



## Ohio Administrative Code

### Rule 3901-6-01 Solicitation of life insurance and/or annuity contracts.

Effective: November 16, 2023

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#### (A) Purpose

The purpose of this rule is to set forth standards and protect consumers by establishing certain requirements and prohibiting certain practices related to the solicitation and sale of life insurance and annuity contracts.

#### (B) Authority

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041, 3901.21, and 3901.212 of the Revised Code.

#### (C) Applicability

This rule applies to all life insurance and annuity products solicited, marketed, or sold in this state.

#### (D) Prohibition of misleading policies

In reviewing policies for approval or disapproval, the superintendent may consider the titles, terms and text of that policy and request and review the following materials and data:

(1) Any and all advertisements, estimates, comparisons, illustrations, circulars, statements, notices, brochures, pamphlets, letters, posters, announcements, articles, projections, literature, pictures, reports, books, newspapers, magazines, records, films or other material of any nature whatsoever made, issued, circulated, published, disseminated, delivered, used, referred to or placed before the public in any manner in connection with or in conjunction with that policy; and

(2) Any and all oral statements, assertions, or representations, the sales techniques or procedures, and the training, study, or learning devices or programs made, used, followed, or employed by the



officers, agents, employees, or representatives of the insurance company.

(E) Policy name or title

No person, insurance company, insurance agent, insurance broker or insurance company representative may deliver within this state or issue for delivery within this state, any policy of life insurance or sales or advertising material relating thereto without the use of the words "life insurance" in its name or title unless accompanied by other language clearly indicating that the contract is a policy of life insurance or annuity, whichever is applicable.

(F) Sales practices

No life insurance company or official, employee, broker, agent, solicitor, or other representative, in writing or orally, may do any of the following to induce the purchase of any policy within this state:

(1) Make any statement or use any sales or advertising material in connection with any policy which provides a pure guaranteed annual endowment unless the gross premium and benefit amount are shown separately and distinctly from the gross premium for and the amount of the life insurance benefit on the same page and without undue emphasis or prominence to either benefit.

(2) Make any statement or use any sales or advertising material, unless the amount of the pure guaranteed annual endowment is expressed in dollars and not as a percentage of any premium or benefit.

(3) Make any statement or use any sales or advertising material wherein the pure guaranteed annual endowment is described as a "guaranteed check," "guaranteed dividend," "return," etc., or anything other than a guaranteed benefit for which a premium is being paid by the policyholder.

(4) Fail to disclose to the prospect, orally and in writing, in dollars on a year-to-year cumulative basis, the amount of benefit on such annual endowments and the cost, including the amount by which premiums are reduced after maturity of the last endowment for a proposed or in effect policy with a series of fully guaranteed endowments. Paragraphs (F)(1) to (F)(4) of this rule only apply to fully guaranteed annual endowments that are equal to or less than the policy's gross annual premium.



- (5) Make any statement or reference to dividends on a life insurance policy or annuity contract that would reasonably imply any of the following:
- (a) That dividends are anything other than an adjustment of the cost of insurance in the form of an equitable distribution of surplus that reflects the actual experience of the insurance company principally in mortality, interest return on investment, and administrative expense.
  - (b) That dividends to a policyholder are substantially "profits," "earnings," "return," or "investment return" unless and to the extent that aggregate dividends received exceed the gross premiums paid by the policyholder.
  - (c) That dividends during the premium-paying period are paid on other than a single year's premium.
  - (d) That dividends are income tax free without an explanation that they constitute a partial refund of the policyholder's premium, and, therefore, would constitute income only when, and to the extent that, distributions during the life of the insured or annuitant exceed the aggregate premiums paid on the policy.
  - (e) That dividends in the future are apt to increase due to the historical trend of dividend payments by the life insurance company unless there is also a disclosure of any deficit in unassigned surplus during the years those dividend payments were made.
- (6) Make any statement or illustration with respect to sharing in divisible surplus or surplus of the company other than because of the company's current dividend scale with a disclosure that its scale may increase or decrease in the future and a disclosure that there is a deficit in unassigned surplus, if a deficit exists.
- (7) State or imply that a policyholder will secure a right to a stated percentage of net gain from operations or other benefits, which are not a part of the policy itself or made a part thereof by rider or other instrument previously approved by the department.
- (8) Use the terms "investment," "investment plan," "expansion plan," "profit," "profits," "profit



sharing," and other similar terms in connection with a policy of life insurance or an annuity contract in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospect to believe that they will receive something other than a life insurance policy or annuity contract.

(9) Refer to a policyholder as a "partner" unless they have been advised that they do not have the legal rights of a partner in a statutory or common law sense.

(10) Make any statement or distribute any sales literature prepared by an allegedly independent third person or unrelated company that purports to analyze the policy or life insurance company without disclosing the amount of remuneration or fee, if any, paid, directly or indirectly, to that third person or company for its analysis.

(11) Make any statement or imply that projected dividends under a participating policy will be or can be sufficient at any time to assure the receipt of any benefits, such as a paid-up policy or "self-sustaining" policy, without the further payment of premiums, unless the statement is accompanied by an adequate explanation as to:

(a) What benefits or coverage would be provided or discontinued at such time; and

(b) The conditions under which this would occur.

(12) Make any statement or reference in any solicitation of an application for life insurance related to the growth of the life insurance industry or to the tax status of life insurance companies in connection with or in a context that could reasonably be interpreted or understood to interest a prospect in the purchase of shares of stock in an insurance company or becoming an investor in an insurance company rather than in the purchase of a life insurance policy.

(13) Make any statement that reasonably gives rise to the inference that the policyholder or a prospective policyholder, by virtue of purchasing a policy of life insurance, will enjoy a status common to a stockholder or will acquire a stock ownership interest in the insurance company, its parent, or any affiliated company.



(14) Make any reference to or statement concerning an insurance company's "investment department," "insured investment department," or similar terminology in a manner that would imply that the policy was sold or issued by the investment department of the life insurance company.

(15) Make any statement or reference that would reasonably imply that the purchaser or prospective purchaser will become a member of a limited group of persons who are to receive special advantages or favored treatment in the payment of dividends by purchasing a policy, unless the policy form filed with and approved by the department contains the following language "This clause has no relation or applicability to policies under which insured persons of one class or risk may receive dividends at a higher rate than persons of another class of risk nor shall it imply that any policy may contain a preferential benefit which discriminates against future policyholders."

(16) Make any statement or reference concerning a parent or affiliate's growth, earnings or future prospects without a clear explanation that the identified parent or affiliate is not the life insurance company whose policy is offered for sale.

(17) State or imply that life insurance proceeds payable at death are in lieu of "profits" or shares of surplus the policyholder would have received had they lived or otherwise infer that life insurance protection merely is incidental to the contract.

(18) State or imply that sales of a policy are limited to shareholders, persons recommended by shareholders, or to insurance released by shareholders, unless an assignable option to purchase life insurance is granted to each shareholder, which option may not be assigned to the life insurance company, and a record of all assignments identifying both assignor and assignee is maintained by the company.

(19) State or imply that policyholders who are said to act as "centers of influence" or descriptions of similar context for an insurance company will share in the company's surplus, earnings or profits in some preferential manner based on those actions, recognition, or status unless the preference is clearly expressed in the policy form provisions filed with and not disapproved by the department. A provision that the "policy participates in the surplus of the company" does not create a preference because it is common to participating policies.



(20) Describe or refer to premium payments in language that states that the payment is a "deposit" unless:

(a) The payment establishes a debtor-creditor relationship between the life insurance company and the policyholder and a showing is made as to when and how the deposit may be withdrawn; or

(b) The term is used in conjunction with the word "premium" in a manner that clearly indicates the true character of the payment.

(21) Provide any illustration or projection of future dividends on a policy unless:

(a) The illustration or projection is based upon the experience currently used by the insurance company for dividends or upon a scale adopted by the company; and

(b) The illustration or projection clearly indicates that the dividends shown are not guaranteed.

(22) Use the words "dividends," "cash dividends," "surplus," or similar phrases in a manner that would state or imply that the payment of dividends in any amount is guaranteed or certain to occur.

(23) State or imply that a purchaser of a policy will share in all or part of the earnings, profits or net operating gains of the insurance company, provided that nothing in this subsection is intended to prohibit a representation that a holder of a participating life insurance policy will participate equitably in any future distributions out of the surplus of the company.

(24) State that the insured is guaranteed certain benefits if the policy is allowed to lapse without making an adequate explanation of the nonforfeiture benefits.

(25) Describe a life insurance policy or related premium payments in terms of "units of participation" or "units," or use the words "contract," "contract plan," "plan," or similar terms, unless accompanied by other language clearly indicating the reference is to a life insurance policy.

(26) Include in sales kits and prepared sales presentations proposed answers, to be used in response to a prospect's questions as to whether life insurance is being sold, which are designed to avoid a



clear and unequivocal statement that life insurance is the subject matter of the solicitation.

(27) Display any material to a prospective policyholder of life insurance or endowment benefits that includes illustrations, using dollar amounts, unless the material clearly identifies the source of the dollar amounts and the subject to which such amounts pertain.

(28) Make any general statement that insurance companies make a profit because of policy lapse or surrenders.

(29) Make any comparison between the policy being offered and a previous or prior policy or the life insurance companies that issued that policy if the previous or prior policy is no longer lawful, unless a fair and reasonable disclosure related to the previous or prior policy or the life insurance company that issued that policy had unfavorable experience with that previous or prior policy.

(30) State or imply that possession of a license to sell life insurance or a charter to engage in the business of life insurance is unique, or anything other than that which is required of all persons or companies that market life insurance.

(31) State that the sales presentation delivered to the prospect is on file with the department of insurance.

(32) State that a policy contains certain features that are not found in other life insurance policies, unless that statement is true.

(33) Represent that an option to purchase insurance in the future is equivalent to having that additional amount of insurance obtainable through exercise of the option actually in force.

(34) Offer to sell any life insurance policy or annuity contract in any capacity other than that of a fully licensed life insurance agent.

(35) Reference a policy of life insurance or an annuity contract in a manner that would misrepresent the true nature of the policy or contract.



(36) Distribute any literature or make any statement about any other company or any of its policies based upon the company's being required to change any policy forms, sales, marketing, advertising, or other materials or presentations to induce any policyholder or prospect to purchase, amend, lapse, forfeit, change, or surrender insurance.

(37) State or imply that a prospective policyholder must purchase a policy immediately upon initial contact by agent or lose the opportunity to purchase that policy.

(38) The above listing of proscribed acts is not intended to be exhaustive; other acts, not listed above but otherwise unlawful, will not be condoned.

(G) Consumer information

Information about the insurance products referenced in this rule, including consumer guides, and definitions of insurance terms, is available to consumers on the department's website or by contacting the department by phone.

(H) Severability

If any paragraph, term or provision of this rule is adjudged invalid for any reason, the judgment shall not affect, impair or invalidate any other paragraph, term or provision of this rule, but the remaining paragraphs, terms and provisions shall be and continue in full force and effect.