

Georgia Provides Guidance on Variable Annuity Sales Disclosures

March 24, 2015

On March 19, the Georgia Office of Insurance and Safety Fire Commissioner (the "Department") issued Bulletin 15-EX-1 (the "Bulletin") to clarify Georgia's required variable annuity sales disclosures. This guidance follows the Department's recent amendments to Georgia's Annuity and Deposit Fund Disclosure Regulation, Ga. Comp. R. & Regs. 120-2-73 (the "Annuity Disclosure Regulation"). The Annuity Disclosure Regulation had previously required insurers to provide prospective purchasers of fixed deferred annuities with the National Association of Insurance Commissioners (NAIC) *"Buyer's Guide for Deferred Annuities"* as well as a "Contract Summary" containing specified information. The Department amended the Annuity Disclosure Regulation to require insurers to use the suite of annuity Buyer's Guides published by the NAIC in 2013 and to eliminate the Annuity Disclosure Regulation's variable annuity exemption:

- *Buyer's Guide for Deferred Annuities - Fixed*, which pertains to both fixed annuities and fixed indexed annuities.
- *Buyer's Guide for Deferred Annuities - Variable*, which pertains to variable annuities.
- *Buyer's Guide for Deferred Annuities*, which pertains to fixed annuities, fixed indexed annuities, and variable annuities.

The January 1, 2015 amendments to Georgia's Annuity Disclosure Regulation also instruct the "annuity salesperson" (i.e., the agent, producer, broker, or advisor) to provide the consumer with at least one of these three versions "appropriate to the consumer's interests." This regulation continues to require the delivery of a contract summary to all prospective purchasers. With the elimination of the variable annuity exemption, the contract summary requirement would apply to variable annuities. Because the requirement to deliver contract summaries to consumers considering the purchase of variable annuity products is preempted by federal law, the Department issued the Bulletin to clarify that, as to variable annuity transactions, the Department will not enforce

the Annuity Disclosure Regulation's requirement that all prospective purchasers be provided a contract summary. The Department will, however, enforce the requirement that all prospective purchasers of variable annuities be provided a buyer's guide. The Bulletin also states that the Department may propose additional amendments to the Annuity Disclosure Regulation consistent with the Bulletin.

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