

**INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE**

Life Insurance Solicitation

Adopted Repeal and New Rules: N.J.A.C. 11:4-11

Proposed: October 1, 2007 at 39 N.J.R. 4065(a).

Adopted: February 25, 2008 by Steven M. Goldman, Commissioner, Department of Banking and Insurance.

Filed: February 26, 2008 as R. 2008 d.71, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1, 17:1-15(e), 17B:17-5.1 and 17B:30-1 et seq.

Effective Date: April 7, 2008

Operative Date: July 6, 2008

Expiration Date: March 14, 2011

Summary of Public Comments and Agency Responses:

Comments on the proposed repeals and new rules were submitted by the American Council of Life Insurers (ACLI), State Farm Life Insurance Company, and the Professional Insurance Agents of New Jersey (PIANJ).

COMMENT: One commenter questioned the Department's inclusion in the proposed Buyer's Guide of certain language that does not appear in the National Association of Insurance Commissioners (NAIC) Model Buyer's Guide. Under the "Finding a Good Value in Life Insurance" section, the Department has included the question "Is the quality and financial stability of the company satisfactory?" The commenter stated that, from a cost and efficiency standpoint, uniformity is critical to ACLI member companies. When insurers have to develop, create, distribute and train agents on state specific forms, it becomes more costly to do business

in that state. The commenter does not believe that the seemingly slender benefit to consumers of adding this language outweighs the benefits of efficiency and compliance that would result from uniformity with the NAIC model.

RESPONSE: The Department believes that the question contained in the proposed Buyer's Guide asking potential life insurance purchasers to consider the quality and financial stability of a life insurance company is an important one that should be considered by purchasers prior to selecting a policy. The Department's required notice to insureds contained in the Department's Life Insurance and Annuities Replacement rules at N.J.A.C. 11:4-2 contains a similar question. There are additional differences between the Department's proposal and the NAIC model. As the Department stated in the proposal Summary, the Buyer's Guide provision addressing life insurance illustrations differs from the NAIC model for the purpose of conforming with the Department's life insurance illustrations rules. Additionally, the Department's rules at N.J.A.C. 11:25-1.7(a) require that information about the Office of the Insurance Claims Ombudsman be included in every buyer's guide given to insureds in accordance with Title 11 of the New Jersey Administrative Code; therefore, the Department's proposed definition of "Buyer's Guide" includes this required notice. All of these provisions result in the Department's proposed Buyer's Guide differing from the NAIC model. However, the Department believes that these differences and the one that is the subject of this comment are necessary because they afford the greatest amount of protection to consumers.

COMMENT: One commenter noted the Department's deletion in the proposed Buyer's Guide of all references/statements to the NAIC, and suggested that they be included for uniformity purposes.

RESPONSE: Because the Department’s proposed Buyer’s Guide did not conform to the NAIC model as discussed in the above response, the Department believes it is appropriate to remove the language on the first page of the Buyer’s Guide stating that the Buyer’s Guide was “Prepared by the National Association of Insurance Commissioners.” However, for clarification purposes, the Department is revising the face page of the Buyer’s Guide appearing at Appendix A to indicate that it is based on the NAIC model Buyer’s Guide.

COMMENT: One commenter requested clarification as to what exactly is required to be included in the Buyer’s Guide. The Department’s proposed N.J.A.C. 11:4-11.2 defines “Buyer’s Guide” differently than the NAIC Model definition, in that it requires “a notice containing information about the Office of the Insurance Claims Ombudsman as specifically set forth at N.J.A.C. 11:25-1.7.” The commenter asked if the “total” Buyer’s Guide in New Jersey consists of two separate items always provided together (that is, the Buyer’s Guide itself as included in proposed Appendix A and a notice containing the mandated information about the Office of the Insurance Claims Ombudsman).

RESPONSE: At N.J.A.C. 11:4-11.1 “Buyer’s Guide” is defined as “a document that contains and ... and a notice containing information about the Office of the Insurance Claims Ombudsman ...” N.J.S.A. 17:29E-11 and N.J.A.C. 11:25-1.7 also require that every Buyer’s Guide given to insureds in accordance with Title 11 of the New Jersey Administrative Code “contain” a notice describing the existence and function of the Office of the Insurance Claims Ombudsman together with its contact information. Accordingly, the notice must be a part of the Buyer’s Guide document referenced in the definition in N.J.A.C. 11:4-11.1.

COMMENT: One commenter stated that in addition to the proposal’s inclusion of the term “producer” at N.J.A.C. 11:4-11.2 and 11.5, the term “agent” appears in the proposed

definition of “policy summary” at N.J.A.C. 11:4-11.2, 11.4(b), and 11.5 and in the Buyer’s Guide. The commenter stated that the term “agent” should be replaced with “producer” or deleted where appropriate.

RESPONSE: The Department believes that use of the term “agent” is appropriate in the Buyer’s Guide because consumers may be more familiar with that term than with the term “producer.” The Department also believes that, consistent with the NAIC model rule, the term “agent” should remain at N.J.A.C. 11:4-11.4(b) because this provision addresses requirements where an agency relationship exists. The terms “agent,” “producer” and “authorized representative,” are all being included at N.J.A.C. 11:4-11.5 to clarify that these rules directly impose certain requirements on those individuals and that the Department may impose penalties on those individuals for noncompliance. However, the Department agrees with the commenter that to maintain consistency with New Jersey’s licensing law, it may be more appropriate to use the term “producer” in the definition of “policy summary” at N.J.A.C. 11:4-11.2 and is revising that section accordingly.

COMMENT: One commenter stated that, unlike the NAIC model, proposed N.J.A.C. 11:4-11.5 would impose penalties for failing to provide certain information required by the proposed rules not only on insurers, but also on insurance producers. The commenter further stated that, like the current rules and the NAIC model, the proposal should impose penalties on insurers alone because the requirement to provide the information is squarely placed upon the insurer throughout the subchapter.

RESPONSE: Proposed N.J.A.C. 11:4-11.4 imposes certain requirements directly on producers rather than the insurers they represent. Accordingly, the Department believes that these producers should also be subject to penalties for noncompliance with those requirements.

Federal Standards Statement

A Federal standards analysis is not required because the adopted repeal and new rules are not subject to any Federal standards or requirements.

Full text of the adopted new rules follows (additions to proposal indicated in boldface with asterisks **thus**; deletions from proposal indicated in brackets with asterisks **[thus]**):

11:4-11.2 Definitions

“Policy summary” means a written statement describing the elements of the policy, including, but not limited to:

1. (No change from proposal.)
2. The name and address of the insurance **[agent]** **producer** or, if no **[agent]** **producer** is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary;
3. – 7 (No change from proposal.)

11:4-11.7 Effective date

This subchapter shall become operative on **[90 days after adoption of the new rules]**

July 6, 2008.

APPENDIX ALIFE INSURANCE BUYER'S GUIDE

[The face page of the Buyer's Guide shall read as follows:]

Life Insurance Buyer's Guide

This guide can help you when you shop for life insurance. It discusses how to:

- Find a Policy That Meets Your Needs and Fits Your Budget
- Decide How Much Insurance You Need
- Make Informed Decisions When You Buy a Policy

****Based on a Model Buyer's Guide Prepared by
The National Association of Insurance Commissioners***

The National Association of Insurance Commissioners is an association of state insurance regulatory officials. This association helps the various state insurance departments to coordinate insurance laws and regulations for the benefit of all consumers.*

This guide does not endorse any company or policy.

Reprinted by (company name)

(month and year of printing)