**R590. Insurance, Administration.**

**R590-79. Life Insurance Disclosure Rule.**

**R590-79-1. Authority.**

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-22-425.

**R590-79-2. Purpose and Scope.**

(1) The purpose of this rule is to require an insurer to provide to a life insurance purchaser information to assist the purchaser in selecting a plan of life insurance appropriate for the purchaser's needs.

(2) This rule applies to:

(a) any solicitation, negotiation, or procurement of life insurance within this state; and

(b) any issuer of a life insurance contract including a fraternal benefit society.

(3) Unless otherwise included, this rule does not apply to:

(a) an annuity;

(b) credit life insurance;

(c) group life insurance, except that a disclosure relating to a preneed funeral contract or prearrangement shall extend to the issuance or delivery of a certificate as well as to the policy;

(d) a life insurance policy issued in connection with a pension and welfare plan as defined by the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 18, et seq.; or

(e) variable life insurance.

**R590-79-3. Definitions.**

Terms used in this rule are defined in Section 31A-1-301 and Rule R590-177. Additional terms are defined as follows:

(1) "Buyer's guide" means a document that contains, and is limited to, the language contained in the "Life Insurance Buyer's Guide," as adopted and periodically amended by the National Association of Insurance Commissioners.

(2) "Current scale of nonguaranteed elements" means a formula or other mechanism that produces values for an illustration as if there is no change in the basis of those values after the time of illustration.

(3) "Generic name" means a short title descriptive of the policy being illustrated such as "whole life," "term life," or "flexible premium adjustable life."

(4)(a) "Nonguaranteed element" means a premium, benefit, value, credit, or charge under a life insurance policy that is not guaranteed or not determined at issue.

(b) An element is considered nonguaranteed if any underlying nonguaranteed element is used in its calculation.

(5) "Policy data" means a display or schedule of numerical values, both guaranteed and nonguaranteed, for each policy year or a series of designated policy years of the following information:

(a) illustrated annual, other periodic, and terminal dividends;

(b) premiums;

(c) death benefits;

(d) cash surrender values; and

(e) endowment benefits.

(6) "Policy summary" means a written statement describing only the guaranteed elements of the policy.

(7) "Preneed funeral contract" and "prearrangement" each mean an agreement by or for an individual before that individual's death relating to the purchase or provisions of specific funeral or cemetery merchandise or services.

**R590-79-4. Disclosure Requirements.**

(1) The insurer shall provide a buyer's guide and either a policy summary or illustration when the policy is delivered or prior to delivery of the policy if requested.

(2)(a) The policy summary must be a separate document.

(b) Any information required to be disclosed must be displayed in a way that does not minimize or obscure any portion of the information.

(c) Any amount that remains level for two or more years of the policy may be represented by a single number if it is clearly indicated which amount applies for each policy year.

(d) An amount in Subsection (3)(e) shall be listed in total, not on a per-thousand nor per-unit basis.

(e) If more than one insured is covered under one policy or rider, a death benefit shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class.

(f) A zero amount shall be displayed as zero and may not be displayed as a blank space.

(3) A policy summary must include the following information:

(a) A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

(b) The name and address of the insurance producer or, if no producer is involved, the procedure to be followed to receive a response to an inquiry regarding the policy summary.

(c) The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

(d) The generic name of the policy and each rider.

(e) The following amounts, where applicable, for the first five policy years and representative policy years thereafter, sufficient to illustrate the premium and benefit patterns, including the 10th and 20th policy years, and at least one age from 60 through 65 or maturity, whichever is earlier:

(i) The annual premium for the policy.

(ii) The annual premium for each optional rider.

(iii) The guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death or other specifically enumerated exclusion, that is provided by the policy and each optional rider, with benefits provided under the policy and each rider shown separately.

(iv) The total guaranteed cash surrender values at the end of the year with values shown separately for the policy and each rider.

(v) The guaranteed endowment amounts payable under the policy that are not included under the guaranteed cash surrender values in Subsection (3)(e)(iv).

(f)(i) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears.

(ii) If the policy loan interest rate is adjustable, the policy summary shall indicate the maximum annual percentage rate and shall indicate that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and applicable law.

(g) The date on which the policy summary is prepared.

(4) For the purposes of this rule, the annual premium for a policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

(5) For a policy commonly called "universal life insurance" and any similarly structured policy, the policy summary shall indicate when the policy will expire based on the interest rates and mortality rates and other charges guaranteed in the policy and the anticipated or assumed annual premiums shown in the policy summary.

(6) Upon request by the policyholder, the insurer shall furnish either policy data or an in-force illustration as follows:

(a) For a policy issued prior to January 1, 1997, the insurer shall furnish policy data or an in-force illustration.

(b) For a policy issued on or after January 1, 1997, and declared not to be used with an illustration, the insurer shall furnish policy data, limited to guaranteed values or an in-force illustration.

(c) For a policy issued on or after January 1, 1997, and declared to be used with an illustration, the insurer shall provide an in-force illustration.

(d)(i) Unless otherwise requested, the policy data shall be provided for 20 consecutive years beginning with the previous policy anniversary.

(ii) The statement of policy data shall include nonguaranteed elements according to the current scale, the amount of outstanding policy loans, and the current policy loan interest rate.

(iii) Any policy value shown shall be based on the current application of nonguaranteed elements in effect at the time of the request.

(iv) The insurer may charge a reasonable fee for the preparation of the statement after providing one annually without charge.

(7) For a life insurance policy or certificate with a death benefit not exceeding $15,000:

(a) the insurer shall disclose the following:

(i) the limited death benefit whenever a policy limits death benefits during a period following the inception date of coverage; and

(ii) the possibility that premiums paid over several years may exceed the death benefit whenever that possibility exists; and

(b) the disclosure shall be provided to the applicant no later than delivery of the policy or certificate.

(8) The following information shall be disclosed at the time an application is made for a preneed funeral contract or prearrangement that is or will be funded by a life insurance policy, prior to accepting the applicant's initial premium or deposit:

(a) the fact that a life insurance policy is involved or is being used to fund a prearrangement;

(b) the nature of the relationship among the soliciting producer or producers, the provider of the funeral or cemetery merchandise or services, the administrator, and any other person;

(c) the relationship of the life insurance policy to the funding of the prearrangement and the nature and existence of any guarantees relating to the prearrangement;

(d) the impact on the prearrangement of any:

(i) changes in the life insurance policy, including changes in the assignment, beneficiary designation, or use of the proceeds;

(ii) penalties to be incurred by the policyholder due to failure to make premium payments; and

(iii) penalties to be incurred or monies to be received due to cancellation or surrender of the life insurance policy;

(f) a list of the merchandise and services that are applied or contracted for in the prearrangement and any relevant information concerning the price of the funeral services, including an indication that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need;

(g) any information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy and the amount needed to fund the prearrangement; and

(h) whether a sales commission or other form of compensation is being paid and the identity of each individual or entity to whom it is paid.

**R590-79-5. General Requirements.**

(1) Each insurer shall maintain at its home office or principal office, a complete and accurate record of each document provided to the policyholder under this rule.

(2)(a) A producer shall inform a prospective purchaser, prior to commencing a life insurance sales presentation, that the producer is acting as a life insurance producer.

(b) A producer shall inform the prospective purchaser of the full name of the insurance company the producer is representing.

(c) If a producer is not involved in the sale, the insurer shall provide its full name to the prospective purchaser.

(d) A presentation commences with an initial contact with a prospective purchaser in person, by telephone, by electronic communication, or by way of printed materials, particularly where rates or values are quoted or when policy or contract representations are made.

(3) A producer shall not use terms such as financial planner, investment advisor, financial consultant, or financial counseling:

(a) unless properly licensed if required; or

(b) to imply that the producer is generally engaged in an advisory business where compensation is unrelated to sales unless such is the case and is represented by way of a required disclosure.

(4) Any reference to a nonguaranteed element shall include:

(a) a statement that the item is not guaranteed and is based on the company's current scale of nonguaranteed elements;

(b) a statement that a nonguaranteed element may be reduced by the existence of a policy loan shall be included in any reference to a nonguaranteed element; and

(c) a presentation or depiction of a policy issued on or after January 1, 1997, that includes nonguaranteed elements over a period of years shall be governed by Rule R590-177.

(5) The policy summary, the illustration, and any other sales materials must be complete, consistent, and not misleading.

(6) If the policy will lapse under the guaranteed assumptions unless a premium higher than the planned premium is paid, that fact must be disclosed and the date, policy duration, or attained age of lapse must be disclosed in the policy summary and any periodic report.

**R590-79-6. Failure to Comply.**

Failure of an insurer to provide a buyer's guide and either a policy summary or illustration, as provided in this rule is an omission that misrepresents the benefits, advantages, conditions, or terms of an insurance policy.

**R590-79-7. Severability.**

If any provision of this rule, Rule R590-79, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

**KEY: insurance law**

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