

**ADOPTED REGULATION OF  
THE COMMISSIONER OF INSURANCE**

**LCB File No. R109-07**

Effective April 1, 2008

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1-4, NRS 679B.130 and 686A.015.

A REGULATION relating to annuity contracts; requiring an insurer or producer of insurance who replaces, offers to replace or proposes to replace an existing individual fixed deferred annuity contract to provide certain information to the prospective buyer; prohibiting such an insurer or producer of insurance from inaccurately describing or otherwise misrepresenting the provisions of the existing annuity contract; and providing other matters properly relating thereto.

**Section 1.** Chapter 686A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

**Sec. 2.** *An insurer or producer of insurance who replaces, offers to replace or proposes to replace an existing individual fixed deferred annuity contract with a new annuity contract shall provide to the prospective buyer:*

*1. A written, signed and dated statement which compares the terms, conditions and benefits of the existing annuity contract with the new annuity contract. The statement must include, without limitation, any penalties, premium tax implications, bonus vesting schedule and other additional costs; and*

*2. A notice of annuity replacement, which must be in substantially the following form:*

***IMPORTANT NOTICE REGARDING THE  
REPLACEMENT OF YOUR ANNUITY CONTRACT***

*You have been offered a new annuity contract to replace your existing annuity contract.*

*Before you replace your existing annuity contract, you should consider the financial gains and losses of replacement.*

*You may incur additional costs to acquire the new annuity contract.*

*To make an informed decision about the replacement of your existing annuity contract, you should discuss the provisions of that contract with the producer of insurance or the insurance company which issued it to determine whether your existing annuity contract may be revised to meet your present needs.*

*Your new annuity contract provides 10 days for you to decide if you wish to keep it.*

*The producer of insurance or insurance company which is offering to replace your existing annuity contract is required to obtain your signature on this notice and to notify your existing insurance company that you are considering the replacement of your existing annuity contract.*

*I have read this notice and received a copy of it for my records. I have also received a copy of the written comparison of the proposed annuity contract and my existing annuity contract.*

\_\_\_\_\_

*Prospective Buyer*

*Date*

\_\_\_\_\_

*Producer of Insurance*      *Date*

**Sec. 3.** *An insurer or producer of insurance who recommends the replacement of an existing annuity contract shall explain the provisions of the new annuity contract without*

*inaccurately describing or otherwise misrepresenting the provisions of the existing annuity contract.*

**Sec. 4.** This regulation becomes effective on April 1, 2008.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R109-07**

The Commissioner of Insurance adopted regulations assigned LCB File No. R109-07 which pertain to chapter 686A of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

A workshop was held on November 13, 2007, and a hearing was held on November 20, 2007, at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Real Estate Division Conference Room, 2<sup>nd</sup> Floor, Las Vegas, Nevada 89104, regarding the adoption of the regulation concerning annuity contract replacements.

Public comment was solicited by posting notice of the hearing in the following public locations: the Division's Carson City and Las Vegas offices, Carson City Courthouse, Office of the Attorney General, the Donald W. Reynolds Press Center, Capitol Building Lobby, Capitol Building Press Room, Blasdel Building, Legislative Counsel Bureau, Nevada State Library, Carson City Library, Churchill County Library, Clark County District Library, Douglas County Library, Elko County Library, Esmeralda County Library, Eureka Branch Library, Humboldt County Library, Lander County Library, Lincoln County Library, Lyon County Library, Mineral County Library, Pershing County Library, Storey County Library, Tonopah Public Library, Washoe County Library, and White Pine County Library.

Notice was also e-mailed to members of the Commissioner's Advisory Committee on Health Care and Insurance and interested parties of that Committee. In addition, the Division maintains a general list of interested parties, comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were also notified of the hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

The hearing was attended by one interested party in Carson City and three interested parties in Las Vegas.

After considering the comments by those attending the hearing, and by those who submitted written comments, the Commissioner has issued an order adopting the regulation, as amended, as a permanent regulation of the Division.

Based upon the testimony received at the hearing, the proposed regulation, LCB File No. R109-07 is revised as follows:

1. Section 2 is amended as follows:

Sec. 2. An insurer or producer of insurance who replaces, offers to replace or proposes to replace an existing **individual fixed deferred** annuity contract with a new annuity contract shall provide to the prospective buyer:

1. A written, signed and dated statement which [~~fully and accurately~~] compares the terms, conditions and benefits of the existing annuity contract with the new annuity contract. The statement must include, without limitation, any penalties, premium tax implications, bonus vesting schedule and other additional costs; and
2. A notice of annuity replacement, which must be in substantially the following form:

**IMPORTANT NOTICE REGARDING THE  
REPLACEMENT OF YOUR ANNUITY CONTRACT**

You have been offered a new annuity contract to replace your existing annuity contract.

Before you replace your existing annuity contract, you should consider the financial gains and losses of replacement.

You [~~will~~] **may** incur additional costs to acquire the new annuity contract [~~which may include, without limitation, the payment of commissions, premium tax implications and other additional costs~~].

To make an informed decision about the replacement of your existing annuity contract, you should discuss the provisions of that contract with the [~~agent~~] **producer** or insurance company which issued it to determine whether your existing annuity contract may be revised to meet your present needs.

Your new annuity contract provides 10 days for you to decide if you wish to keep it.

The [~~agent~~] **producer** or insurance company which is offering to replace your existing annuity contract is required to obtain your signature on this notice and to notify your existing insurance company that you are considering the replacement of your existing annuity contract.

I have read this notice and received a copy of it for my records. I have also received [~~the~~] **a copy of the written comparison of the proposed annuity and my existing annuity.** [~~written comparison which fully and accurately compares the terms, conditions, benefits and costs, including any penalties and premium tax implications, of replacing my existing annuity contract with the new annuity contract.~~]

\_\_\_\_\_  
[Applicant]  
**Prospective Buyer**

\_\_\_\_\_  
Date

\_\_\_\_\_  
[Agent]  
**Producer**

\_\_\_\_\_  
Date

2. Section 3 is amended as follows:

Sec. 3. An insurer or producer of insurance who recommends the replacement of an existing annuity contract shall explain the provisions of the new annuity contract without [~~criticizing~~] **inaccurately describing or misrepresenting** the provisions of the existing annuity contract.

3. Add a new Section 4 as follows:

**Sec. 4. This regulation will be effective April 1, 2008.**

These changes are necessary to ensure that the carriers replacing annuities are all consistent in the approach to replacing an individual fixed deferred annuity.

The economic impact of the regulation is as follows:

- (a) On the business it is to regulate: The proposed regulation will require the life insurance carriers that market annuities to produce a notice and disclosure when recommending the replacement of an individual fixed deferred annuity.
- (b) On Small Business: The proposed regulation should not have any impact upon small business since the regulation affects life and health carriers and they are not small businesses.
- (c) On the public: The proposed regulation will protect the public by requiring insurance companies to provide more information to the member when recommending the replacement of an individual fixed deferred annuity.

The Division anticipates a nominal expense to enforce the proposed regulation. The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.

## COMPARISON STATEMENT Deferred Annuity Replacements

Proposed Contract		Existing Contract(s)	Comments
	<b>Company name</b>		
<input type="checkbox"/> Qualified <input type="checkbox"/> Nonqualified	<b>Type of annuity</b>	<input type="checkbox"/> Qualified <input type="checkbox"/> Nonqualified	
	<b>Contract number</b>		
	<b>Issue date</b>		
	<b>Annuity value</b>		
N/A	<b>Minus surrender charges (if any)</b>		
N/A	<b>Plus/minus market value adjustment (if any)</b>		
N/A	<b>Equals surrender value</b>		
	<b>Surrender charge</b>		
	<b>IRS penalty for early withdrawal?</b>		

Surrender Value to be applied to new coverage \_\_\_\_\_

### Summary Result for Comparison

Proposed Contract		Surrender Values	Existing contract	
At Guaranteed Rate	At Current Rate		At Guaranteed Rate	At Current Rate
		<b>In 5 years</b>		
		<b>In 10 years</b>		

1. The primary reason(s) for recommending the new annuity contract is (are):
  
2. The existing annuity contract cannot meet the applicant's objective because:

I have read this comparison and have received a copy of it for my records.

\_\_\_\_\_  
Prospective Buyer's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Agent's Signature

\_\_\_\_\_  
Date

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## IMPORTANT NOTICE REGARDING THE REPLACEMENT OF YOUR ANNUITY CONTRACT

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You have been offered a new annuity contract to replace your existing annuity contract.

Before you replace your existing annuity contract, you should consider the financial gains and losses of replacement.

You may incur additional costs to acquire the new annuity contract.

To make an informed decision about the replacement of your existing annuity contract, you should discuss the provisions of that contract with the producer of insurance or the insurance company which issued it to determine whether your existing annuity contract may be revised to meet your present needs.

Your new annuity contract provides 30 days for you to decide if you wish to keep it.

The producer of insurance or insurance company which is offering to replace your existing annuity contract is required to obtain your signature on this notice and to notify your existing insurance company that you are considering the replacement of your existing annuity contract.

I have read this notice and received a copy of it for my records. I have also received a copy of the written comparison of the proposed annuity contract and my existing annuity contract.

\_\_\_\_\_  
Prospective Buyer's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Producer of Insurance Signature

\_\_\_\_\_  
Date