes in the regulations and is **for informational purposes only**, and is not intended to be an exhaustive or interpretive analysis of the regulatory changes. **Review all the sections of these regulations on the division website to assure your compliance with them when transacting insurance business in this state.** The topics covered in this bulletin are:

- Producer licensee continuing education requirements
- Surplus lines licensee and insurer notification requirements and monthly reporting requirements
- Annuity contract disclosure requirements
- Annuity contract suitability requirements
- Life insurance policy and annuity contract replacement requirements

PRODUCER LICENSEE CONTINUING EDUCATION REQUIREMENTS (3 AAC 23.100)

The division is continuing its efforts to review existing licensing practices to ensure conformance with the National Association of Insurance Commissioners' (NAIC) Producer Licensing Uniformity Standards with respect to resident licensing. Some continuing education requirements did not comply with the uniformity standards and the following changes were made to bring Alaska into compliance.

Requirements for Limited Lines Licensees

Effective immediately, a person holding a limited lines title, bail bond, or credit producer license is no longer required to comply with the 24 continuing education credit hour requirement. If a person holds both a limited lines **and** a producer license, the person must complete the continuing education requirement to renew the producer license.

Ethics Requirement

Beginning January 1, 2009, a person renewing an insurance license who is subject to the 24 continuing education credit hour requirement must have taken and reported at least three hours of business insurance ethics training as part of the continuing education credit hour requirement before the expiration date of the license.

SURPLUS LINES LICENSEES AND INSURERS

Policy Notice Required of Insurers

The amendment to 3 AAC 25.050 clarifies that it is the responsibility of the surplus lines insurer to provide notice to a policyholder of nonrenewal and premium increase, in a format approved by the director (See Bulletin B 08-06 for preapproved wording). The notice must be included in each policy, binder, and cover note.

Important Changes to Monthly Reporting and Extension of Penalties

As well as the existing penalty for late filing of surplus lines monthly premium reports, 3 AAC 25.090 and 3 AAC 25.100(f) have been amended to impose the same penalty schedule for transactions filed late through an amended report. An entire monthly report filed late will be charged the monthly late filing penalty as before, regardless of the number of transactions it contains. An amended report with a new transaction not previously reported will have a penalty imposed for **each overdue transaction**, based on the schedule in 3 AAC 25.100(e).

Zero monthly reports are no longer required under 3 AAC 25.100(a). This subsection has also been amended to provide for electronic filing, when available. Please note that a surplus lines broker required by 3 AAC 21.560 to make quarterly tax payments is **not** exempt from the quarterly tax reporting requirements under that section if there are zero transactions in any quarter.

Under 3 AAC 25.090, the policy number now will be required on each transaction report. This is required in anticipation of an electronic filing of monthly reports. The date bound is no longer required.

ANNUITY CONTRACT DISCLOSURE REQUIREMENTS

3 AAC 26.750 - 3 AAC 26.769 adopt, in substance, the NAIC Annuity Disclosure Model Regulation. These regulations were adopted in order to help ensure that Alaska consumers who purchase annuity contracts better understand them. The regulations require an insurer or insurance producer to disclose, at a minimum, specified information about the annuity contracts they are selling. **Insurers and licensees must comply with these requirements by September 1, 2008.**

Overview:

- An insurer must provide at least a 15-day free look period for an applicant to return an annuity contract without penalty.

- An insurer or licensee must give an annuity contract applicant a copy of the disclosure document specified in the regulation, as well as a copy of the applicable annuity buyer's guide:
 - **NOTE:** The disclosure document requirement **differs** somewhat from the NAIC model as follows:
 1. the description of guaranteed, non-guaranteed, and determinable elements of the contract must include an explanation of how each of these elements impacts the benefits of the contract (3 AAC 26.755(g)(3)(A));
 2. the description of periodic income options must include a description of how the amount available to purchase income options is determined and when the income options will be available (3 AAC 26.755(g)(3)(C));
 3. the disclosure must include a description of the cash value, including partial withdrawals, available before, on, and after the maturity date of the contract and how the cash value will be calculated, including a description of any value reduction (3 AAC 26.755(g)(3)(D)).
 - The annuity buyer's guides are posted on the division website at <http://www.dced.state.ak.us/insurance/consumerinfo.htm>, under Insurance Product Information – Annuities.
- An insurer must provide each individual that has purchased an annuity contract an annual report containing the accumulation and cash surrender values, the total amount credited or charged to the contract value, the total amount paid, and the amount of outstanding loans.

ANNUITY CONTRACT SUITABILITY REQUIREMENTS

3 AAC 26.770 - 3 AAC 26.789 adopt the NAIC Suitability in Annuity Transactions Model Regulation. These regulations were adopted in order to help ensure that an insurer or an insurance producer recommends only suitable annuity contracts to Alaska consumers based on relevant investment, tax, financial, and other information provided by the consumer. **Insurers and licensees must comply with these requirements by September 1, 2008.**

Overview:

- An insurer or an insurance producer must have reasonable grounds for believing that a recommendation is suitable and must make a reasonable effort to obtain the necessary information to make such a recommendation.
- An insurer must either 1) establish and maintain a system to supervise recommendations that is designed to achieve compliance with the regulations; or 2) ensure that such a system is established and maintained by a third party.
- A licensee must either 1) adopt a system to supervise recommendations established by an insurer; or 2) establish and maintain such a system.
- An insurer or a licensee must comply with AS 21.27.350 regarding all information collected from a consumer and other information used in making a recommendation that was the basis for an insurance transaction.

LIFE INSURANCE POLICY AND ANNUITY CONTRACT REPLACEMENTS

3 AAC 26.790 - 3 AAC 26.819 adopt the NAIC Life Insurance and Annuities Replacement Model Regulation. These regulations were adopted in order to help ensure that Alaska consumers receive the information needed to make decisions regarding the replacement of an existing life insurance policy or an annuity contract that are in their best interests; and to reduce the opportunity for misrepresentation and incomplete disclosures by an insurer or producer related to the replacement of an existing life insurance policy or annuity contract. **Insurers and licensees must comply with these requirements by September 1, 2008.**

Overview:

The regulations place a number of duties on an insurance producer, replacing insurer, or existing insurer with respect to the replacement of a life insurance policy or annuity contract. For example:

An insurance producer must

- send the insurer a signed statement along with an application stating whether the applicant has an existing life insurance policy or annuity contract;
- provide an applicant that has an existing life insurance policy or annuity contract a copy of the notice regarding replacement as specified in the regulations;
- read the notice to the applicant at the time of application unless the applicant declines;
- give the applicant at the time of application a copy of all sales materials used in connection with the replacement; and
- send the insurer copies of individualized sales materials and a statement identifying sales materials approved by the insurer that were used along with the application.

A replacing insurer must

- maintain a system of supervision and control designed to assure compliance with the regulations;
- have the capacity to monitor each of its insurance producer life insurance policy and annuity contract replacements;
- include a right to return a life insurance policy or annuity contract within 30 days after delivery; and
- with respect to direct-response solicitations, send the required replacement notice to the applicant that indicates that the applicant's intent is to replace, discontinue, or change an existing life insurance policy or annuity contract.

An existing insurer must

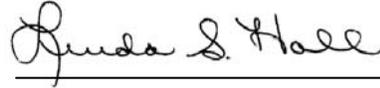
- retain notifications from replacing insurers;
- notify a contract owner of the right to receive information regarding existing life insurance policy or annuity contract values; and
- send a policy owner a notice advising the owner that borrowing, surrendering, or withdrawing policy values may affect the guaranteed and non-guaranteed elements, face amount, or surrender value of the policy.

If you have questions regarding the information in this bulletin, please contact the division at (907) 465-2515 (Juneau) or (907) 269-7900 (Anchorage).

Alaska Division of Insurance
P.O. Box 110805
Juneau AK 99811-0805

Alaska Division of Insurance
550 West Seventh Avenue, Suite 1560
Anchorage, AK 99501-3567

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Linda S. Hall
Director