

**Rule Summary and Fiscal Analysis (Part A)****Department of Insurance**

Agency Name

Division

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**3901-6-14**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Annuity disclosure.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **3901.041**

5. Statute(s) the rule, as filed, amplifies or implements: **3901.19 to 3901.21**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

Five year rule review under R.C. 119.032. LSC requires that the rule be rescinded and adopted as a new rule because greater than 50% of the text is affected.

The NAIC adopted numerous revisions to the model regulation in 2011 and adopted three new Annuity Disclosure Buyer's Guides, intended to replace the old Buyer's Guide, in the fall of 2013. At this time the Department was contacted by stakeholders to inquire as to when the Department will reflect these changes within

rule 3901-6-14.

The stakeholders provided the Department with information that NAIC revisions were complete, justifying an amendment to the rule.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; if the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rule provides standards for the disclosure of certain minimum information about annuity contracts to protect consumers and foster consumer education. The rule specifies the minimum information that must be disclosed and the method for disclosing it in connection with the sale of annuity contracts. The goal of this rule is to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts.

The proposed changes to the rule are to conform it to the NAIC model amended in 2011. The proposed amendment includes standards for annuity illustrations and exempts from the rule's scope certain non-registered variable annuities issued exclusively to an accredited investor or qualified purchaser as those terms are defined under federal law or regulation. The proposed amendment adds definitions for "Illustration" and "Market Value Adjustment" and includes dividends in the definition of "Non-guaranteed elements". The proposed amendment adds to the information required to be included in disclosure documents. The amendment adds standards for annuity illustrations. The amendment proposes a recordkeeping requirement for insurers or insurance agents which is consistent with the recordkeeping requirement in a companion rule, 3901-6-13. Also, the NAIC has adopted three new Annuity Disclosure Buyer's Guides, intended to replace the old Buyer's Guide; these three guides are contained in the appendices. Finally, the proposed amendment makes some non-substantive formatting changes.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

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

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.00

Not applicable.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Staff time and resources are required to comply with this rule. However, since the rule, based on an NAIC model, has been in place for over five years and the insurance industry is already meeting the provisions of this rule, those staff and resources appear to already be in place.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

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 (N) of this rule states that in addition to any other penalties provided by the laws of this state, a violation of this rule by an insurer or agent shall be considered an unfair and deceptive trade practice and shall be subject to any one or more penalties set forth in sections 3901.19 to 3901.221 of the Revised Code.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

For annuities in the payout period that include non-guaranteed elements and for deferred annuities in the accumulation period, this rule requires insurers to provide each contract owner with a report at least annually on the status of the contract.