

Subchapter 59, Disclosure and Suitability Requirements for Annuities Directly Solicited to Consumers, was adopted as new rules by R.2011 d.153, effective June 6, 2011. See: 42 N.J.R. 1303(a), 43 N.J.R. 1344(b).

Subchapter 29, Homeowners Comparison Survey, was repealed by R.2011 d.165, effective June 6, 2011. See: 42 N.J.R. 2700(a), 43 N.J.R. 1352(a).

Subchapter 61, Retained Asset Accounts, was adopted as new rules by R.2011 d.228, effective September 6, 2011. See: 43 N.J.R. 723(a), 43 N.J.R. 2346(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 4, Actuarial Services, was scheduled to expire on September 10, 2013. See: 43 N.J.R. 1203(a).

Chapter 4, Actuarial Services, was readopted as R.2011 d.265, effective September 28, 2011. See: Source and Effective Date. See, also, section annotations.

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#### SUBCHAPTER 1. NEW JERSEY INSOLVENT HEALTH MAINTENANCE ORGANIZATION ASSISTANCE ASSOCIATION

terest that occurs when the carrier responsible for providing benefits has sole discretionary authority to decide what benefits are due.

(b) This subchapter shall apply to all individual and group health insurance policies and contracts; all individual and group life insurance policies and contracts; all individual and group long-term care insurance policies; and all annuity contracts delivered or issued for delivery in this State.

### 11:4-58.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

“Annuity” means a contract not included within the definition of life insurance or health insurance, as set forth in this section, under which an insurer obligates itself to make periodic payments for a specified period of time, such as for a number of years, or until the happening of an event, or for life, or for a period of time determined by any combination thereof. A contract which includes extra benefits, of the kinds set forth in the definitions of life insurance or health insurance, as set forth in this section, shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.

“Carrier” means an insurance company, health service corporation, hospital service corporation, medical service corporation or health maintenance organization authorized to issue health benefits plans in this State; any person or persons, corporation, partnership or company authorized or admitted to transact the business of life insurance or annuities in this State pursuant to Title 17B of the New Jersey statutes; and an insurance company, health service corporation, hospital service corporation, medical service corporation or fraternal benefit society authorized to issue long-term care insurance in this State.

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Department” means the New Jersey Department of Banking and Insurance.

“Discretionary clause” means a clause included in a life or health insurance policy or contract, a long-term care insurance policy or contract, or an annuity contract, that provides the carrier with sole discretionary authority to determine eligibility for benefits under the policy or contract and to interpret the terms and provisions of the policy or contract.

“Health insurance” means a contract or agreement whereby a carrier is obligated to pay or allow a benefit of pecuniary value with respect to the bodily injury, disablement, sickness, death by accident or accidental means of a human being, or because of any expense relating thereto, or because of any expense incurred in prevention of sickness, and includes every risk pertaining to any of the enumerated risks. Health insur-

ance includes disability income protection coverage. Health insurance does not include workers’ compensation coverage.

“Life insurance” means a policy or contract whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the cessation of human life. Life insurance also includes the granting of endowment benefits and optional modes of settlement of proceeds of life insurance, as well as provisions for additional benefits in the event of death by accident or accidental means or in the event of dismemberment or loss of sight; or safeguarding such insurance against lapse or giving a special surrender value, or special benefit or annuity in the event that the insured shall become totally and permanently disabled, whether such provisions are incorporated in a policy or contract of life insurance or in a policy or contract supplemental thereto. Life insurance does not include worker’s compensation coverage.

“Long-term care insurance” means any insurance policy, certificate or rider advertised, marketed, offered or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. The term includes group and individual annuities and life insurance policies or riders which provide directly, or which supplement long-term care insurance. The term also includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. The term shall also apply to qualified long-term care insurance contracts. Long-term care insurance may be issued by insurers; fraternal benefit societies; health, hospital, or medical service corporations; prepaid health plans; or health maintenance organizations. Long-term care insurance shall not include any insurance policy that is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, or limited benefit health coverage. With regard to life insurance, this term does not include life insurance policies which accelerate the death benefit specifically for one or more qualifying events, and which provide the option of a lump-sum payment for those benefits and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care. Notwithstanding the foregoing, any product advertised, marketed or offered as long-term care insurance shall be subject to the provisions of this subchapter.

### 11:4-58.3 Discretionary clauses prohibited

No individual or group health insurance policy or contract, individual or group life insurance policy or contract, individual or group long-term care insurance policy or contract, or annuity contract, delivered or issued for delivery in this State may contain a provision purporting to reserve sole discretion

to the carrier to interpret the terms of the policy or contract, or to provide standards of interpretation or review that are inconsistent with the laws of this State. A carrier may include a provision stating that the carrier has the discretion to make an initial interpretation as to the terms of the policy or contract, but that such interpretation can be reversed by an internal utilization review organization, a court of law, arbitrator or administrative agency having jurisdiction.

#### 11:4-58.4 Noncomplying forms

As of January 1, 2008, forms previously filed, approved or acknowledged by the Commissioner that contain provisions not in compliance with this subchapter shall be deemed withdrawn and shall not be delivered, issued, executed or renewed.

### SUBCHAPTER 59. DISCLOSURE AND SUITABILITY REQUIREMENTS FOR ANNUITIES DIRECTLY SOLICITED TO CONSUMERS

#### 11:4-59.1 Purpose and scope

(a) The purpose of this subchapter is to set forth the information to be acquired to determine the suitability of an annuity for a consumer and to prescribe disclosure requirements to be utilized in connection with the sale, solicitation or negotiation of annuities directly to consumers, as required by N.J.S.A. 17B:25-34 et seq. This subchapter also implements N.J.S.A. 17B:25-38c(1) by establishing minimum requirements for the system of supervision to be utilized by insurers and producers to ensure compliance with the suitability requirements prescribed by N.J.S.A. 17B:25-38b.

(b) This subchapter shall apply to any annuity, both immediate and deferred, directly solicited to a consumer, except as specifically excluded pursuant to N.J.S.A. 17B:25-37a and 17B:25-38a.

#### 11:4-59.2 Definitions

Words and terms as defined in the Act at N.J.S.A. 17B:25-35, when used in this subchapter, shall have the meanings as defined in the Act, unless the context clearly indicates otherwise or as further defined by this subchapter. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Act” means N.J.S.A. 17B:25-34 et seq.

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Department” means the New Jersey Department of Banking and Insurance.

“NAIC” means the National Association of Insurance Commissioners.

#### 11:4-59.3 Buyer’s guide

(a) Pursuant to N.J.S.A. 17B:25-37d, an insurance producer, agent, representative or member of a fraternal benefit society not required to be licensed as an insurance producer pursuant to N.J.S.A. 17:44B-32, or an insurer shall provide a consumer who applies for an annuity a copy of a buyer’s guide regarding the sale of annuities.

1. Pursuant to N.J.S.A. 17B:25-37d(1), the buyer’s guide shall be provided no later than five business days after receipt of the application.

2. Pursuant to N.J.S.A. 17B:25-37d(2), if the direct response solicitation occurs via the Internet, the requirement in (a)1 above shall be satisfied by:

i. Making the buyer’s guide available, in printable form, to consumers on the issuing insurer’s Internet website, and providing notice to the consumer of its availability; and

ii. Allowing consumers to request, through the issuing insurer’s Internet website, a mailed copy of the buyer’s guide, provided that the insurer provides the documents to the consumer no later than five business days after receipt of the application.

3. If the buyer’s guide is not provided in accordance with (a)1 or 2 above, as applicable, the consumer shall have a period of not less than 15 days after receipt of any annuity purchased, or longer if provided by the terms of the annuity, to cancel the annuity and receive from the insurer a prompt refund of any account value of the annuity, including any contract fees or other charges, by mailing or otherwise surrendering the annuity together with a written request for cancellation. This cancellation period shall run concurrently with the cancellation period provided by N.J.S.A. 17B:25-39.

(b) For purposes of complying with N.J.S.A. 17B:25-37b, such a person or entity shall utilize the Buyer’s Guide to Fixed Deferred Annuities, or however otherwise designated, approved by the NAIC and in use at the time the buyer’s guide is required to be provided, modified to reflect the 10-day cancellation period for consumers set forth at N.J.S.A. 17B:25-39 and the 15-day cancellation period set forth in N.J.S.A. 17B:25-37d(3) and (a)3 above. The buyer’s guide approved for use shall be posted on the Department’s website at: [www.njdoib.org](http://www.njdoib.org).

#### 11:4-59.4 Disclosure statement

(a) Pursuant to N.J.S.A. 17B:25-37d, an insurance producer, agent, representative or member of a fraternal benefit society not required to be licensed as an insurance producer pursuant to N.J.S.A. 17:44B-32, or an insurer shall provide to

a consumer who applies for an annuity a copy of the annuity contract disclosure statement.

(b) The annuity contract disclosure statement required for distribution, pursuant to (a) above shall, at a minimum, contain the information and be in the form set forth in N.J.S.A. 17B:25-37c and in the Appendix to this subchapter, incorporated herein by reference.

(c) Persons or entities required to utilize the disclosure statement may include such additional information as they deem appropriate, provided such additional information is not inconsistent with any law of this State or administrative rule of the Department or any information required to be disclosed as set forth in the Appendix.

(d) The disclosure statement form to be used in connection with an annuity shall be filed with the Department as part of the filing of the annuity form pursuant to N.J.A.C. 11:4-40. For contract forms previously approved, the insurer shall file a copy of a disclosure statement that complies with this section that is to be utilized with such form no later than December 3, 2011. Failure to timely file a disclosure statement that complies with this section for use with a previously approved annuity form shall result in such previously filed and approved form being deemed withdrawn.

(e) Pursuant to N.J.S.A. 17B:25-37d(1), the disclosure statement shall be provided to the consumer no later than five business days after receipt of the application.

(f) Pursuant to N.J.S.A. 17B:25-37d(2), if a direct response solicitation occurs via the Internet, the requirements of this section shall be satisfied by:

1. Making the disclosure statement available, in printable form, to consumers on the issuing insurer's Internet website, and providing notice to the consumer of its availability; and
2. Allowing consumers to request, through the issuing insurer's Internet website, a mailed copy of the disclosure statement, provided that the insurer provides the document to the consumer no later than five business days after receipt of the application.

(g) If the disclosure statement is not provided in accordance with (e) or (f) above, as applicable, the consumer shall have a period of not less than 15 days after receipt of any annuity purchased, or longer if provided by the terms of the annuity, to cancel the annuity and receive from the insurer a prompt refund of any account value of the annuity, including any contract fees or other charges, by mailing or otherwise surrendering the annuity together with a written request for cancellation. This cancellation period shall run concurrently with the cancellation period provided by N.J.S.A. 17B:25-39.

#### 11:4-59.5 Suitability standards

(a) Pursuant to N.J.S.A. 17B:25-38b(1), an insurance producer, or an agent, representative or member of a fraternal

benefit society not required to be licensed as an insurance producer pursuant to N.J.S.A. 17:44B-32, or an insurer, if no producer or non-licensed society agent, representative or member is involved, shall not negotiate or sell an annuity to a consumer unless such person or entity has reasonable grounds for believing that the annuity is suitable for the consumer, on the basis of facts disclosed by the consumer as to the consumer's investments, other insurance products, financial situation and objectives. For purposes of complying with N.J.S.A. 17B:25-38b, the insurance producer, agent, representative or member of a fraternal benefit society not required to be licensed as an insurance producer pursuant to N.J.S.A. 17:44B-32, or the insurer shall, prior to selling an annuity negotiated and/or solicited to a consumer, make reasonable efforts to obtain and record the information required by N.J.S.A. 17B:25-38b(2).

(b) For purposes of complying with (a) above, the information required pursuant to N.J.S.A. 17B:25-38b(2)(d) for assessing the suitability of the annuity for a consumer shall be recorded on a form that includes, but need not be limited to, the following information:

1. Age;
2. Annual income;
3. Financial status, including the financial resources used for the funding of the annuity;
4. Financial experience and investment objectives;
5. Intended use of the annuity;
6. Financial time horizon;
7. Existing assets, including investment and life insurance holdings;
8. Liquidity needs;
9. Risk tolerance; and
10. Tax status.

(c) Pursuant to N.J.S.A. 17B:25-38b(2)(e), the consumer shall sign a form acknowledging receipt of notice that the solicitation, negotiation and sale of the annuity and its suitability are subject to the regulatory oversight of the Department and of information on how to contact the Department's consumer assistance services. This signed acknowledgement may be a supplement to the suitability form, both of which shall be retained by the insurance producer, non-licensed society agent, representative or member or the insurer who is selling the annuity product to the consumer.

(d) If the consumer refuses to provide the relevant information to determine the suitability of the product solicited, such refusal shall be so noted on the suitability form and the form shall then be signed by the consumer or noted as set forth in (e) below prior to the sale of the product.

(e) If the consumer refuses to sign the form, such refusal shall be noted thereon by the insurance producer, non-licensed society agent, representative or member or by the insurer.

(f) Copies of the signed or notated suitability and acknowledgement forms shall be provided to the consumer upon the request of the consumer.

#### 11:4-59.6 Insurer supervision procedures

(a) Insurers shall establish and maintain a system of supervision, or contract with a third party to establish and maintain such a system in accordance with N.J.S.A. 17B:25-38c(1), (2) and (3). Any insurance producer or non-licensed society agent, representative or member authorized to act on behalf of the insurer shall adopt the insurer's system of supervision for its own employees and contracted persons who negotiate and sell annuities, or establish and maintain a system to ensure compliance with the consumer suitability requirements set forth in N.J.S.A. 17B:25-38b. The system of supervision shall include: a written set of procedures concerning the negotiation and sale of annuities; a system establishing responsibility for retention of copies of all suitability forms and acknowledgements of receipt of notices by the consumer; and a process for periodic reviews to detect and prevent violations of N.J.S.A. 17B:25-38b. The periodic reviews may consist of such items as the insurer deems necessary, including, but not limited to:

1. Producer training and monitoring;
2. Post-sale sampling systems to identify and monitor trends for unsuitable sales;
3. Analyzing recent annuity applications to identify potentially unsuitable transactions and, based on such results, making additional inquiries and/or taking corrective action; and
4. Analyzing data related to past annuity transactions, including data that identifies trends indicative of potentially unsuitable transactions, such as age, complaints against producer, number of lapses, withdrawals, surrenders, and replacements. Based on such results, insurers shall make additional inquiries and/or take corrective action.

#### 11:4-59.7 Penalties

Failure to comply with this subchapter may result in the imposition of penalties as authorized by law, including penalties as authorized pursuant to N.J.S.A. 17B:25-42.

### APPENDIX

#### ANNUITY DISCLOSURE STATEMENT

(a) The issuing insurer's name and address. The form should include the street address, not just a PO Box number. If address is not in state of domicile, both domiciliary address and administrative address should be given.

(b) The generic name of the annuity (i.e., Fixed Single Premium Deferred Annuity Disclosure, Flexible Premium Deferred Annuity Disclosure, or Single Premium Immediate Annuity Disclosure).

- The insurer's product/marketing name, if any
- Annuity form number for which the disclosure will be used, and
- The same information for any rider or endorsement to the annuity;

(This information should be shown at the top of the page. A company logo may also be inserted.)

(c) A statement that the product is a deferred or immediate annuity, accompanied by a definition of an annuity or immediate annuity.

1. This statement shall briefly explain each of the major features of the annuity. (Suggested language: (i) This annuity is fixed, which means it earns a guaranteed interest rate during the entire life of the contract; (ii) This annuity is deferred, which means payouts begin at a future date. You don't pay taxes on the interest it earns until the money is paid to you; or (iii) This is an immediate annuity which means payouts must begin within 13 months of the issue date.)

2. The disclosure shall state that the account value has premiums and interest credited, and expense charges subtracted. It also shall state that the account value is used to determine annuity, death, and surrender or withdrawal payments.

3. The term flexible premiums must indicate any limits (maximum, minimum, or timing) on premiums.

(d) A summary describing how the annuity earns interest, clearly distinguishing between guaranteed, non-guaranteed, and determinable elements, including any charge, by dollar amount or percentage, and other considerations provided for the annuity, with an explanation of their application under the contract.

1. A detailed description of the crediting interest rate. (The fixed annuity guaranteed interest rate during the entire life of the contract should be disclosed. Also, any initial guaranteed interest rate period, non-guaranteed interest, features such as bonuses or equity-indexed, and indexed guaranteed interest rate should be disclosed.)

2. The amount of surrender charges, if any, and when they are paid.

3. Any other charges or adjustments in the amount received when taking money from an annuity.

4. A separate section stating the amounts of any other fees or charges, such as a market value adjustment, if applicable, contract fees and annual service fees, and when and how they are collected.

5. A statement that describes the expense charges. If there are no explicit expense charges (other than the surrender charges) the statement should so indicate.

- (e) If a table is included, it must contain an explanation with an example using information from the table.
- (f) Definitions for the terms “owner”, “annuitant” and “beneficiary”.
- (g) Each income payment option, including whether there is a specified maturity date.
- (h) A description on payment options and restrictions on withdrawing money.
- (i) A statement on what happens if the annuitant doesn’t choose a payout option.
- (j) A statement addressing the ability (or inability) of the annuitant to surrender (cancel) the annuity once payouts begin.
- (k) Any death benefit and the method of its calculation.
1. A detailed description on death options. The different options for a spouse, civil union partner, or other beneficiary must be mentioned, if applicable.
- (l) A brief description of all optional riders, including either the range or maximum fee charged for each option.
- (m) If no optional benefit riders are offered, a statement that no such riders are available.
- (n) A summary of the Federal tax status of the annuity, and any tax penalty applicable based upon a withdrawal or surrender. The disclosure should clearly indicate the tax status (i.e., qualified, non-qualified) of the annuity contract.
- (o) In addition to including wording that a penalty tax of 10 percent may be charged on distributions prior to age 59½, the form shall also state that there may be exceptions to the penalty, and that the person may wish to consult a tax professional for further information.
- (p) A statement that a tax-deferred annuity can be exchanged for another without paying taxes on earnings.
- (q) A statement that there is no additional tax advantage to purchasing an annuity as part of a qualified plan, other than the tax advantage provided by the qualified plan itself.
- (r) At least a 10-day cancellation period to return the annuity for any or no reason and receive a prompt refund of the premium paid, including any contract fees or charges. Also, the disclosure should explain the cancellation procedure.
- (s) Required statement: “This is a summary document and not part of your contract with the insurer.”
- (t) A general description of the company as well as all contact information, including an address, phone number, website, and e-mail address (as applicable). The insurer may also include financial strength ratings.

(u) A statement that the annuity is subject to regulatory oversight by the New Jersey Department of Banking and Insurance and that consumers may contact the Department at 609-272-7272 or 1-800-446-7467 or at the website [www.njdoibi.org](http://www.njdoibi.org) for assistance.

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## SUBCHAPTER 60. LIMITATIONS ON THE USE OF SPECIFIC TERMS OR DESIGNATIONS IN THE SALE OF LIFE INSURANCE

### 11:4-60.1 Purpose and scope

(a) The purpose of this subchapter is to establish limitations, consistent with N.J.S.A. 17B:25-36 and the Unfair Trade Practices Act, N.J.S.A. 17B:30-1 et seq., on the use of certifications, professional designations, or forms of advertising by insurance producers, representatives of fraternal benefit societies and insurers expressing that the person or entity has special education, training or experience in advising or servicing senior citizens or retirees in connection with the solicitation, negotiation of sale of life insurance.

(b) This subchapter shall apply to the sale, solicitation, or negotiation of life insurance by a person or entity set forth in (a) above.

### 11:4-60.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Department” means the New Jersey Department of Banking and Insurance.

“Insurance producer” means a person licensed to sell, solicit, or negotiate insurance pursuant to N.J.S.A. 17:22A-26 et seq.

“Insurer” means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd’s insurer, fraternal benefit society or other person authorized to engage in the business of insurance in this State.

“Life insurance” is as defined in N.J.A.C. 11:4-40.2.

“Negotiate” means the act of conferring directly with or offering advice directly to a consumer as the purchaser or prospective purchaser of a particular life insurance policy concerning any of the substantive benefits, terms or conditions of the life insurance policy, provided that the person engaged in that act either: sells life insurance or obtains life insurance from insurers for purchasers.

“Sell” means to exchange a life insurance policy by any means, for money or its equivalent, on behalf of an insurer.

“Solicit” means attempting to sell a life insurance policy or asking or urging a consumer to apply for a particular life insurance policy from a particular insurer.

### 11:4-60.3 Limitation on use of terms or designations

(a) Consistent with the unfair trade practices set forth in N.J.S.A. 17B:30-1 et seq., an insurance producer, or an agent, representative or member of a fraternal benefit society not required to be licensed as an insurance producer in accordance with N.J.S.A. 17:44B-32, or an insurer, if no producer or non-licensed society agent, representative or member is involved, shall not use a certification, professional designation, or form of advertising expressing or implying in an untrue, deceptive, misleading, or false manner that the producer, non-licensed society agent, representative or member, or insurer has special education, training, or experience in advising or servicing senior citizens or retirees in connection with the solicitation, negotiation, or sale of life insurance, or its value or suitability, either directly or indirectly, including through a publication or writing, or by issuing or promulgating an analysis or report relating to a life insurance policy.

(b) The provisions of (a) above shall not apply to:

1. A title or designation conferred through an academic degree, certifying the completion of a course of study from an accredited institution of higher education, so long as the title or designation is not used in an untrue, deceptive, misleading, or false manner in connection with the solicitation, negotiation, or sale of a life insurance policy; or

2. A professional job title presented by an employer or other organization that is licensed or registered by a state or Federal financial services regulatory agency, including any agency that regulates financial institutions, insurers, investment companies as defined under the Investment Company Act of 1940, Title I of Pub. L.76-768 (15 U.S.C. §§ 80a-1 et seq.), investment advisers as defined under the Investment Advisers Act of 1940, Title II of Pub. L.76-768 (15 U.S.C. §§ 80b-1 et seq.), and broker-dealers, and that indicates seniority or standing within the employer or other organization’s operation or specifies an area of specialization recognized by that employer or other organization, so long as the professional job title is not used in an untrue, deceptive, misleading, or false manner in connection with the solicitation, negotiation, or sale of a life insurance policy.

(c) For purposes of this subchapter, an untrue, deceptive, misleading, or false use of a certification, designation, or form of advertising shall include, but shall not be not limited to:

1. The use of a certification or professional designation not actually earned or otherwise available for use;

2. The use of a nonexistent or self-conferred certification or professional designation;

3. The use of a certification or professional designation that expresses or implies a level of occupational qualification obtained through education, training, or experience, but which is not actually obtained; and

4. The use of a certification or professional designation obtained from a certifying or designating organization that:

i. Is primarily engaged in the business of instruction in sales or marketing;

ii. Does not have reasonable standards or procedures for assuring the competency of a holder of its certificate or professional designation;

iii. Does not have reasonable standards or procedures for monitoring and disciplining a holder of its certificate or professional designation for improper or unethical conduct; or

iv. Does not have reasonable continuing education requirements for a holder of its certificate or professional designation in order to maintain the certification or designation.

(d) Notwithstanding (c) above, there shall be a rebuttable presumption that the use of a certification or professional designation obtained from a certifying or designating organization is not in violation of this section if the certificate or professional designation issued to the holder does not apply primarily to sales or marketing and is accredited by:

1. The American National Standards Institute, or its successor;

2. The National Commission for Certifying Agencies, or its successor;

3. Any organization recognized as an accrediting agency by the United States Department of Education pursuant to section 496 of the Higher Education Act of 1965, Pub. L.89-329 (20 U.S.C. § 1099b); or

4. Any other organization approved by the Commissioner by regulation.

(e) In order to determine a violation of this subchapter, the Commissioner may consider the use of one or more words, combination of words, or acronyms representing these words, and the manner or context of their use with respect to a certification, professional designation, or form of advertising, including, but not limited to, “senior,” “retirement,” “elder” or words of similar import, “certified,” “registered,” “chartered” or words of similar import, and “adviser,” “specialist,” “consultant,” “planner” or words of similar import.

### 11:4-60.4 Penalties

Failure to comply with this subchapter may result in the imposition of penalties as authorized by law, including penalties authorized pursuant to N.J.S.A. 17:22A-45 and 17B:30-17.

## SUBCHAPTER 61. RETAINED ASSET ACCOUNTS

**11:4-61.1 Purpose and scope**

(a) The purpose of this subchapter is to set forth the disclosure and filing requirements for retained asset accounts, and disclosure requirements for all settlement options related to life insurance policies issued in this State.

(b) This subchapter shall apply to all insurers authorized or admitted in this State pursuant to Title 17B of the New Jersey Statutes that require or offer as an option a retained asset account or other settlement options for the payment of death benefits on life insurance policies issued in this State.

**11:4-61.2 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Department” means the New Jersey Department of Banking and Insurance.

“FDIC” means the Federal Deposit Insurance Corporation established by 12 U.S.C. § 227.

“Insurer” means an insurer authorized or admitted pursuant to Title 17B of the New Jersey Statutes to transact life insurance in this State.

“Life insurance” is as defined in N.J.A.C. 11:4-40.2.

“Retained asset account” or “RAA” means any mechanism whereby the settlement of proceeds payable under a life insurance policy is accomplished by the insurer or entity acting on behalf of the insurer depositing the proceeds into an account with check or draft writing privileges, or through the use of a debit card or other similar instrument upon which the proceeds may be drawn, where those proceeds are retained by the insurer, pursuant to the life insurance contract or a supplementary contract not involving annuity benefits.

**11:4-61.3 Disclosure and filing requirements**

(a) All insurers offering RAAs in this State shall, prior to the issuance of a group policy which provides for the payment of claims through an RAA or on which the opening of an RAA is an option, and prior to the transfer of a death benefit on an individual or group policy to an RAA, provide to the prospective owner of the group policy or to the beneficiary of the death benefit a written notice disclosing in easy-to-understand language, pertinent information related to the use of an RAA which shall include, at a minimum, the following:

1. A statement that payment of the full benefit amount is accomplished by delivery of the draft book/checkbook or similar instrument;

2. A statement that one draft or check may be written to access the entire amount, including interest, of the RAA at any time;

3. Notice whether other available settlement options are preserved until the entire balance is withdrawn or the balance drops below the insurer’s minimum balance requirement;

4. A statement identifying the account as either a checking or draft account and an explanation of how the account works;

5. Information about the account services provided and contact information where the beneficiary may request and obtain more details about such services;

6. A description of fees charged, if applicable;

7. Information about the frequency of statements showing the current account balance, the interest credited, drafts/checks written and any other account activity, and the method of delivery of such statements (that is, via postal mail, e-mail, etc.);

8. How the interest rate to be credited to the account will be determined;

9. A statement that the interest earned on the account may be taxable;

10. A statement that RAA funds held by insurance companies are not guaranteed by the Federal Deposit Insurance Corporation (FDIC), but are guaranteed by the State Guaranty Associations. The beneficiary should be advised to contact the National Organization of Life and Health Insurance Guaranty Associations ([www.nolhga.com](http://www.nolhga.com)) to learn more about coverage or limitations to his or her account; and

11. A description of the insurer’s policy regarding RAAs that may become inactive.

(b) Insurers may provide any additional information deemed appropriate provided that such information is not inconsistent with the information required to be provided pursuant to (a) above.

(c) All insurers shall submit to the Department for its review copies of forms and other written material that describe RAAs offered by the insurer being provided by the insurer to beneficiaries of life insurance policies or to prospective owners of group life policies in accordance with (a) above and copies of all documents utilized by the insurer to establish an RAA, including agreements, claim forms and any other documents containing the information required to be included in such written materials by (a) above. The Department shall notify the filer within 30 days whether the information fails to comply with this subchapter.

(d) All insurers shall provide all beneficiaries of life insurance policies issued in this State information that describes all the settlement options available to the beneficiaries. The information shall be provided with the claim form and use

easy-to-understand language that explains how each settlement option works, its benefits to the beneficiaries, how to select the options, and shall include contact information for questions about the options. This information shall not be required to be filed with the Department.

**11:4-61.4 Penalties**

Failure to comply with the provisions of this subchapter shall result in the imposition of penalties as may be authorized by law.