

PENNSYLVANIA INSURANCE DEPARTMENT
GUIDELINES FOR THE REVIEW OF GROUP ANNUITIES

Although distinctions exist between group and individual annuities there is no statutory provision, which specifically authorizes the issuance of group annuities. In the absence of such authority, the Department always has applied the standards established for the issuance of group life insurance policies to group annuities issued in Pennsylvania. Additionally, the Department has permitted the issuance of group annuities to collective trusts in accordance with Section 1 (f) of the Types Permitted portion below. The following guidelines amend the Department's current standards by making them consistent with the amendments to Act 367, the Group Life Insurance Law, contained in Act 1 of 1994.

Definitions

Annuitant - any person upon whose continued life an annuity is dependent.

Contract holder - the party or parties to whom or to which a group annuity is issued.

Employees - includes the employees of the employer or employers and may include the employees of one or more subsidiary corporations. The term "employees" may also include one or more of the following: the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships, if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership or contract; the individual proprietor or partners if the employer is an individual proprietor or a partnership; retired employees; elected or appointed officials if the contract is issued to insure employees of a public body; and the trustees of a fund, or their employees or both, if their duties are principally connected with such trusteeship.

Group Annuity - any contract whereby annuities are payable dependent upon the continuance of the lives of more than one person. This does not include individually issued joint, survivorship or reversionary annuity contracts.

Types Permitted

Section 1. Group Annuity contracts may be issued in Pennsylvania in any of the following circumstances:

- (a) A contract issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the contract holder and which permits all or any specified class or classes of its employees to become annuitants.
- (b) A contract issued to a labor union, a police fraternity, a firemen's fraternity or a teachers' association or federation which union, fraternity, association or federation shall be deemed the contract holder and which permits all or any specified class or classes of its members to become annuitants.
- (c) A contract issued to the trustees of a fund established by an insurer for two or more employers or by two or more employers or by an insurer for one or more labor unions, or by one or more labor unions or by an insurer for one or more employers and one or more labor unions or by one or more employers and one or more labor unions or by an insurer for one or more associations meeting the qualifications specified below* or by one or more associations meeting the qualifications specified below, which trustees shall be deemed the contract holder, to insure employees of the employers or members of the unions or such association for the benefit of persons other than the employers or the unions or members, employees thereof, and employees of the associations for the benefit of persons other than the employers or the unions or the associations.
- (d) A contract issued to an association, which shall have a constitution and by-laws and which has been organized by an organization other than an insurer, is maintained in good faith for purposes other than that of obtaining insurance, has been in active existence for at least two years, operates from offices other than the insurer's, and is controlled by principals other than the insurer's.

*An association shall have a constitution and by-laws, be organized by other than an insurer, be maintained in good faith for purposes other than that of obtaining insurance, have been in active existence for at least two years, operate from offices other than the insurer's and be controlled by principals other than the insurer's.

(e) A contract issued to a group, other than one described above, under which the Insurance Commissioner finds that the issuance of such group contract is not contrary to the best interest of the public, and the issuance of such group contract would result in economies of acquisition or administration and the benefits are reasonable in relation to the premiums charged. To permit the Insurance Commissioner to make this finding, the insurer, when submitting the contract to the Department for prior approval under Section 354 of the Insurance Company Law (40 P.S. §477b), shall provide the following:

- (1) An explanation of the coverage provided and who will be the annuitants.
- (2) An explanation that it would be more expensive to purchase the coverage on an individual basis or less expensive to purchase the coverage on a group basis. The explanation shall be more than a conclusory statement.
- (3) A certification signed by a member of the American Academy of Actuaries that in his opinion the benefits of the coverage in question are currently and will continue to be reasonable in relation to the premiums. The certification must pertain to both the accumulation period and the annuity benefit payment period. The actuary must describe the analysis performed to arrive at the opinion. The certification may be signed by an actuary who is not a member of the Academy, provided the supervising actuary is a member and also signs the certification.

(f) A contract issued to the trustee(s) of a collective-trust established by a bank or trust company, which trustee(s) shall be deemed the policyholder, and which collective-trust is intended to be adopted by more than one employer, plan, plan trust, plan trustee, plan fiduciary, or governmental unit or plan, on behalf of its own employee retirement plan pursuant to which all or any specified class of its employees may become annuitants, upon the further conditions that:

- (1) the collective-trust is maintained by such bank or trust company within the meaning of §3(a)(2) of the Securities Act of 1933, and
- (2) such employee retirement plans are qualified within the meaning of either §401 or §401(a), or §403(a), or §403(b), or §457 or §818(a)(6) of the Internal Revenue Code of 1954, as amended.*

Section 2. Out-of-State coverage under group annuity contracts may be issued in accordance with the following.

(a) No insurer shall issue in this Commonwealth group annuity coverage provided under a group contract issued in another state or deliver or issue for delivery in this Commonwealth a group annuity certificate evidencing coverage under a group contract issued in another state unless:

- (1) Such coverage is in compliance with the requirements of these guidelines and any applicable law or regulation; or
- (2) For coverage under a group contract or a certificate evidencing coverage under a group contract issued to an out-of-state trustee of a fund, such coverage is issued in another state wherein the insurance supervisory official or agency of that state has determined that the issuance of the group contract or certificate is not contrary to the best interests of the general public, the issuance of the group contract or certificate would result in economies of acquisition or administration and the benefits are reasonable in relation to the premium charged. If coverage or a certificate is issued in this Commonwealth pursuant to this clause, an insurer

shall file with the Insurance Department a copy of the group contract and certificate, a copy of the statute from the state in which the group contract or certificate is issued authorizing the issuance of the group contract or certificate, evidence of approval in the state where the contract or certificate is issued and copies of all supportive material used by the company to secure approval of the group contract or certificate in that state, including all the documentation required in this clause.* The Insurance Commissioner, at any time subsequent to receipt of such information, may order the insurer to stop marketing such coverage in this Commonwealth after finding that the standards of this clause have not been met,.

This clause shall also apply to any group contract or certificate evidencing coverage under a group contract issued to any organization, or to any trust or trustee of a trust established or participated in by one or more organizations, to insure certain persons: provided, that the organization is:

- (I) A bank, retailer or other issuer of a credit card, charge card or payment card that is issued to buy goods or services, and the contract must insure holders of that card; or
- (II) A bank, savings and loan association, credit union, mutual fund, money market fund, stock broker or other similar financial institution regulated by state or federal law, and the contract must insure the depositors, account holders, or members of that institution.

*In lieu of documentation that the insurance supervisory official, agency, or another state has made the determination specified in the first sentence of this clause, the Department will accept evidence that:

- (i) Issuance of the group policy or certificate is not contrary to the best interests of the general public. Evidence submitted to the Department should include an explanation of the coverage provided and who will be the annuitants.
 - (ii) Issuance of the group policy or certificate would result in economies of acquisition or administration. Evidence submitted to the Department should include an explanation that it would be more expensive to purchase the coverage on an individual basis or less expensive to purchase the coverage on a group basis. The explanation should be more than a conclusory basis.
 - (iii) Benefits are reasonable in relation to the premium charged. Demonstration may be supplied to the Department in the form of a certification signed by a member of the Academy of Actuaries that in his opinion the benefits of the coverage in question are currently and will continue to be reasonable in relation to the premiums. The statement must pertain to the accumulation period and to the annuity benefit payment period. The actuary must describe the analysis performed to arrive at the opinion.
- (b) The provisions of these guidelines shall not apply if a group contract is issued to:
- (1) An out-of-state single employer.
 - (2) A trustee of a fund established by any person acting directly as an employer having its principal office located in a state other than this Commonwealth.
 - (3) An association, a trust or trustee of a trust (this needs to line up) established or participated in by one or more associations, to insure association members or spouses or dependents of members: provided, however, that the association must be organized or domiciled in a state other than this Commonwealth, have a constitution and by-laws, be organized by other than

an insurer, be maintained in good faith for purposes other than those of obtaining insurance, have been in active existence for at least two years, operate from offices other than the insurer's and be controlled by principals other than the insurer's.

- (4) A union-negotiated out-of-state trust.
 - (5) Other groups as may be determined by the Insurance Commissioner, subject to subsection (a).
- c) (1) For group annuity coverage provided in this Commonwealth under a group contract issued in another state, and except as provided in clause (2) of subsection (a) and in subsection (b), all group contracts, certificates, amendments, endorsements, applications, and enrollment forms shall be filed with the Insurance Commissioner for approval. The insurer shall also file with the Insurance Commissioner evidence of approval in the state where the group contract is issued.
- (2) Forms so filed for approval shall be subject to the provisions of Section 354 of the Insurance Company Law (40 P.S. §477b).
- (d) As used in this section, the term "out-of-state single employer" means any person acting directly as an employer and having its principal office located in a state other than this Commonwealth. "Out-of-state trustee of a fund" means a trustee of a fund established by an insurer for two or more employers or established by two or more persons acting directly as employers and the trustee having its principal office located in a state other than this Commonwealth. "Out-of-state coverage" means insurance coverage issued in this Commonwealth and provided under a group contract issued in a state other than this Commonwealth. A "union-negotiated out-of-state trust" means a trust established under a collective bargaining agreement and which is located in a state other than this Commonwealth.

Annuity Purchase Guarantees

Investment contracts shall not be issued in Pennsylvania.

Annuity contracts shall contain annuity payout provisions and tables of annuity purchase rates or statements of the actuarial basis or bases of the annuity purchase rates. The tables of annuity purchase rates or statements of the actuarial basis or bases shall be guaranteed for a meaningful period of time.

If you have any questions, please contact Mr. Paul Makurath at (717) 783-4253 or via e-mail at ra-rateform@state.pa.us.