

CR 88-116

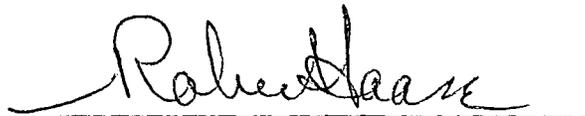
STATE OF WISCONSIN )  
 )  
OFFICE OF THE COMMISSIONER OF INSURANCE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Robert D. Haase, Commissioner of Insurance and custodian of the official records of said Office, do hereby certify that the annexed order creating and amending a rule relating to the issuance by life insurers of annuity contracts without life contingencies and the definition and classification of life insurance was issued by this Office October 24, 1988.

I further certify that said copy has been compared by me with the original on file in this Office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 24th day of October, 1988.



Robert D. Haase  
Commissioner of Insurance

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SECRETARY OF STATE

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ORDER OF THE COMMISSIONER OF INSURANCE

CREATING AND AMENDING A RULE

To create s. Ins. 2.40 and to amend s. Ins. 6.75 (1) (intro.), relating to the issuance by life insurers of annuity contracts without life contingencies and the definition and classification of life insurance.

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ANALYSIS PREPARED BY THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3) and 632.66, Stats.

Statutes interpreted: s. 632.66, Stats.

This rule authorizes life insurers to issue annuity contracts which are without life contingencies. Annuity contracts without life contingencies are sometimes referred to as "Period Certain Annuities," "Term Certain Annuities," or "Annuities Certain." Such an annuity is a contract to provide the annuitant a given income for a specified period, such as a number of years, independent of the annuitant's life or death. If the annuitant dies during the stipulated period, the payments continue to a beneficiary or other

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designated payee. This form of annuity is commonly used (1) as a method of paying out life insurance proceeds to a beneficiary, (2) to fund a "structured settlement" so that a person who has suffered a casualty loss may receive a series of payments in a tax effective manner, (3) to fund in a similar manner the payment of major lottery winnings, and (4) in other situations where a series of periodic payments is desired.

1987 Wisconsin Act 247 allows insurers to issue annuity contracts which are without life contingencies. However, the act allows insurers to do so only after the Commissioner so authorizes in an administrative rule. This rule provides that authorization.

In order to issue annuity contracts which are without life contingencies, this rule requires that the annuity contract be on a form approved by the Commissioner. The consideration paid for the annuity may not be based upon the purchaser's or any other person's age, health status, or upon any mortality or morbidity contingencies. Amounts guaranteed to be paid under the contract must be based on reasonable assumptions, and in a manner that is equitable to all contract holders. The contracts must also be sold through licensed intermediaries or directly by the insurer. The contracts must be sold in a manner that satisfies s. Ins 2.15 (Annuity Benefit Solicitation).

The rule also includes annuity contracts without life contingencies within the definition of life insurance and annuities as set forth in s. Ins 6.75 (1).

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SECTION 1. INS 2.40 is created to read:

Ins 2.40 ANNUITY CONTRACTS WITHOUT LIFE CONTINGENCIES.

(1) PURPOSE. This section implements and interprets s. 632.66, Stats., by authorizing life insurers to issue annuity contracts without life contingencies and setting forth the conditions under which these annuity contracts may be issued.

(2) SCOPE. This section applies to all annuity contracts without life contingencies and which are classified as life and disability insurance under s. INS 6.75 (1).

(3) GRANT OF AUTHORITY. A life insurer that holds a valid certificate of authority to transact the business of life insurance and annuities in this state may issue in this state annuity contracts without life contingencies, subject to the following conditions:

(a) No insurer may base the consideration to be paid to the insurer for the annuity contract without a life contingency upon the age or condition of health of the purchaser of the contract or any other person, or on any mortality or morbidity contingencies.

(b) An insurer shall base the amounts guaranteed to be paid under an annuity contract without a life contingency upon reasonable assumptions as to investment income and expenses, determined in a manner which is equitable to all holders of such contracts.

(c) An insurer may offer to the public an annuity contract without a life contingency only through licensed intermediaries or directly by the insurer.

(4) APPLICABLE STATUTES AND ADMINISTRATIVE RULES. An annuity contract without a life contingency is deemed to be an annuity for purposes of chs. 600 to 645, Stats., and all rules adopted thereunder, including, but not

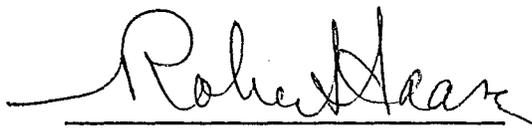
limited to, ch. 623, Stats., ss. 631.20 to 631.27, Stats., and ss. INS 2.07, 2.15, 6.05, and 14.02.

SECTION 2. Ins 6.75 (1) (a) is amended to read:

Ins 6.75 (1) (a) Life insurance and annuities--Except insurance or annuities included in par. (b), insurance or annuities upon the lives of persons, ~~except insurance or annuities included in par. (b)~~ and annuity contracts without life contingencies, as provided in s. 632.66, Stats.;

EFFECTIVE DATE. As provided in s. 227.22 (2) (intro.), Stats, this section shall take effect on the first day of the month following its publication.

Dated at Madison, Wisconsin this 24<sup>th</sup> day of October 1988.



Robert D. Haase  
Commissioner of Insurance