



# Legislative & Regulatory Report

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

## September 2011

### Table of Contents

Alabama .....	1
Alaska .....	1
Arkansas .....	1
Maine .....	2
Nevada .....	3
New Jersey .....	6
Oklahoma .....	6
Oregon .....	6
Rhode Island .....	7
Texas .....	7

*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>.*

*National Alliance of Life Companies  
PO Box 50053  
Sarasota, Florida 34232  
Phone: 941-379-6100  
Fax: 941-379-6112  
E-mail: [support@nalc.net](mailto:support@nalc.net)  
Website: <http://www.nalc.net>  
Members' Website: <http://members.nalc.net>*

## Alabama

### *2011 Alabama Insurance Day*

Wednesday September 28, 2011

Bryant Conference Center, Tuscaloosa, AL



Alabama Insurance Day, I-Day, is a day devoted to the professionals who work in and with those in the insurance industry. By attending I-Day you will be able to attend breakout sessions on Life/Health and Property/Casualty topics, receive an update from the Alabama Department of Insurance, earn Continuing Education Credit, hear from outstanding speakers and have opportunities to network with other insurance professionals.

Lunch speaker for this year's event will be Winston Groom, author of numerous books including *Forrest Gump* and *Conversation with the Enemy*.

To register, go to <http://training.ua.edu/Insurance-Day-2011> or call 205-348-3000. If you are interested in being an I-Day sponsor or vendor, contact Dr. Tommy Pow at [tpow@ccs.ua.edu](mailto:tpow@ccs.ua.edu).

## Alaska

### *Proposed Rule: Valuation of Life Insurance Policies and Retained Asset Accounts*

The Division of Insurance proposes to adopt regulation changes in Title 3 of the Alaska Administrative Code, dealing with valuation of life insurance policies and retained asset accounts for life insurance policies.

- 3 AAC 21.905 is proposed to be amended to clarify the calculation of deficiency reserves.
- 3 AAC 26 is proposed to be amended by adding new sections as follows:
- 3 AAC 26.850 states that the new sections apply to retained asset accounts.
- 3 AAC 26.855 defines a retained asset account.
- 3 AAC 26.860 requires that a retained asset account may only be established by a supplemental contract and lists what must be in such a contract between the beneficiary and an insurer.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed action, by submitting written comments to the Division of Insurance; Attention: Katie Campbell; P.O. Box 110805; Juneau, AK 99811-0805; e-mail to [Katie.Campbell@alaska.gov](mailto:Katie.Campbell@alaska.gov); or fax to (907) 465-3422. The comments must be received no later than 5:00 p.m., Alaska Daylight Time, September 7, 2011.

The proposed rule is available at <http://www.dced.state.ak.us/insurance/Insurance/notices.html>.

## Arkansas

### *Rulemaking Hearing*

#### *Proposed Amended Rule 30: "Funeral Expense Insurance"*

The Arkansas Insurance Department will hold a hearing on Tuesday, September 13 at 9:00 a.m. to consider changed to Rule 30, Funeral Expense Insurance. The purpose of this Rule is to define funeral expense insurance as required by Ark. Code Ann. §23-64-202(c)(7)(B), and to set out the general requirements that must be met in selling this form of life insurance.

The hearing will be held at the Arkansas Insurance Department, 1200 West Third Street, Little Rock, AR 72201. Direct comments on the proposed rule to Amanda Andrews at [amanda.andrews@arkansas.gov](mailto:amanda.andrews@arkansas.gov). The proposed rule is available at <http://www.insurance.arkansas.gov/Legal%20Datatools/Proposedrulepage.htm>.

## Maine

### *Long-Term Care Partnership Exchanges (Bulletin 381)*

The Maine Legislature has enacted An Act to Require Insurance Companies to Reissue Qualifying Long-term Care Partnership Policies, effective September 28, 2011 [P.L. 2011, ch. 198 (LD. 642), enacting 24-A M.R.S.A. § 5082.]. The new law requires long-term care insurers to provide notice to policyholders that they may be able to exchange their policies in order to participate in Maine's Long-Term Care Partnership Program. This Bulletin explains the exchange process.

The law applies to all insurers actively marketing individual or group long-term care “partnership policies” in Maine on and after September 28, 2011. The law defines partnership policies as policies “offered with the intent to meet the requirements of the Long-term Care Partnership Program.” [24-A M.R.S.A. § 5082(1)(D)] Requirements for partnership policies in Maine are spelled out in more detail in Bulletins 368 and 369.

Insurers marketing partnership policies in one or both markets are required to review all of the “qualified” long-term care policies (policies designed to meet Internal Revenue Code requirements) that they have issued between July 1, 2004, and the date they began actively marketing partnership policies in the same market in Maine. This review must be conducted in order to identify eligible policyholders and to determine which of their policy forms meet partnership policy requirements - except for issue date - as described in Bulletin 368.

Insurers currently marketing partnership policies in Maine must offer a policy exchange or amendment to eligible policyholders no later than September 28, 2012. Insurers that begin marketing partnership policies after September 28, 2011, will have one year from the date they begin actively marketing partnership policies in Maine. Insurers must also make the exchange offer to any eligible policyholder who was issued coverage before July 1, 2004, and who makes an affirmative request for review on or before September 28, 2012.

The nature of the offer the insurer is required to make depends on which type of existing policy the policyholder has:

**For policies meeting the requirements of Bulletin 368**, the insurer must issue to each policyholder with that policy the “Important Notice Regarding Your Policy’s Long-Term Care Insurance Partnership Status” contained in Appendix A of Bulletin 368, as well as a policy amendment reflecting the effective date of the policy’s partnership status. The insurer may not medically underwrite due to the exchange or charge additional premium for the amendment.

**For policies not meeting the requirements of Bulletin 368**, the insurer must notify the policyholder that the policy may be exchanged for a partnership policy. The new partnership policy may be subject to underwriting and additional premium based on the policyholder’s age on the date of the exchange. If the policyholder does not accept the offer within 60 days, the insurer is not required to make the exchange.

The requirements of the law apply separately to an insurer’s individual business and its group business. Insurers that offer partnership policies only to individuals, but also have existing group business, are not required to offer exchanges to group policyholders, and vice versa. [24-A M.R.S.A. § 5082(6). If the insurer subsequently re-enters the other market, it has one year from that date to offer exchanges to policyholders in that market] For

employer groups, the employer, not the individual employee, is the policyholder entitled to notice and the opportunity for a policy exchange.

A policyholder is not eligible for an exchange while receiving benefits or in a waiting period to receive benefits, or for one year afterwards, but may request review after one year has elapsed from the end of any benefit payment or waiting period.

The bulletin is available at [http://www.maine.gov/pfr/insurance/bulletins/index\\_by\\_number.shtml](http://www.maine.gov/pfr/insurance/bulletins/index_by_number.shtml).

## Nevada

### *New Bulletins*

The following bulletins are available at <http://www.doi.nv.gov/bulletin.aspx>.

#### **Changes to Individual Deferred Annuity Nonforfeiture Law (Bulletin 11-007)**

**Assembly Bill 74, which was signed into law by Governor Sandoval on June 17, 2011, included provisions** (sections 40 to 42, inclusive) which amend the minimum nonforfeiture requirements under NRS 688A for individual deferred annuities issued on or after January 1, 2012. The purpose of this Bulletin is to provide information regarding these statutory revisions to companies issuing annuities in Nevada.

The following is a summary of the changes which will become effective for individual deferred annuity contracts issued in Nevada on or after January 1, 2012. These revisions clarify that for purposes of calculating the minimum cash surrender value of an annuity:

- The minimum nonforfeiture amount must be determined using a maturity date that is the latest annuity commencement date allowed by the contract, but not later than age 70 or the 10th anniversary of the contract, whichever occurs later. This will generally limit the surrender charge period to 10 years and the maximum initial surrender charge to 10 percent for many annuities issued to individuals age 60 and older.
- For contracts with flexible considerations, the 10th anniversary of the contract is determined separately for each consideration. Therefore, an annuity contract that provides for flexible considerations may have separate surrender charge schedules associated with each consideration.
- A surrender charge may not be imposed on or after the maturity date stated in the contract.
- The cash surrender value available on or after the maturity date must be equal to the amount available upon annuitization (i.e., the amount used to determine annuity benefits). This means that the amount of any bonuses payable at maturity must be included in the maturity value that is used to determine the minimum nonforfeiture value.

This new law affects individual deferred annuities issued in Nevada on or after January 1, 2012. Beginning January 1, 2012, an individual deferred annuity contract that does not comply with these new nonforfeiture requirements may not be issued in Nevada.

The Division, therefore, recommends that all insurers offering annuities review their individual deferred annuity forms that have been approved for sale in Nevada and ensure that they are in compliance with the new minimum nonforfeiture law. Policy forms that are not in compliance must be revised and filed with the Division before use.

## Filing Guidance

All forms submitted for approval must comply with the Division's filing requirements detailed in Bulletin 06-009 and must include an actuarial memorandum demonstrating compliance with the revised nonforfeiture law.

In order to facilitate the prompt review of affected forms, the Division recommends that insurers use the System for Electronic Rates and Forms Filing (SERFF) and indicate "AB74" in the Company Tracking Number field if the only reason for the submission is compliance with the 2011 legislative changes.

## Changes to Free-Look Period for Life Insurance and Annuities (Bulletin No. 11-008)

Assembly Bill 74, which was signed into law by Governor Sandoval on June 17, 2011, included provisions (sections 38 and 39) which amend the free-look period requirements under NRS 688A.165 for individual life insurance policies and individual annuity contracts.

The purpose of this Bulletin is to provide guidance to companies issuing life insurance policies or annuities in the State of Nevada regarding compliance with the revised free-look period provisions. The following is a summary of the revisions affecting individual life insurance policies and individual annuity contracts:

- Non-replacement individual life insurance policies and annuity contracts must include a provision or attached notice allowing the owner of the policy or contract to cancel the life insurance policy or annuity contract within 10 days after delivery of the policy or contract and receive a refund of all premiums or considerations paid, including any policy or contract fees or other charges. Previously, the 10-day requirement applied to all life insurance policies and did not explicitly address annuities. Therefore, the new law clarifies that the free-look period also applies to annuities and, as described below, allows for a longer free-look period for replacement policies and contracts.
- Life insurance policies or annuity contracts replacing an existing policy or contract are required to provide a minimum 30-day period after delivery of the policy or contract during which the policy or contract may be cancelled and a full refund of all premiums or considerations paid, including any policy or contract fees or other charges.

Therefore, the Division recommends that insurers review their life insurance policies and annuity contracts that have been approved for sale in Nevada and ensure that the free-look period provisions meet or exceed the new minimum standards. Policies and contracts that are not in compliance must be revised and submitted to the Division for approval before they can be issued in Nevada. Beginning October 1, 2011, policies and contracts that are not in compliance with the new law may not be issued in Nevada.

## Filing Guidelines

Companies may modify the free-look provisions in previously approved forms by submitting the revised language in any of the following formats:

1. A revised cover page; or
2. An amendment or sticker; or
3. An endorsement.

A new, distinct identifying form number should be included in the lower left hand corner of the revised cover page, amendment, sticker or endorsement. In order to expedite our review, if a revised cover page is used to accomplish this change, the Division will waive its requirement to submit a red-lined copy of the previously approved contract.

For changes made by amendments, stickers or endorsements, the submission must include a listing (including approval date) of all previously approved policies or contracts to which the amendment, sticker or endorsement will be attached.

In order to facilitate the prompt review of affected forms by October I, 20 II, insurers should use the System for Electronic Rates and Forms Filing (SERFF) and indicate "AB74" in the Company Tracking Number field if the only reason for the submission is compliance with the 2011 legislative changes.

### Revised Coverage Under the Nevada Life and Health Insurance Guaranty Association (Bulletin 11-009)

Assembly Bill No. 74, which was signed into law by Governor Sandoval on June 17, 2011, included provisions (sections 33.1 to 33.7, inclusive) which amend chapter 686C of the Nevada Revised Statutes (NRS) to expand coverage under the Nevada Life and Health Insurance Guaranty Association (guaranty association) to include unallocated annuities owned by a governmental retirement plan established under sections 401, 403(b) or 457 of the Internal Revenue Code (IRC).

The following summarizes actions that companies must take to comply with the revised law:

1. Effective October 1, 2011, all Life and Health insurers must use the attached updated summary document describing coverage, limitations, and exclusions under the guaranty association. Pursuant to NRS 686C.128, the guaranty association must prepare a summary document and disclaimer for approval by the Commissioner of Insurance (Commissioner) that describes coverage, limitations, and exclusions applicable under the guaranty association. For this purpose, the Commissioner has approved the attached revised summary and disclosure document which reflects updated contact information for the Nevada Division of Insurance (Division), as well as changes in guaranty association coverage approved during the 76th (20 II) Session of the Nevada Legislature.

Effective October 1, 2011, life and health insurers must use the revised summary document in order to comply with NRS 686C.128.

2. All insurers issuing unallocated annuities to governmental retirement plans established under sections 401, 403(b) or 457 of the IRC must submit their unallocated annuity contracts and related forms to the Division for review and approval. Note that unallocated annuities issued to nongovernmental entities are still outside of the jurisdiction of the Division and will not be reviewed by our office. However, insurers may continue to file these contracts with the Division on an informational only basis.

Therefore, the Division recommends that all affected insurers review their unallocated annuity contracts and related forms and submit, for review by the Division, those that are intended to be issued to governmental retirement plans established under sections 401, 403(b) or 457 of the IRC.

### Filing Guidance

When submitting contracts to the Division for review and approval, insurers must include a new, distinct identifying form number in the lower left hand corner of each form intended for use with governmental retirement plans.

Because Division review and approval is limited to contracts issued to the governmental plans described above, insurers must include a statement in the transmittal letter or in a separate document, acknowledging that the Division's approval is only valid for governmental retirement plans established under sections 401, 403(b) or 457 of the IRC in Nevada and certifying that the company will not issue the approved forms to other entities. In order to facilitate the prompt review of affected forms by October 1, 2011, the Division recommends that

insurers use the System for Electronic Rates and Forms Filing (SERFF) and indicate "AB74" in the Company Tracking Number field.

## New Jersey

### *Maximum Reserve Valuation And Nonforfeiture Rates (Bulletin 11-12)*

In accordance with the Standard Valuation Law at N.J.S.A. 17B:19-8 and the Standard Nonforfeiture Law for Life Insurance at N.J.S.A. 17B:25-19, the attached table shows the rates of interest to be used for determining minimum valuation standards and nonforfeiture values applicable to life insurance policies issued in 2012, and annuity contracts issued or undergoing a change in fund in 2011. With respect to benefits which are subject to the provisions of N.J.S.A. 17B:25-19, the rates shown are applicable to those benefits under life insurance policies issued in a particular calendar year on or after the operative date provided for at N.J.S.A. 17B:25-19.h(xi).

This bulletin and attached tables are available at <http://www.state.nj.us/dobi/legsregs.htm>.

## Oklahoma

### *Providing Insurance Policy Information (Bulletin LH 2011-04)*

In 2010, the Oklahoma legislature enacted 36 O.S. § 1435.41. This section provides that:

“An insurer shall provide to any insurance producer authorized to sell life insurance products, whose appointment has been terminated for any reason other than the reasons set forth in 36 O.S. § 1435.13 and is still the agent of record or servicing agent and has not been replaced by another servicing agent upon termination, information relating to the policy of the person who purchased a product from such producer if the insured has signed a form authorizing the release of the information.”

There is an exception to this requirement: the law does not apply to any policy sold or serviced by an insurance producer while associated with an insurer's captive distribution system.

The law also requires the Insurance Commissioner to prescribe the form required above. It is the intent of the Oklahoma Insurance Department to address this requirement with a permanent rule during the next rulemaking cycle. In answer to inquiries that the Oklahoma Insurance Department has received regarding compliance with the law in the interim until rules are promulgated, the Department is releasing the attached document as an example of an acceptable release document. Insurers receiving this form, or a substantially similar form, are expected to comply with the requirements of this statute.

Questions or comments applicable to this bulletin should be directed to Denise Engle ([Denise.Engle@oid.ok.gov](mailto:Denise.Engle@oid.ok.gov)) or Susan Dobbins ([Susan.Dobbins@oid.ok.gov](mailto:Susan.Dobbins@oid.ok.gov)), Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56th, Suite 100, Oklahoma City, OK 73112. The complete bulletin is available at [http://www.ok.gov/oid/News\\_and\\_Events/Notices/Bulletins/index.html](http://www.ok.gov/oid/News_and_Events/Notices/Bulletins/index.html).

## Oregon

### *Proposed Rulemaking Hearing: 2001 CSO Preferred Mortality Tables*

The Oregon Insurance Division will hold a hearing on September 28, 2011, beginning at 1:30 p.m. in Conference Room F, Labor & Industries Bldg., 350 Winter St. NE, Salem, Oregon. The purpose of the hearing is to consider rule amendments to allow the use of the 2001 CSO Preferred Mortality Table for certain

contracts. The last day for public comment is October 5. Interested persons may send comments to Jeannette Holman at [jeannette.holman@state.or.us](mailto:jeannette.holman@state.or.us).

The amendments to these rules reflect changes to the National Association of Insurance Commissioners (NAIC) Model Regulation #815. The rules generally specify which mortality table is recognized for use in determining minimum reserve liabilities. Adoption of these amendments to the rules would allow a company to substitute the 2001 CSO Preferred Mortality Tables in place of the 2001 CSO Smoker or Nonsmoker Mortality Tables for policies issued prior to January 1, 2007. The conditions for use of the preferred tables are also set out in the rules and the use does require the consent of the director of the Department of Consumer and Business Services.

The notice and rule are available at [http://www.cbs.state.or.us/external/ins/rules/prop\\_admin\\_rules.html](http://www.cbs.state.or.us/external/ins/rules/prop_admin_rules.html).

## Rhode Island

### *Proposed Rule-Making*

The Rhode Island Department of Business Regulation hereby gives notice of its intent to amend Insurance Regulation 109 - Military Sales Practices.

The purpose of this amendment is to add an exemption for State Sponsored Group Life Insurance programs offered to members of the National Guard pursuant to 37 U.S.C. section 707 *et seq.* This proposed amendment is made as a result of a request from the Rhode Island National Guard.

The proposed amended regulation and concise summary of non-technical amendments are available for public inspection at [www.dbr.ri.gov](http://www.dbr.ri.gov), in person at Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, or by email [edwyer@dbr.ri.gov](mailto:edwyer@dbr.ri.gov) 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 September 21, 2011 to Elizabeth Kelleher Dwyer, Department of Business Regulation, 1151 Pontiac Avenue, Cranston, Rhode Island 02920, [edwyer@dbr.ri.gov](mailto:edwyer@dbr.ri.gov). A public hearing to consider the proposed amendment shall be held on September 21, 2011 at 10:00 am 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

### *Bulletins*

The following bulletins are available at <http://www.tdi.texas.gov/bulletins/index.html>.

#### **New Statute Pertaining to Life Settlements (Bulletin #B-0036-11)**

The Texas Department of Insurance (Department) reminds all life settlement providers, brokers, insurance companies licensed to write life insurance in Texas, and interested parties that House Bill 2277, 82nd Legislature, Regular Session, (HB 2277), effective September 1, 2011, imposes new statutory requirements on the business of life settlements. The statute repeals the Insurance Code Chapter 1111, Subchapter A and creates new Insurance Code Chapter 1111A. The Insurance Code Chapter 1111A includes important new provisions regarding provider and broker licensure, the filing and content of life settlement contracts, disclosures to owners and insurers, advertising, reporting of fraudulent activity, and other conduct relating to life settlements. Providers and brokers should review the new statute and take necessary actions as follows:

**Licensure Application and Renewal** – In accordance with HB 2277, Section 19, a life settlement provider lawfully transacting business in this state prior to September 1, 2011, may continue to do so pending the approval or disapproval of the person’s application for a license, as long as the application is filed not later than 30 days after the publication of rules for the licensure of providers. A person who has lawfully negotiated a life settlement contract between an owner residing in Texas and one or more providers for at least one year prior to September 1, 2011, may continue to do so pending approval or disapproval of that person’s application if the application is filed not later than the 30th day after the publication of rules for the licensure of brokers. The Department is currently developing new rules for the licensure of providers and brokers but has not published such rules yet. Life settlement providers that have a registration expiring prior to the publication of new rules may continue to lawfully transact life settlements and are not required to renew their registration pending the publication of the application forms. Life settlement brokers that have lawfully negotiated a life settlement contract between an owner residing in Texas and one or more providers at least one year before September 1, 2011 may continue to lawfully negotiate a life settlement contract and are not required to renew their registration pending the publication of the application forms.

Pending the publication of such rules, the Department will accept applications for life settlement providers and brokers to transact business, provided the applicant furnishes the information necessary for the review and approval of the application for compliance with the statutory requirements specified in the Insurance Code Chapter 1111A, including Section 1111A.003. The Department will issue temporary life settlement provider and broker licenses on the basis of such interim applications. No application fee is required for a temporary life settlement provider or broker license. A life settlement provider or broker operating under a temporary license will thereafter be required to comply with all requirements for application specified in the adopted rules governing the licensure of life settlement providers or brokers not later than 30 days after the adoption of such rules.

**Forms** - All life settlement contract forms must be brought into compliance with the new life settlement requirements. Life settlement providers and brokers must use forms that comply with the Insurance Code Chapter 1111A, including Sections 1111A.005, 1111A.011, 1111A.012, 1111A.014, 1111A.017, and 1111A.023(b). The Department is now accepting revised filings for review. Life settlement providers and brokers must submit all life settlement forms for review. Forms submitted for review on or before September 30, 2011 with revisions limited to compliance with Insurance Code Chapter 1111A will be reviewed no later than October 31, 2011. In order to expedite form review, please submit forms using the transmittal checklist for life/health form filings, form LHL020. Providers or brokers submitting forms should check “other” and write “life settlement forms to comply with 1111A” for item 1(c) on the checklist. Additionally, item 3 should be left blank and no filing fee is required. After the adoption of rules concerning the submission and use of life settlement contract forms, such forms will be required to meet the requirements of such rules as specified. Following this interim period, life settlement providers and brokers using forms that have not been submitted on or before September 30, 2011 will be referred for administrative action.

A provider or broker engaging in the business of life settlements in Texas is required to comply with all requirements of HB 2277.

Interested stakeholders are encouraged to comment on the forthcoming rules that will be published in accordance with the Insurance Code Chapter 1111A and the Government Code Chapter 2001. The Department anticipates that an informal draft will be posted on the Department’s website at <http://www.tdi.texas.gov/rules/drules.html> in September, 2011.

If you have any questions concerning the information presented in this bulletin or form filing, please contact the Life/Health Division at 512-322-3401 or the Life, Annuity and Credit Section at either 512-322-3406 or [LIFEHEALTH@tdi.state.tx.us](mailto:LIFEHEALTH@tdi.state.tx.us).

### Legislation Enacted (Bulletin #B-0037-11)

This Bulletin provides information and brief summaries of selected bills enacted during the 82nd Legislative Regular and First Called Sessions which may be relevant specifically to individuals and entities regulated by the Life, Health & Licensing Program at the Texas Department of Insurance (Department).

Attachment A provides summaries of bills that may require action by regulated individuals and entities. Attachment B provides a list of bills that could require action in particular circumstances.

The Department is only providing information with regard to the particular provisions of the bills that may apply to life, accident, and health coverage or licensing issues. **Please refer to the actual bills for the complete content of the legislation.** If viewing via a Web enabled computer, each bill number will link directly to the enrolled bill text. Alternatively, the bills, as well as other legislative information, may be accessed at the Texas Legislature Online website at [www.capitol.state.tx.us](http://www.capitol.state.tx.us).

The Department has attempted to include only relevant legislation. While the Department encourages use of the Bulletin to aid in compliance efforts, regulated individuals and entities are responsible for ensuring compliance with *all* enacted legislation affecting the business they conduct.

To complement this Bulletin, the Department has posted its legislative implementation plans relating to some of the identified legislation on its website at <http://www.tdi.texas.gov/reports/report10.html>.