



LOUISIANA DEPARTMENT OF INSURANCE

REGULATION 78

LIFE & ANNUITY - POLICY FORM FILING REQUIREMENTS

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1. FILING REQUIRED – Pursuant to R.S. 22:861 A, no basic insurance policy form, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed Rider or Endorsement form, shall be issued or delivered in this state unless and until it has been filed with and approved by the commissioner. This requirement also applies to any group life insurance policy or annuity covering residents of Louisiana where issued or delivered in Louisiana.

➤ **Every page of each such form, including Rider and Endorsement forms, filed with the department must be identified by a form number in the lower left corner of the page. (§10109.B.1)**

➤ **A Life and Annuity Transmittal Document must accompany every filing, describing the items included in the filing, the Insurance or Annuity Product for which the filing is being made, and the Method of Marketing to be used for the product.**

• **If the filing is submitted via SERFF, the transmittal document is not required.**

(§10109.B.2)

➤ **There are over 200 defined Life Insurance and Annuity Product Codes for the various types of life Insurance Products.**

➤ **The primary types of products include Individual Life, Fraternal Life, Group Life, Individual Annuity, Fraternal Annuity, and Group Annuity.**

2. STATEMENT OF COMPLIANCE – This form must accompany every filing, other than those listed under Section 9 for EXCEPTIONS. The Statements of Compliance provided by the department are generated by the Policy Form Matrix (PFM). The PFM links all defined Insurance Product Codes to each provision of state and federal law applicable to the content and administration of an Insurance Product. Insurers must review the requirements for regulatory compliance in conjunction with the policy forms to be filed and identify the section / page number of the forms where compliance is demonstrated. This information must be entered on the Statement of Compliance for each Life Insurance and Annuity Product included with a submission.

- The PFM screen view includes all legal requirements applicable to both content and administration of an Insurance Product.
- The Statement of Compliance form includes only those legal requirements applicable to the policy form filing.
- State and federal Rules, Regulations, Bulletins and Directives are included.
- Related laws are cross-referenced and helpful comments are provided where appropriate.
- The PFM will be updated on a regular basis, allowing for immediate changes to affected Statements of Compliance.

(§10109.B.2; C.2.a; & C.2.b)

3. COMPLIANCE REVIEW; AFFIRMATIVE APPROVAL – Time periods and requirements for Compliance Review of Basic Insurance Policy Forms

(§10109.E)

- The time periods stated herein do not begin until the date a Complete Filing, or a filing pursuant to Section 9 for Exceptions, is received by the department.
- If a filing made is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of Regulation 78.

- A Basic Insurance Policy Form must be submitted to the department in accordance with the requirements of Regulation 78 no less than 45 days in advance of planned issuance, delivery or use.
- If Affirmatively Approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.
- If disapproved, the policy forms filed may not be used.
- At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department that the filing has been Deemed Approved on a specific date, or advise when the filing is withdrawn from consideration.
 - Such date specified by the insurer shall be on or after day 46, but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved).
 - Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.
- The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.
 - If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.
 - At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer

shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61 but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved).

- Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

4. CERTIFICATION OF COMPLIANCE – Time periods and requirements for Certified Approval of policy form filings.

Effective May 1, 2003, Directive Number 174 designates those Insurance Products which must be filed pursuant to the requirements for Certified Approval and also those Insurance Products which may, at the discretion of the Insurer, be filed either pursuant to said requirements for Certified Approval, or as ordinary filings subject to the requirements for Compliance Review. (§10109.C.1)

A policy form filing submitted for Certified Approval must include a Statement of Compliance applicable to the form of coverage and contract type being submitted, a signed and dated Certification of Compliance and all other items required to constitute a Complete Filing. When selecting an Insurance Product in the Policy Form matrix in order to obtain the required Statement of Compliance, the Certification of Compliance form will also appear if it is either required or optional for the Insurance Product selected. (§10109.F)

- If the filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of Regulation 78.
- At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved)
- Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

No insurer, or officer, employee or representative of an Insurer, shall file a Certification of Compliance containing false attestations, or from which material facts or information have been omitted. In the event that the Department subsequently learns that a Certification of Compliance contained any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the Insurer may be subjected to withdrawal of approval and corrective action as set forth in §10109.I of Regulation 78.

5. REQUIRED FILING FEES – See Directive Number 02-168

- The filing fee for each company filing of life insurance or annuity policy forms with the Department of Insurance is – \$100 per Insurance Product.
- Certain **EXCEPTIONS** to the requirements for a Complete Filing do not require payment of a filing fee. (See below, Section 9 Exceptions.)

NOTE: THE MOST COMMON CAUSE FOR AN INCOMPLETE FILING IS PAYMENT OF AN INCORRECT FILING FEE. PLEASE CALL (225) 342-1226 IF ASSISTANCE IS NEEDED IN DETERMINING THE PROPER AMOUNT.

6. COMPLETE FILING – Other than as specified as an EXCEPTION, only Complete Filings will be accepted. In order for the Department to conduct a proper Compliance Review or Compliance Audit of an Insurance Product, all items associated therewith must be included. A FILING WILL BE DETERMINED INCOMPLETE AND WILL BE DISAPPROVED IF IT DOES NOT CONTAIN ALL APPLICABLE ITEMS. (§10109.C.2)

a. All filings of individual life insurance or annuity products must include in final wording, the following items, in order. (§10109.C.2.a)

- i. required filing fee, per insurance product, per insurance company;
- ii. completed life and annuity transmittal document;
- iii. Statement of Compliance for said product;
- iv. policy forms filed for approval, in duplicate;
- v. application form, in duplicate;
- vi. rider or endorsement forms, in duplicate;
- vii. actuarial memorandum describing the statutory reserves and non-forfeiture values that will be used for each plan of insurance, in duplicate;
- viii. life illustrations, if illustrated, in duplicate; and
- ix. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

If the filing will include health insurance to be offered as an optional benefit under the base life insurance contract, the policy forms should be submitted in

triplicate, and include the appropriate Statement of Compliance for said health Insurance Product. (§10109.B.2)

b. Filings of all group life and annuity products must include, in final wording, the following items. (§10109.C.2.b)

- i. required filing fee, per insurance product, per insurance company.
- ii. completed life and annuity transmittal document;
- iii. Statement of Compliance for said product;
- iv. group master contract, in duplicate;
- v. individual certificate, in duplicate;
- vi. group application, in duplicate;
- vii. rider or endorsement forms, in duplicate;
- viii. employee/member enrollment forms, in duplicate;
- ix. actuarial memorandum describing the statutory reserves and non-forfeiture values that will be used for each plan of insurance, in duplicate; and
- x. stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

c. Filings of group life and annuity products intended for issue to an Association are limited to associations as defined in Regulation 78 and must include the Association's: (§10109.C.2.c)

- Constitution;
- By-laws;
- Membership application;
- Membership agreement; and
- Brochure of membership benefits other than the Insurance Products offered.

d. Filings of group life and annuity products intended for issue to a trust must include:

- Trust agreement;

- Articles of incorporation or other instrument creating the Trust;
- Member adoption agreement; and
- If the Trust was established by an Association, include the information required in
- Section 6.c above. This requirement does not apply to Trusts established by qualified or government pension plans. (§10109.C.2.d)

7. Amendatory Riders or Endorsements of approved products for continued marketing – Filings of amendatory Riders or Endorsements are permitted where the Insurance Product to be altered was originally Certified Approved or granted Affirmative Approval not more than three years prior to the filing of said amendatory Rider or Endorsement. Such filings must include either:

- specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or
- a detailed list that includes:
 - the department's form filing number;
 - date of approval; and
 - the form number for each previously approved policy form for which the amendment applies.
- Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Actuarial memorandums are not required with such filings.
- Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature (§10109.C.2.e)

8. Amendatory Riders or Endorsements of approved products no longer being marketed– Filings of amendatory Riders or Endorsements, as needed to bring into compliance with law any existing Insurance Products that have

been previously Certified Approved or granted Affirmative Approval and are currently in force, but are no longer being marketed, must include:

- All items necessary to constitute a Complete Filing
- Specimen copies of the previously approved or certified forms
- Dates previously approved or certified
- Specific terms and provisions being amended, underlined in red or similarly emphasized
- The transmittal document should advise that the previously approved or certified form is no longer being marketed.
- Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature
(§10109.C.2.f)

9. EXCEPTIONS – Exceptions to the requirements for a Complete Filing may be allowed, at the discretion of the department, subject to the conditions stated herein, for the following policy forms. A completed Statement of Compliance is not required for the following filings. (§10109.D)

- **Application forms** to be used with a particular life insurance or annuity product, or with multiple life insurance or annuity products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form will henceforth be used, and the application form is included with any subsequently filed Basic Insurance Policy Forms as needed to constitute a Complete Filing. No filing fees will be required for these filings.
- **Assumption certificates**, which must be filed in duplicate, with a single copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered

lives residing in Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.

- **Optional Riders or endorsement forms** affecting previously approved life insurance or annuity products, provided that the policy form filings and dates approved are identified for each previously approved product with which the rider or endorsement form will henceforth be used. No filing fees will be required for these filings. The rider or endorsement form shall be included with any subsequently filed Basic Insurance Policy Forms as needed to constitute a Complete Filing.

10. RESUBMISSION OF REVISED FORMS, PREVIOUSLY DISAPPROVED

When submitting revised forms in response to an order of disapproval, or withdrawal of approval, the revised forms will constitute a new filing.

Such resubmission must comply with all requirements for a Complete Filing and include the following:

- Required Filing Fee;
- Outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;
- Restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and
- Copy of the prior order of disapproval, or withdrawal of approval, issued by the department on the previous filing. (10109.G.1)
- When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing. (10109.G.3)

11. RESUBMISSION OF REVISED FORMS, PREVIOUSLY APPROVED – When submitting revisions to previously approved forms, the revised forms will

constitute a new filing. Such resubmission must comply with all requirements for a Complete Filing and include the following:

- Required Filing Fee;
- Copy of the previously approved form;
- Outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;
- Restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and
- Copy of the prior order of approval, issued by the department on the previous filing. (10109.G.2)
- When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing. (10109.G.3)

12. COMPLIANCE AND AUDITS –

- **Approval of a Basic Insurance Policy Form does not assure perpetual compliance. Following subsequent changes in applicable law, Insurers shall not fail to revise and file updated Insurance Products, or amendatory Riders or Endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise determined by the Louisiana Legislature. (§10109.H.1)**

13. PERMANENT WITHDRAWAL OF APPROVED FORMS – Insurers shall notify the department in writing to advise when a previously approved

Basic Insurance Policy Form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also:

- Advise whether or not coverage issued in this state under the policy form remains in force;
- Whether or not such existing business will continue to be renewed;
- Provide the policy form numbers being discontinued; and
- Dates originally approved by the department.

(§10109.H.3)

14. APPEALS / HEARINGS – Any Insurer or other person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to §10109 of Regulation 78, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:2191, such demand must be in writing, must specify in what respects the company is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such Insurer or other person learned of the act, or failure to act, upon which the demand for hearing is based. (§10109.J)

15. MAINTENANCE OF RECORDS; ALTERATION OF FORMS PROHIBITED – Every Insurer or other person filing policy forms, or related forms, for approval by the department shall maintain in their files the original set of

any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. (§10109.K)

- Such files shall be available for inspection by the department upon request, and must be maintained until the forms have been withdrawn from the market and no coverage issued on risks in this state utilizing such forms remains in force.
- The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of Regulation 78, §10109 applicable to a new filing. **This requirement does not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.**
- **A change of company name or logo, a change of address, and changes in listed officers** do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the Insurer.

16. Definitions – As used in these instructions and Regulation 78, the following terms shall have the meaning or definition as indicated herein. (§10109.A)

- Affirmative Approval – department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to §10109.D.
- Association – an organization which has been formed for purposes other than procuring insurance for the members or employees.
- Basic Insurance Policy Form – an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance or annuity product. It includes certificates of coverage, application forms where written application is required and is to be attached to the policy or be a part of the contract, and any life or health and accident rider or endorsement form. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.
- Certification of Compliance – certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A Certification of Compliance must be included with any filing for certified approval.
- Certified Approval – expedited approval by the department of a complete filing based upon the inclusion of a Statement of Compliance and a Certification of Compliance, executed by an officer or authorized representative of the filing insurer on a form prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified

approval procedure is either required or available at the option of the insurer.

- Commissioner-the Commissioner of Insurance of the Louisiana department of Insurance.
- Complete Filing – the filing of a single insurance product, including any required filing fees, a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract, any life or health and accident rider or endorsement forms, all items required under §10109.C, "General Filing Requirements," and any other requirements as may be set forth in the applicable Statement of Compliance.
- Compliance Audit – a retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.
- Compliance Review – department review of a filing made pursuant to §10109 to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.
- Deemed Approval – approval of a complete filing based upon notice, as provided in §10109.E and F, made to the department by the filing insurer, following expiration of the specific time periods as provided in §10109.E and F, where affirmative approval has not been granted and the filing has not been disapproved by the department.