

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3901-6-13

Rule Type: Rescission

Rule Title/Tagline: Suitability in annuity transactions.

Agency Name: Department of Insurance

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 11/30/2020
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 3901.041, 3901.19 to 3901.26
5. **What statute(s) does the rule implement or amplify?** 3901.19 to 3901.26
6. **What are the reasons for proposing the rule?**

Rule is being Rescinded to New due to the amendments being more than 50% of the rule.

Proposed amendments will bring this rule into compliance with the National Association of Insurance Commissioners (NAIC) recently adopted national model law. Amendments to this rule will build on the leadership Ohio has established on this critical consumer protection and ensure that Ohio regulations are consistent with the uniform standards of the NAIC model and with all parallel federal regulations.

Additionally, Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law Number 111-203, 111th Cong., 2d sess. (July 21, 2010) gives states authority to regulate the sale of fixed annuities when certain conditions are met. This includes a limited time to substantially meet or exceed the minimum requirements of the NAIC model and any successor modifications. The NAIC considers the 2020 revisions to be a successor modification to the model, and shall be implemented to avoid federal preemption.

7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

Rule is being Rescinded to New due to the amendments being more than 50% of the rule.

Annuities are long-term investments that come in a variety of product types and carry different degrees of risk and reward.

State insurance departments have regulated the sale of annuities since 2003, in part to ensure that insurance companies and insurance agents sell consumers products that are appropriate for them, as well as to ensure consistency with the regulation of securities. The National Association of Insurance Commissioners (NAIC) adopted a model regulation (Model #275), which established a standard of "suitability," Ohio Administrative Code rule 3901-6-13 largely mirrors the requirements of the model.

The new standard proposed in this rule, ensures that consumers can expect that the licensed professionals they trust to make recommendations on annuity products are acting in the consumers' best interest. The revisions also require agents and insurers to act with "reasonable diligence, care, and skill" in making a recommendation. Insurers now have heightened supervision requirements to ensure compliance with the new standard. These requirements include knowing the consumer's financial situation and objectives, understanding the available options, having a reasonable basis for believing the recommended option is in the consumer's best interest, and disclosing their compensation and any conflicts of interest.

8. Does the rule incorporate material by reference? Yes

9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

The rule references federal statutes that are readily available to the public.

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

11. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

Not applicable.

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Costs associated with the continuing education requirements vary within the market, however, education requirements are already existing and should not impose additional costs. Required resources such as printed copies of the policies and disclosures are relative to the type and the frequency of the transactions.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

15. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not applicable.

III. Common Sense Initiative (CSI) Questions

16. **Was this rule filed with the Common Sense Initiative Office? Yes**

17. **Does this rule have an adverse impact on business? Yes**

- A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**

- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? Yes**

Paragraph (H) of this rule states that if a violation of this rule occurs, the superintendent may order reasonably corrective actions to be taken for any consumer harmed by the violation and appropriate penalties and sanctions. It further provides that any applicable penalty under the Unfair and Deceptive Trade Practices Act, sections 3911.19 to 3911.26 of the Revised Code, for a violation of this rule may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No**
- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

- 18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No**
- A. How many new regulatory restrictions do you propose adding?**
Not Applicable
- B. How many existing regulatory restrictions do you propose removing?**
Not Applicable