

Chapter Ins 2

LIFE INSURANCE

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Ins 2.01 Estoppel by report of medical examiner. No company or fraternal benefit society shall issue in this state a contract, based on a medical examination, providing for disability benefits, the provisions of which are in conflict with ss. 632.50 and 632.71, Stats., or shall indulge in any practice which is at variance with said section.

History: 1-2-58; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76.

Ins 2.02 Stock life insurance corporations writing participating policies. (1) **PURPOSE.** The repeal of the rule previously in effect and the adoption of this rule is for the purpose of revising the formal interpretation of certain statutes consistent with statutes and business methods now in existence. This rule implements and interprets applicable statutes including ss. 601.04, 601.42, 601.43, 628.34, 632.62, Stats., and chs. 611 and 618, Stats.

(2) **SCOPE.** This rule shall apply to stock insurance corporations when transacting the kinds of insurance authorized by section Ins 6.75 (1) (a) in the form of participating policies.

(3) **LIMITATION OF PROFITS INURING TO THE BENEFIT OF STOCKHOLDERS.** The protection of the interest of the public purchasing participating policies and contracts issued by stock life insurance corporations requires a reasonable limitation of the profits on participating business that shall be made available to stockholders. In consideration of the amount of life insurance customarily transacted in relation to the capital contribution of stockholders and to safeguard the interest of policyholders in this state, no profits on participating policies and contracts in excess of the larger of a) 10% of such profits or b) 50¢ per year per \$1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders.

(4) **LICENSE REQUIREMENTS.** No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the surplus shall be licensed or relicensed to transact business in this state unless the corporation shall file an agreement (evidenced by a resolution

of its board of directors or other appropriate body having the power to bind such corporation and its stockholders) to the effect that:

(a) No profits on participating policies and contracts in excess of the larger of 10% of such profits or 50¢ per year per \$1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders.

(b) The profits on its participating policies and contracts shall be ascertained annually by allocating to such policies and contracts specific items of gain, expense, or loss attributable to such policies and contracts and an equitable proportion of the general gains or outlays of the company.

(c) Such profits as shall inure to the benefit of stockholders shall be determined and apportioned annually.

(d) The accounts of the participating and nonparticipating classes will be kept separate.

(e) No part of the funds accumulated or belonging to the participating class shall be transferred to the nonparticipating class.

(f) The agreement shall remain in effect so long as any outstanding participating policies or contracts of such company are held by persons resident in Wisconsin except as the applicable requirements of statute or administrative rule may be modified or superseded by subsequent enactments.

(5) **EXCEPTIONS.** In accordance with s. 632.62, Stats., the agreement required by sub. (4) (e) of this rule may be modified to the extent necessary to be consistent with the existing charter of the stock life insurance corporation.

(6) **ANNUAL FILING.** No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the surplus shall be licensed or relicensed to transact business in this state unless the corporation shall annually file the information required by s. 601.42, Stats.

Note: Before issuing a new or renewal license to transact insurance in this state, the commissioner of insurance is required by ss. 201.045 and 201.34, Stats., to be satisfied that the methods and practices of the insurer adequately safeguard the interests of its policyholders and the people of this state. Section 206.13, Stats., provides for the issuance of participating life insurance policies by stock companies.

The nature of participating policies is that the premium charge includes an additional loading which acts as the safety factor to provide for various contingencies that may develop during the term of the policy. The additional premium thus collected is then returned to the policyholder in the form of dividends. Section 201.36, Stats., provides for the annual apportionment and return of such sums after making provision for required reserves and liabilities.

In respect to those policies in which the policyholder is entitled to share in the surplus, s. 206.36, Stats., provides for the payment of authorized dividends on capital stock from the surplus accumulations of the participating business of the company. Section 201.54, Stats., authorizes distribution of savings, earnings, or surplus to any class of policyholder by filing a schedule thereof with the commissioner in those cases where such a distribution was not specified in the policy. In such cases the commissioner has an obligation to be satisfied that the methods and practices of the company are such as to safeguard the interest of the policyholders.

The principal portion of the earnings on participating policies is due to the additional loading in the premium charged for the policy. It would be a misrepresentation of the participating provisions of any such policy or contract if a substantial portion of the profits accruing from such policies or contracts were not to be returned to the policyholders. SS. 206.51 (1)

can compare the policy's "yield" with the after-tax return of other investments.

SHOPPING HINTS

- **BUY ONLY WHAT YOU CAN AFFORD.** If you drop your whole life policy because the premiums are too high, you will lose a substantial amount of money.
- **CONSIDER GROUP INSURANCE.** Group coverage through an employer or employee group is generally less expensive than individual policies. If you are eligible for group coverage, take advantage of it.
- **TRY NOT TO LEAVE YOURSELF UNDERINSURED.** When your needs are greatest, term insurance may provide you with much more protection for your money than whole life.
- **SHOP AROUND.** Policies vary substantially in cost. Before you buy a policy, check the surrender cost index.
- **COMPARE POLICIES AND COMPANIES.** The company with the lowest indexes for one policy will not necessarily have the lowest indexes for others.
- **LOOK FOR A GOOD AGENT.** An honest, well-informed agent will assist you in making the right choice.
- **THINK CAREFULLY BEFORE REPLACING YOUR POLICY.** Sometimes an expensive policy may provide you with little protection for the money and a switch to term insurance may make sense. In other cases, switching policies may be a mistake.

REMEMBER: COMPARISON SHOPPING SAVES MONEY. ANY TIME YOU SPEND LEARNING ABOUT LIFE INSURANCE POLICIES AND COMPARING COSTS WILL BE WORTH IT.

History: Cr. Register, March, 1972, No. 195, eff. 4-1-72; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, 1976, No. 249, eff. 10-1-76; r. and recr. Register, November, 1978, No. 275, eff. 1-1-79; am. (3) (a) and (6), r. and recr. appendices, Register, January, 1980, No. 289, eff. 2-1-80.

Ins 2.15 Annuity benefit solicitation. (1) **FINDINGS.** Information on file in the office of the commissioner of insurance and submitted as Exhibit 4 at the hearing February 28, 1980 shows that some of the brochures, presentations, illustrations and other sales material which have been used by insurers and their representatives to sell annuity contracts to Wisconsin residents are confusing, misleading and incomplete, and that annuity purchasers are not receiving the information needed to make sound purchase decisions. The commissioner of insurance finds that such presentations and sales material are misleading, deceptive and restrain competition unreasonably as considered by s. 628.34(11), Stats., and that their continued use would constitute an unfair trade practice under s. 628.34(10), Stats. and would result in misrepresentation as defined and prohibited in s. 628.34(1), Stats.

(2) **PURPOSE.** (a) The purpose of this section is to require insurers to deliver to prospects for deferred annuity contracts or deposit funds, riders or provisions accepted in conjunction with insurance policies or an-

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nuity contracts, information which helps the prospect select an annuity benefit appropriate to the prospect's needs, improves the prospect's understanding of the basic features of the plan under consideration and improves the prospect's ability to evaluate the relative benefits of similar plans. This section does not prohibit the use of additional material which is not in violation of any other Wisconsin rule or statute.

(b) This section interprets and implements s. 628.34 (1), (10), and (11), Stats.

(3) SCOPE. (a) Except as specified in par. (b), this section shall apply to any solicitation, negotiation or procurement of annuity or deposit fund arrangements occurring within this state. This section shall apply to any issuer of life insurance policies or annuity contracts, including fraternal benefit societies.

(b) This section shall not apply to:

1. Variable annuities;
2. Contracts registered with the federal securities and exchange commission;
3. Group annuity and pure endowment contracts purchased under a retirement plan or plans of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employe organization, or both;
4. Immediate annuity contracts (arrangements under which payments begin within 13 months of the issue date);
5. Policies or contracts issued in connection with employe benefit plans as defined by section 3 (3) of the federal employe retirement income security act of 1974 (ERISA) as amended from time to time, except policies or contracts issued in connection with plans providing for the purchase of annuity contracts solely by reason of salary reduction agreements under section 403 (b) of the Internal Revenue Code;
6. Individual retirement accounts and individual retirement annuities as described in section 408 of the Internal Revenue Code;
7. A single advance payment of specified premiums equal to the discounted value of such premiums;
8. A policyholder's deposit account established solely to facilitate payment of regular premiums;
9. Settlement options under life insurance or annuity contracts.

(4) DEFINITIONS. (a) "Preliminary Statement of Benefit Information" means a written statement to be provided to the buyer prior to sale which describes the elements of the annuity contract or deposit fund in the manner set out in sub. (5);

(b) "Wisconsin Buyer's Guide to Annuities" means the document which contains, and is limited to, the language set forth in Appendix I to this section;

(c) "Statement of Benefit Information" means a written statement to be provided to the buyer at the time of contract delivery describing the

elements of the annuity contract or deposit fund in the manner set out in sub. (6);

(d) "Effective Yields at Maturity" means those effective annual interest rates at which the accumulation of 100% of all gross considerations used to determine the values shown in the illustrations to maturity date would be equal to the guaranteed and illustrated cash surrender values, respectively, at maturity date.

1. If no specific maturity date is contractually defined, "maturity date" shall be assumed to be attainment of age 65, except as provided in subd. 2.

2. If no specific maturity date is contractually defined, and if either the date of attainment of age 65 cannot be determined, or age 65 will be attained before 10 years have elapsed since the payment date of the first gross consideration, then "maturity date" shall be assumed to be 10 years from the payment date of the first gross consideration.

(5) **PRELIMINARY STATEMENT OF BENEFIT INFORMATION.** The Preliminary Statement of Benefit Information shall include: (a) A prominently placed title, **PRELIMINARY STATEMENT OF BENEFIT INFORMATION**, followed by an identification of the arrangement to which the statement applies;

(b) The name and address of the insurance intermediary or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries;

(c) The full name and home office or administrative office address of the insurer;

(d) A statement as to whether the arrangement provides any guaranteed death benefits during the deferral period;

(e) A prominent statement that the contract does not provide cash surrender values, if such is the case;

(f) For arrangements under which guaranteed cash surrender values at any duration are less than the total scheduled considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years;

(g) Any minimum or maximum premium limitations;

(h) A prominent description of all fees, charges, and loading amounts that are or may be deducted from initial or subsequent considerations paid or that are or may be deducted from the contract or fund values prior to or at contract maturity, including but not limited to, any surrender penalties, discontinuance fees, partial surrender or withdrawal penalties or fees, transaction fees, and account maintenance fees;

(i) In the event any sales promotion literature or oral representation illustrates values or annuity payments which are based on dividends, excess interest credits, or current annuity rates, then the Preliminary Statement of Benefit Information shall contain a statement that such dividends, excess interest credits, and current annuity purchase rates are not guaranteed and that any corresponding values and annuity amounts are illustrations only and are not guaranteed;

(j) A statement that the insurer shall provide the prospective customer a Statement of Benefit Information upon request.

(6) STATEMENT OF BENEFIT INFORMATION. The Statement of Benefit Information shall include:

(a) A prominently placed title, STATEMENT OF BENEFIT INFORMATION, followed by an identification of the arrangement to which the statement applies;

(b) The name and address of the insurance intermediary or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries;

(c) The full name and home office or administrative office address of the insurer;

(d) Any guaranteed death benefits during the deferral period, and the form of annuity payment selected for pars. (f), (g) and (i);

(e) A prominent statement that the contract does not provide cash surrender values if such is the case;

(f) The amount of the guaranteed annuity payments at the scheduled commencement thereof, based on the assumption that all scheduled considerations are paid and there are no prior withdrawals from or partial surrenders of the arrangement and no indebtedness to the insurer on the contract;

(g) Illustrative annuity payments on a current basis, if shown, must be on the same basis as for par. (f) except for guarantees, and may not be greater in amount than those based on:

1. The current dividend scale and the interest rate currently used to accumulate dividends under such arrangements, or the current excess interest rate credited by the insurer, and

2. Current annuity purchase rates;

(h) For arrangements under which guaranteed cash surrender values at any duration are less than the total considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years and showing the number of years such a relationship exists, together with a reference to the schedule of guaranteed cash surrender values required by par. (i) 3.;

(i) The following amounts, where applicable, for the first 5 years and representative years thereafter sufficient to illustrate clearly the patterns of considerations and benefits, including but not limited to the tenth and twentieth contract years and at least one age from 60 through 65 or the scheduled commencement of annuity payments:

1. The gross consideration for the arrangement;

2. Any minimum or maximum premium limitation;

3. The total guaranteed cash surrender value at the end of the year or, if no guaranteed cash surrender values are provided, the total guaranteed paid-up annuity at the end of the year;

4. If other than guaranteed cash values are shown, the total illustrative cash value or paid-up annuity at the end of the year may not be greater in amount than that based on:

a. The current dividend scale and the interest rate currently used to accumulate dividends under such arrangements or the current excess interest rate credited by the insurer, and

b. Current annuity purchase rates.

(j) For a Statement of Benefit Information which includes values based on the current dividend scale or the current dividend accumulation or excess interest rate, a statement that such values are illustrations and are not guaranteed;

(k) The date on which the Statement of Benefit Information is prepared.

(7) PREPARATION OF PRELIMINARY STATEMENT OF BENEFIT INFORMATION AND STATEMENT OF BENEFIT INFORMATION. The following must be considered in preparing the Preliminary Statement of Benefit Information and the Statement of Benefit Information:

(a) The Preliminary Statement of Benefit Information and the Statement of Benefit Information must be separate documents;

(b) All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure;

(c) Any amounts which remain level for 2 years or more contract years may be represented by a single number if it is clearly indicated what amounts are applicable for each contract year;

(d) Amounts in sub (6) (d), (f), (g) and (i) shall, in the case of flexible premium annuity arrangements, be determined either according to an anticipated pattern of consideration payments or on the assumption that considerations payable will be a specified level amount, such as \$100 or \$1,000 per year;

(e) If not specified in the contract, annuity payments shall be assumed to commence at age 65 or 10 years from issue, whichever is later;

(f) A dividend scale or excess interest rate which has been publicly declared by the insurer with an effective date not more than two months subsequent to the date of declaration shall be considered a current dividend scale or a current excess interest rate.

(g) Zero amounts shall be displayed as zero and shall not be displayed as blank spaces;

(h) Values for a rider or provision must be shown separately from those for a basic contract.

(8) DISCLOSURE REQUIREMENTS. (a) The insurer and its intermediaries shall provide, to all prospective purchasers of any contract or arrangement subject to this section, a copy of the current edition of the Wisconsin Buyer's Guide to Annuities and a properly filled out Preliminary Statement of Benefit Information or Statement of Benefit Information prior to accepting the applicant's initial consideration for the annuity contract, or in the case of a rider or provision prior to acceptance of the applicant's initial consideration for the associated insurance pol-

icy or annuity contract. Insurers which do not market contracts through an intermediary may provide the Preliminary Statement of Benefit Information, the Statement of Benefit Information and the Wisconsin Buyer's Guide to Annuities at the point of contract delivery so long as they:

1. Guarantee to the contractholder the right to return the contract for a full refund of premium any time during a 30 day period commencing on the date such contractholder receives the Statement of Benefit Information and the Wisconsin Buyer's Guide to Annuities;

2. Alert the prospective contractholder, in advertisements or direct mail solicitations, of his or her right to obtain a copy of the Wisconsin Buyer's Guide to Annuities and a Preliminary Statement of Benefit Information prior to the sale.

(b) The insurer and its intermediaries shall provide a Statement of Benefit Information upon delivery of the contract, if it has not been delivered beforehand;

(c) The insurer and its intermediaries shall provide a Wisconsin Buyer's Guide to Annuities and a Statement of Benefit Information to individual prospective purchasers upon reasonable request;

(d) Any statement provided subsequent to sale to a contractholder which purports to show the then current value of an arrangement subject to this section shall show the then current guaranteed cash surrender value or, if no guaranteed cash surrender value is provided the then current guaranteed paid-up annuity.

(9) 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 section. Such file shall contain one copy of each authorized form for a period of at least 3 years following the date of its last authorized use;

(b) An intermediary shall inform the prospective purchaser, prior to commencing a sales presentation, that the intermediary is acting as an insurance intermediary and shall inform the prospective purchaser of the full name of the insurer which the intermediary is representing to the buyer. In sales situations in which an intermediary is not involved, the insurer shall identify its full name;

(c) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance intermediary is generally engaged in an advisory business in which compensation is unrelated to sales, unless such is actually the case;

(d) Any reference to dividends or to excess interest credits must include a statement that such dividends or credits are not guaranteed;

(e) Any sales presentation for an arrangement subject to the provisions of this section which purports to show a yield, or return or any items of similar import must disclose in an at least equally prominent manner the Effective Yields at Maturity;

(f) The purchase or replacement of any arrangement subject to the provisions of this section shall not be recommended by any insurer or

intermediary without reasonable grounds to believe that the recommendation is not unsuitable for the applicant on the basis of information furnished by such person after reasonable inquiry as may be necessary under the circumstances concerning the prospective buyer's annuity needs and means;

(g) A presentation of benefits shall not display guaranteed and non-guaranteed benefits as a single sum unless guaranteed benefits are shown separately in close proximity thereto and with equal prominence;

(h) Sales promotion literature and contract forms shall not state or imply that annuity arrangements are the same as savings accounts or deposits in banking or savings institutions. The use of policies or certificates which resemble savings bank passbooks is prohibited. If savings accounts or deposits in banking and savings institutions are utilized in connection with such annuity arrangements, this shall not prohibit the use of an accurate description of the annuity arrangement.

(10) **PENALTY.** Violations of this section shall subject the violator to s. 601.64, Stats.

(11) **SEPARABILITY.** If any provisions of this section shall be held invalid, the remainder shall not be affected thereby.

(12) **EFFECTIVE DATE.** This rule shall apply to all solicitations which commence on or after January 1, 1981.

History: Cr. Register, October, 1980, No. 298, eff. 1-1-81.

APPENDIX I

WISCONSIN BUYER'S GUIDE TO ANNUITIES

WHAT IS AN ANNUITY?

An annuity is a written contract between you and an insurance company. The contract provides a guaranteed future income to you after you make one or more premium payments to the insurance company. An annuity is *not* a life insurance policy. It is not a savings account either, and should not be used as a short-term investment. **IF YOU TAKE YOUR MONEY OUT AFTER A SHORT TIME YOU MAY GET BACK LESS THAN YOU PUT IN.**

The main reason for buying an annuity should be to help provide a future income.

Before buying an annuity you should:

- Decide how much income you will need in the future in addition to pensions, social security, savings accounts and other investments.
- Determine how much of your current income or savings you can afford to put aside for this purpose.

TYPES OF ANNUITIES

There are several types of annuities with different features which you should examine before buying. Each is designed to meet different needs.

— *The time benefits are received.* Most annuities are *deferred* annuities. You pay premiums to the company over a period of time and receive benefits at a later date. With *immediate annuities* benefits start shortly after the premium is paid, usually within one year.

— *The amount of benefits.* Income benefits can be *fixed* or *variable*. A fixed annuity provides a guaranteed amount of income, such as \$100 per month. The income provided by a variable annuity can fluctuate depending on general economic conditions and the insurance company's investments. Most annuities sold to individuals are fixed benefit annuities.

— *The type of income benefit received.* Annuities differ in how benefits are paid out. Some common types are:

— *Straight life.* These annuities pay benefits only while the annuitant is alive. There are no benefits for beneficiaries after the annuitant's death.

— *Life with period certain.* These annuities pay benefits for life and also guarantee that payments will be made for a specified period whether or not the annuitant is living.

— *Joint and survivor.* These annuities pay benefits as long as either of two named annuitants is still living.

Generally, the longer the expected payout period, the smaller the income benefit you will receive for the same amount of premium.

— *The size and frequency of premium payments.* Some contracts specify how much and how often you must pay premiums. These are called *scheduled premium annuities*. Others allow you to pay as much as you wish whenever you want to, within specified limits. These are called *flexible premium annuities*. There are also *single premium annuities* which require only one premium payment.

— *The cash surrender benefits.* Except for immediate annuities, most annuities build up cash values which you will get back if you surrender before benefits begin. This amount will vary from contract to contract. If you surrender in the early years, you may get back less than you have paid to the company.

— *The death benefits.* Death benefits in a deferred annuity are usually equal to either the premiums paid to the company or the cash value, whichever is greater.

WHICH ANNUITY SHOULD I BUY?

It is up to you to decide which type of annuity fits your needs. You should ask yourself —

- Do I want fixed or variable benefits?
- Do I want an income just for myself or do I want to leave something to a beneficiary?
- Do I want to pay one single premium or a scheduled or flexible series of premiums?
- Am I sure that I can afford the premiums and that I won't have to cancel the contract in the early years?
- Do I want to combine my annuity with a life insurance contract?

FINDING A GOOD BUY

Buying an annuity is a major financial decision which should be considered carefully. Here are some tips on what to look for:

- You must be given a Preliminary Statement of Benefit Information when you are thinking of buying an annuity. You will receive a complete Statement of Benefit Information when the annuity is delivered, and you can get one now if you ask for it. By obtaining Statements of Benefit Information for similar annuities from several companies and comparing them, you can select the best buy.
- Use the Statement of Benefit Information to compare the size of income benefits received under similar annuities, as well as the size of premiums. You should also be aware of the size of the cash surrender values, how long you will be putting money in, and the way the benefits are paid.
- If a sales presentation emphasizes the investment properties of annuities, be sure you know the "effective yields at maturity". These are the interest rates at which the total amount of your premiums will accumulate to the illustrated and guaranteed cash values for the year benefits begin. Sometimes higher interest rates are quoted, but these are applied to only part of your premiums.

- The “effective yields at maturity” are useful for the comparison of similar annuities and for comparison with any “yield” or “return” which you may have been shown. Do NOT use these yields, however, to compare the annuity with alternative investments.
- Check the size of the cash surrender values in the early years of the contract compared to the premiums paid in. If you surrender an annuity contract during the first few years, you often will get back less than you have paid in.
- Be sure to distinguish between guaranteed and non-guaranteed values in the contract. “Illustrated” values are based on current interest and dividend levels which may or may not apply in the future. Compare annuities using both illustrated and guaranteed values.
- Be quite sure that you can afford the premium payments. Find out what happens if you stop payments before benefits begin.
- If you are thinking of buying an individual retirement account (IRA), available to those who are not eligible for a pension, be sure that you are eligible for the IRA and that you understand what will happen if you lose your eligibility or are unable to continue payments for some other reason.
- When tax savings are illustrated, find out what assumptions are being made. If the assumptions do not apply to your case, the illustrations will not be meaningful.
- Find a professional who understands annuities as part of a total financial picture. You may want to get advice from several people before making a final decision.

If you have a specific complaint or cannot get the answers you need from an agent or a company, please contact the

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