



# Legislative & Regulatory Report

NATIONAL ALLIANCE OF LIFE COMPANIES *An Association of Life and Health Insurance Companies*

May 28, 2010

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*The news in this publication, including links to background and supplemental information on state websites, is available on the NALC members website at <http://members.nalc.net>.*

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## Arizona

### *2010 Arizona Insurance Laws (Bulletin 2010-021)*

This Regulatory Bulletin summarizes the major, newly enacted legislation affecting the Department, its licensees, and insurance consumers. This summary is not meant as an exhaustive list or a detailed analysis of all insurance-related bills. It generally describes the substantive content, but does not capture all details or necessarily cover all bills that may be of interest to a particular reader. The Department may follow this bulletin with other, more detailed bulletins related to implementation of the legislation. All interested persons are encouraged to obtain copies of the enacted bills by contacting the Arizona Secretary of State's office at 602/542-4086, or from the Arizona legislative web site at <http://www.azleg.state.az.us>. Please direct any questions regarding this bulletin to Karlene Wenz, Executive Assistant for Policy Affairs, 602/364-3471.

Arizona's Forty-ninth Legislature, Second Regular Session, adjourned sine die on April 29, 2010. Except as otherwise noted, all insurance-related legislation has a general effective date of July 29, 2010.

#### ***HB 2071: life insurance (Ch. 251)***

Amends ARS § 20-1209 by eliminating interest rate language that is redundant in light of the more recently enacted language within ARS § 20-1209.01.

Repeals ARS § 20-1211.

Amends ARS § 20-1226:

- Permits a life insurance policy to include an exclusion for death "resulting from suicide that occurs within two years after the issue or reinstatement of the policy."
- Permits a life insurance policy to include an exclusion "for suicide that occurs within one year after any increase in death benefits only to the extent of the increased death benefits."

Amends ARS § 20-1241.01, by adding the reinstatement of a life insurance policy to the list of replacements of policies and contracts to which Title 20, Chapter 6, Article 1.1, Replacement of Life Insurance Policies and Annuity Contracts, does not apply. Amends ARS § 20-1251, providing the Director the discretion to permit the deliverance of a group life insurance policy if "the Director determines that the group of individuals to be insured is substantially similar to a group described in section 20-1251.01 and sections 20-1252 through 20-1256."

Applies the above to policies issued or renewed from and after December 31, 2010.

#### ***HB 2072: Department of Insurance; Continuation (Ch. 13)***

Repeals ARS § 41-3010.17, which would have terminated the Arizona Department of Insurance as of July 1, 2010, and adds ARS § 41-3020.17, extending the Department to July 1, 2020.

#### ***HB 2073: Mortgage Guaranty Insurers (Ch. 31)***

Amends ARS § 20-1550:

- Permits the Director to order a mortgage guaranty insurer to cease transacting new business when the insurer fails to meet the statutorily required minimum policyholder position, rather than requiring such action.
- Amends the definition of "face amount of an insured mortgage" to clarify that it "does not include the outstanding principal balance of any indebtedness secured by the subject real property to the extent that the insurer has established a loss reserve for that indebtedness."

**HB 2308: Insurance Information; Transfer of Business (Ch. 38)**

Amends ARS § 20-2102:

- Amends the definition of “insurance transaction” by specifically including transfers of business.
- Defines “transfer of business” as “the transfer by an institution or insurance producer that owns the policy expiration of a policyholder’s existing policy of insurance or the transfer of a group of policyholders’ existing policies of insurance to another insurance institution,” and specifies that a “transfer of business” does not include “the transfer of business by an insurance producer that is under an exclusive contract or a contract requiring the insurance producer to submit all eligible business to an insurer or group of insurers under a common management.”

Amends ARS § 20-2113 to further clarify that as transfers of business are insurance transactions, they are an exception to the privacy protection disclosure requirements.

**HB 2579; Insurance; Continuing Education; Continuation (Ch. 21)**

Repeals the session law (Laws 1998, chapter 255, section 17, as amended by Laws 2003, chapter 216 section 1) that would have repealed ARS §§ 20-2901 thru 20-2905, the provisions on continuing education requirements for insurance producers, thus maintaining those requirements.

**SB 1045: State Compensation Fund; Successor (Ch. 268)**

Repeals ARS § 41-3010.01, which would have terminated the State Compensation Fund (SCF) on July 1, 2010.

Adds ARS § 41-3012.19, terminating the SCF Board of Directors on July 1, 2012 and repealing Title 23, Chapter 6, Article 5, effective January 1, 2013.

Enacts the following session laws:

- Temporarily continues SCF while the Board of Directors establishes a mutual insurer corporation as SCF’s successor.
- Requires establishment of the successor mutual insurer corporation (“successor insurer”) according to Title 20 requirements.
- Requires the SCF Board of Directors to report on the State of Arizona’s equity or other financial interests in SCF.
- Provides that on January 1, 2013, the successor insurer shall assume all the assets, liabilities and obligations of SCF.
- Prohibits use of the term “State Compensation Fund” or “SCF” in the successor insurer’s name or logo beginning June 30, 2014.
- Provides for the addition of two more members of the Board of Directors during the transition.
- Authorizes the Industrial Commission of Arizona to adopt any rules necessary to conform to the above changes.
- Directs the Legislative Council to prepare conforming legislation for the termination of SCF and its Board for consideration in the 2011 legislative session.

This summary is not an exhaustive list or a detailed analysis of all insurance-related bills enacted in this legislative session. It generally describes the substantive content, but does not capture all details or necessarily cover all bills that may be of interest to a particular reader. The Department may follow this bulletin with other, more detailed bulletins related to implementation of the legislation. This bulletin is available on the Department’s web site, [www.azinsurance.gov](http://www.azinsurance.gov). For questions about the bulletin, please contact Karlene Wenz, Executive Assistant for Policy Affairs, at 602/364-3471, or [kwenz@azinsurance.gov](mailto:kwenz@azinsurance.gov). The entire bulletin is available at <http://www.id.state.az.us/bulletin/2010-02.pdf>.

## Arkansas

### *Accounting Practices and Procedures Manual (Bulletin 3-2010)*

The Arkansas Insurance Department is sending you this Bulletin as notification of the Commissioner's intent to adopt the amendments, revisions, or modifications to the *Accounting Practices and Procedures Manual as of March, 2009*, published by the National Association of Insurance Commissioners ("NAIC").

This notice is required by Ark. Code Ann. § 23-63-613 to allow the Commissioner to specify that domestic insurers and other domestic reporting entities shall use the most recent 2010 edition of APPM, no sooner than eight (8) months after distribution of the required statutory notice.

Therefore, please be advised that the effective date for the prescribed use of the *Accounting Practices and Procedures Manual as of March, 2010* for Arkansas domestic reporting entities shall be for the Annual Statement as of December 31, 2010, to be filed with this Department by or before **March 1, 2011**.

The address for the NAIC web site is [www.naic.org](http://www.naic.org), or you may place your orders with the NAIC Insurance Product and Services Division at [prodserv@naic.org](mailto:prodserv@naic.org) or by calling the NAIC Products and Services Division at (816) 783-8300. Questions concerning this Bulletin should be directed to Mel A. Anderson, Deputy Commissioner - Finance Division, at (501) 371-2665 or via e-mail to [mel.anderson@arkansas.gov](mailto:mel.anderson@arkansas.gov). This bulletin is available at <http://www.insurance.arkansas.gov/Legal%20Dataservices/PCBulletinYR.htm>.

### *Notice of Rulemaking Hearing*

The Arkansas Insurance Department has scheduled a hearing on June 15, 2010, beginning at 10:00 a.m. to consider Proposed Rule 99, Advertisements of Life Insurance and Annuities. The hearing will take place in the Department's 1st Floor Hearing Room, at 1200 West Third Street, Little Rock, AR 72201-1904. All interested persons are encouraged to attend the hearing, and may appear and present, orally or in writing, statements, arguments or opinions.

The purpose of this regulation is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts. This Rule will become effective January 1, 2011

Send comments on the proposed rule to [bob.alexander@arkansas.gov](mailto:bob.alexander@arkansas.gov). The notice and rule are available at <http://www.insurance.arkansas.gov/Legal%20Dataservices/NoH.htm>.

## California

### *Notification of Fee Reduction (Bulletin 2010-2)*

In accordance with Insurance Code Section 12978, we respectfully notify you that the California Department of Insurance (CDI) is reducing fees by six-percent (6%) for all insurance producers and companies operating in the State of California. The reduction will be effective July 1, 2010.

As a result of CDI's successful right-sizing efforts the Department has increased efficiencies and reduced operational costs. Thus, to keep revenues aligned with expenditures fees are being reduced for the second year in a row. The Insurance Fund will continue to have sufficient revenue to support authorized expenditures and still maintain sufficient reserves. Moreover, the CDI will continue to monitor the fund balance and make any future adjustments to the fee schedule in order to maintain the financial integrity of the fund.

The new fee schedule is attached to the bulletin, which is available at <http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/index.cfm>. If you have any questions, please contact our Producer Licensing Bureau at (800) 967-9331.

## Delaware

### *Proposed Regulations*

The Delaware Department of Insurance has posted the following notices regarding proposed regulations. The notices and proposed rules are available at:

<http://www.delawareinsurance.gov/departments/documents/ProposedRegs/ProposedRegs.shtml>

### **Proposed Regulation 1208: Annuity Mortality Tables**

Insurance Commissioner Karen Weldin Stewart hereby gives notice of intent to adopt amendments to Department of Insurance Regulation 1208 relating to Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities.

The purpose of the proposed amendment to regulation 1208 is to update the existing regulation to utilize newer mortality tables that have been recognized by the National Association of Insurance Commissioners. The text of the proposed amendment is reproduced in the May 2010 edition of the Delaware Register of Regulations.

The Department of Insurance does not plan to hold a public hearing on the proposed changes. Any person can file written comments, suggestions, briefs, compilations of data or other materials concerning the proposed amendments. Any written submission in response to this notice and relevant to the proposed changes must be received by the Department of Insurance no later than 4:00 p.m., Monday June 7, 2010, and should be addressed to Mitch Crane, Esquire, Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, or sent by fax to 302.736.7979 or email to [mitch.crane@state.de.us](mailto:mitch.crane@state.de.us).

### **Regulation 1218: Reserve Liabilities for Credit Life Insurance**

Insurance Commissioner Karen Weldin Stewart hereby gives notice of intent to adopt Department of Insurance Regulation 1218 relating to reserve liabilities for credit life insurance.

The purpose of the proposed regulation 1218 is to recognize the 2001 CSO Male Composite Ultimate Mortality Table for use in determining the minimum standards of valuation and to specify the interest rate method to be used in determining the minimum standards of valuation. The docket number of the proposed regulation is 1346. The proposed regulation is reproduced in the May 2010 edition of the Delaware Register of Regulations.

The Department of Insurance does not plan to hold a public hearing on the proposed changes. Any person can file written comments, suggestions, briefs, compilations of data or other materials concerning the proposed amendments. Any written submission in response to this notice and relevant to the proposed changes must be received by the Department of Insurance no later than 4:00 p.m., Monday June 7, 2010, and should be addressed to Mitch Crane, Esquire, Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, or sent by fax to 302.736.7979 or email to [mitch.crane@state.de.us](mailto:mitch.crane@state.de.us).

## Georgia

### *Oxendine Rejects High-Risk Pool for Georgia Uninsured*

Georgia Insurance Commissioner John Oxendine said the state will not participate in a federal program to establish high-risk pools for the uninsured, part of the new health care reform legislation. In a letter to U.S.

Health and Human Services Secretary Kathleen Sebelius, Oxendine said he has "no confidence" the "so-called temporary program will not burden the taxpayers of Georgia" and fears it could become the state's responsibility as an unfunded federal mandate.

"I cannot commit the State of Georgia to implement a federal high-risk pool program that is part of a broader insurance scheme which I believe the Supreme Court will hold to be unconstitutional," Oxendine wrote.

Earlier this month, Sebelius sent letters asking which states would be interested in forming temporary, high-risk pools, or expanding on what they already have. The program — to be established with \$5 billion provided by the newly passed health reforms — is voluntary for states and is designed to provide coverage to uninsured people with pre-existing conditions. The program money is scheduled for availability beginning on July 1, and the program will shut down in 2014, when pre-existing condition restrictions are banned in all health insurance.

Sebelius said she will await the responses from governors or independent state insurance commissioners. But in the letters to state officials, she also said the department is authorized to go ahead with the program even if states decline through contracts with private, nonprofit entities. HHS is asking states for letters of intent by the end of April that indicate whether they'll be applying for inclusion in the program.

According to a report from the U.S. Government Accountability Office, 35 states were already running high-risk pools of their own in June of 2009. In 2008, almost 200,000 people were enrolled, and about 4 million more were considered eligible. That year, the plans paid out about \$1.9 billion in claims — averaging \$9,437 for each enrolled person. Premium revenue paid for 54%, and another 23% was paid for by assessments on insurers. Minnesota and Texas had the highest numbers enrolled.

Georgia does not have a high-risk pool, insurance department spokesman Glen Allen said. Oxendine has not been in discussions with other state insurance commissioners about how to react to the pool program, he said.

Oxendine's letter is available at <http://www.gainsurance.org/externalresources/documents/SebeliusLetter.pdf>.

## Iowa

### *Notice of Intended Action: Unfair Trade Practices*

The Iowa Insurance Division hereby gives Notice of Intended Action to amend Chapter 15, "Unfair Trade Practices," Iowa Administrative Code. The rules in Chapter 15 provide standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the times of the transactions are appropriately addressed. The proposed amendments to the rules are intended to bring the rules into accord with a new model regulation drafted by the National Association of Insurance Commissioners. The Division intends that the amendments shall become effective January 1, 2011. The Division also intends that insurance companies and producers shall comply with the rules beginning January 1, 2011, for policies sold in Iowa on or after January 1, 2011.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 8, 2010. Such written materials should be directed to Rosanne Mead, Assistant Insurance Commissioner, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on June 8, 2010, at 10 a.m. at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

The purpose of these rules is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the times of the transactions are appropriately addressed. The rules in this division apply to all annuities not exempted under rule 15.69(507B) that are issued on or after January 1, 2007.

These rules shall apply to any recommendation to purchase, or exchange or replace an annuity made to a consumer on or after January 1, 2011, by an insurance producer, or by an insurer where no producer is involved, that results in the purchase, or exchange or replacement recommended.

The notice and rule are available at [http://www.iid.state.ia.us/orders\\_actions/pendrules.asp](http://www.iid.state.ia.us/orders_actions/pendrules.asp).

## Maryland

### *Life Insurance Underwriting (Bulletin 10-13)*

The Maryland Insurance Administration would like to remind life insurers who deliver or issue policies for delivery in Maryland that underwriting decisions, including rescissions, are required to comply with Insurance Article, § 27-501, Annotated Code of Maryland.

If the Maryland Insurance Administration receives a complaint concerning the underwriting of a life insurance policy, an insurer will be expected to document compliance with § 27-501 of the Insurance Article. The documentation provided to the Maryland Insurance Administration in response to a complaint investigation is required to include:

1. The insurer's applicable underwriting requirements; and
2. A demonstration that the insurer's underwriting decision was not arbitrary, capricious, or unfairly discriminatory, and was made by the application of standards that are reasonably related to the insurer's economic and business purposes.

Questions about this bulletin may be addressed to the Life and Health Complaints Section of the Maryland Insurance Administration at 410-468-2224.

The bulletin is available at <http://www.mdinsurance.state.md.us/sa/documents/LHBulletin-10-13.pdf>.

## Rhode Island

### *Public Notice of Proposed Rule-Making*

Pursuant to the provisions of R.I. Gen. Laws § 27-72-12, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Department of Business Regulation hereby gives notice of its intent to adopt Insurance Regulation 115 – Life Settlements.

The purpose of this adoption is to establish standards and procedures for the licensing of life settlement brokers and providers; to govern the conduct of life settlement brokers and providers and to establish standards for contract forms, disclosures and advertising in Rhode Island in accordance with the Life Settlements Statutes R.I. Gen. Laws § 27-72-1 et seq..

The proposed regulation and concise summary of non-technical amendments are available for public inspection at <http://www.dbr.state.ri.us/documents/rules/proposed/2010-propd115.pdf>, or requested by email [edwyer@dbr.state.ri.us](mailto:edwyer@dbr.state.ri.us) or by calling Elizabeth Kelleher Dwyer at (401) 462 9520.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by June 7, 2010 to Elizabeth Kelleher Dwyer, Department of Business Regulation, 1151 Pontiac Avenue, Cranston, Rhode Island 02920, [edwyer@dbr.state.ri.us](mailto:edwyer@dbr.state.ri.us). A public hearing to consider the proposed adoption shall be held on June 7, 2010 at 10:00 a.m. at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 at which time and place all persons interested therein will be heard.

The notice and rule are available at <http://www.dbr.state.ri.us/rules/proposed.php>.

## Texas

### *Prepaid Funeral Benefits (Bulletin #B-0013-10)*

RE: Whether an insurance company is permitted to obtain a permit to offer or sell prepaid funeral benefits and engage in the business of offering or selling prepaid funeral benefits under new legislation affecting prepaid funeral benefit permit holders.

During the 81st Legislative Session, lawmakers passed HB 3762, which amended Section 154.102 of the Finance Code to add a provision which provides that to obtain a permit to sell or continue to sell prepaid funeral benefits contracts issued under Chapter 154 of the Finance Code, a person may be an insurance company or the insurance holding company for an insurance company, if the insurance company does not have the authority under its domiciliary law to directly hold a permit issued under Chapter 154 of the Finance Code.

Texas insurance laws govern the formation and licensing of insurance companies and entities engaged in the business of insurance. These entities are regulated by the Texas Department of Insurance. Insurance laws limit the activities of these insurance companies and entities engaging in the business of insurance solely to engaging in the business of insurance, as more specifically set forth in the laws governing the formation and licensing of each type of entity under the Insurance Code. Texas laws which govern the formation and licensing of insurance companies and entities engaged in the business of insurance do not extend to non insurance holding companies affiliated with insurance companies or entities engaged in the business of insurance.

- Insurance companies and entities engaged in the business of insurance which are domiciled in Texas and obtain a certificate of authority from the Department of Insurance are not permitted to offer or sell prepaid funeral benefits or engage in the business of offering or selling prepaid funeral benefits.
- Non insurance companies within an insurance company holding system company and affiliated with an insurance company or entity engaged in the business of insurance and domiciled in Texas may obtain and hold a permit issued under Chapter 154 of the Finance Code to offer or sell prepaid funeral benefits under HB 3762 and may engage in offering and selling prepaid funeral benefits after obtaining a permit under Chapter 154 of the Finance Code.

Any Texas domiciled insurance company or entity engaged in the business of insurance which obtained a certificate of authority from the Department of Insurance and was issued a permit to offer or sell prepaid funeral benefits issued under Chapter 154 of the Finance Code prior to the enactment of HB 3762 was not permitted to offer or sell prepaid funeral benefits under Texas insurance laws or the certificate of authority issued to these insurance companies and entities engaged in the business of insurance. These entities will be required to surrender and cancel their permits to sell prepaid funeral benefits at the time the permit is to be renewed under the provisions of Chapter 154 of the Finance Code and refrain from offering, selling, or continuing to sell prepaid funeral benefits after the surrender of their permit.

Contact for questions: Godwin Ohaechesi, Director of Company Licensing & Registration, (512) 322-5076 or [Godwin.Ohaechesi@tdi.state.tx.us](mailto:Godwin.Ohaechesi@tdi.state.tx.us). The bulletin is available at <http://www.tdi.state.tx.us/bulletins/index.html>.

## Wisconsin

### *Notice of Rulemaking*

#### **Life Settlements Affecting Small Business**

The Wisconsin Office of the Commissioner of Insurance has released an initial scope of intended rulemaking related to Life Settlements.

Passage of SB 513 has replaced Wisconsin's viatical settlement statute with comprehensive regulation of life settlement transactions. The statute replaces licensing requirements for brokers and providers and establishes pre-licensing and continuing education standards. The proposed rule will assist in implementation of the requirements of SB 513 including those provisions relating to licensure, training, disclosures, reporting, examinations and conduct of licensees.

A description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives: Prior to passage of SB 513, regulation under Wisconsin's existing viatical settlement statute was limited to life insurance policies sold by policyholders with terminal or life-threatening illnesses. The current life settlement industry has expanded to include purchases of policies from other individuals, and the industry is experiencing tremendous growth. SB 513 addresses regulatory needs of the expanded life settlement industry and adds administrative duties and procedures for oversight of licensees operating within the state and protection of consumers, which the proposed rule will address.

The scope and proposed rule are available at <http://oci.wi.gov/ocirules.htm#pending>.

### *Anti-STOLI Measure Advances in Wisconsin*

The Wisconsin legislature ended its session by approving a bill blocking stranger-owned life insurance transactions and imposing a five-year targeted prohibition before a life insurance policy could be settled. Based on a model law developed by the NAIC, S.B. 513 defines STOLI as a fraudulent act. It integrates elements of the model adopted by the National Conference of Insurance Legislators, including a definition of the practice. It cleared both houses of the Legislature and is before Gov. Jim Doyle.

STOLI is a practice or plan to initiate a life insurance policy for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest in the insured. In a common type of STOLI transaction, a person with no insurable interest in another persuades the other person to obtain life insurance with the understanding that after a certain time, the insured will sell the policy to the stranger.

The bill includes targeted language to allow many legitimate settlement transactions, according to the American Council of Life Insurers. "Once signed by the governor, S.B. 513 will be one of the strongest anti-STOLI laws in the country," John Gerni, ACLI regional vice president, state relations, said in a statement.

Proponents and opponents both expect Doyle to sign the bill.