

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 216

S. P. 116

In Senate, January 30, 1979

Referred to the Committee on Business Legislation. Sent down for concurrence and ordered printed.

Presented by Mr. Pierce of Kennebec.

Cosponsor: Mr. Chapman of Sagadahoc.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Require Life Insurers to Furnish Specified Disclosure Information to Purchasers of Life Insurance.

Be it enacted by the People of the State of Maine, as follows:

24-A MRSA § 2153-A is enacted to read:

§ 2153-A. Life insurance solicitation

1. Scope.

A. Except as hereafter exempted, this section shall apply to any solicitation, negotiation or procurement of life insurance occurring within this State. This section shall apply to any issuer of life insurance contracts, including fraternal benefit societies.

B. Unless otherwise specifically included, this section shall not apply to:

- (1) Annuities;**
- (2) Credit life insurance;**
- (3) Group life insurance;**

(4) Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the United States Employee Retirement Income Security Act of 1974 (ERISA) PL 93-406, as amended; and

(5) Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

2. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms shall have the following meanings.

A. A "buyer's guide" is a document which contains, and is limited to, the language contained in the appendix to the "Life Insurance Solicitation Model Regulation," adopted in 1976 by the National Association of Insurance Commissioners (NAIC), as published in the 1976 Proceedings of the NAIC, Vol. I 523-527 and Vol. II 545-552.

B. A "cash dividend" is the current illustrated dividend which can be applied toward payment of the gross premium.

C. The "equivalent level annual dividend" is calculated by applying the following steps:

(1) Accumulate the annual cash dividends at 5% interest compounded annually to the end of the 10th and 20th policy years;

(2) Divide each accumulation of subparagraph (1) by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in subparagraph (1) over the respective periods stipulated in subparagraph (1). If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719; and

(3) Divide the results of subparagraph (2) by the number of thousands of the equivalent level death benefit to arrive at the equivalent level annual dividend.

D. The "equivalent level death benefit" of a policy or term life insurance rider is an amount calculated as follows:

(1) Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for 10 and 20 years at 5% interest compounded annually to the end of the 10th and 20th policy years respectively; and

(2) Divide each accumulation of subparagraph (1) by an interest factor that, if paid at the beginning of each year, would accrue to the value in subparagraph (1) over the respective periods stipulated in subparagraph (1). If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

E. "Generic name" means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

F. Life Insurance Surrender Cost Indexes.

(1) The "life insurance surrender cost index" is calculated by applying the following steps:

(a) Determine the guaranteed cash surrender value, if any, available at the end of the 10th and 20th policy years;

(b) For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual cash dividends at 5% interest compounded annually to the end of the period selected and add this sum to the amount determined in division (a);

(c) Divide the result of division (b) (division (a) for guaranteed-cost policies) by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in division (b) (division (a) for guaranteed-cost policies) over the respective periods stipulated in division (a). If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

(d) Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at 5% interest compounded annually to the end of the period stipulated in division (a) and dividing the result by the respective factors stated in division (c) (this amount is the annual premium payable for a level premium plan);

(e) Subtract the result of division (c) from division (d); and

(f) Divide the result of division (e) by the number of thousands of the equivalent level death benefit to arrive at the life insurance surrender cost index.

The life insurance net payment cost index is calculated in the same manner as the comparable life insurance cost index, except that the cash surrender value and any terminal dividend are set at zero.

G. For the purposes of this section, "policy summary" means a written statement describing the elements of the policy including, but not limited to:

(1) A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION;

(2) The name and address of the insurance agent, or, if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary;

(3) The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written;

(4) The generic name of the basic policy and each rider;

- (5) The following amounts, where applicable, for the first 5 policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including, but not necessarily limited to, the years for which life insurance cost indexes are displayed and at least one age from 60 through 65 or maturity whichever is earlier:
- (a) The annual premium for the basic policy;
 - (b) The annual premium for each optional rider;
 - (c) Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately;
 - (d) Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider;
 - (e) Cash dividends payable at the end of the year with values shown separately for the basic policy and each rider. Dividends need not be displayed beyond the 20th policy year; and
 - (f) Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values in this section.
- (6) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is variable, the policy summary includes the maximum annual percentage rate;
- (7) Life insurance cost indexes for 10 and 20 years but in no case beyond the premium paying period. Separate indexes are displayed for the basic policy and for each optional term life insurance rider. These indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits, nor for the basic policies or optional riders covering more than one life;
- (8) The equivalent level annual dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which life insurance cost indexes are displayed;
- (9) A policy summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed in addition to a statement in close proximity to the equivalent level annual dividend as follows: An explanation of the intended use of the equivalent level annual dividend is included in the Life Insurance Buyer's Guide;

(10) A statement in close proximity to the life insurance cost indexes as follows: An explanation of the intended use of these indexes is provided in the Life Insurance Buyer's Guide; and

(11) The date on which the policy summary is prepared.

The policy summary shall consist of a separate document. All information required to be disclosed shall be set out in such a manner as to not minimize or render any portion thereof obscure. Any amounts which remain level for 2 or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in subparagraph (5) shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

3. Disclosure requirements.

A. The insurer shall provide, to all prospective purchasers, a buyer's guide and a policy summary prior to accepting the applicant's initial premium or premium deposit, unless the policy for which application is made contains an unconditional refund provision of at least 10 days or unless the policy summary contains such an unconditional refund offer, in which event the buyer's guide and policy summary shall be delivered with the policy or prior to delivery of the policy.

B. The insurer shall provide a buyer's guide and a policy summary to any prospective purchaser upon request.

C. In the case of policies whose equivalent level death benefit does not exceed \$5,000, the requirement for providing a policy summary will be satisfied by delivery of a written statement containing the information described in subsection 2, paragraph G, subparagraphs (2), (3) and (4), subparagraph (5), divisions (a), (b) and (c) and subparagraphs (6), (7), (10) and (11).

4. General rules.

A. Each insurer shall maintain at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this regulation. The file shall contain one copy of each authorized form for a period of 3 years following the date of its last authorized use.

B. An agent shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he is acting as a life insurance agent and inform the prospective purchaser of the full name of the insurance company which he is representing to the buyer. In sales situations in which an agent is not involved, the insurer shall identify its full name.

- C. Terms such as financial planner, investment advisor, financial consultant or financial counseling shall not be used in such a way as to imply that the insurance agent is generally engaged in an advisory business in which compensation is unrelated to sales unless that is actually the case.**
- D. Any reference to policy dividends shall include a statement that dividends are not guaranteed.**
- E. A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of 2 or more life insurance policies. Such a system may be used for the purpose of demonstrating the cash-flow pattern of a policy if the presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.**
- F. A presentation of benefits shall not display guaranteed and nonguaranteed benefits as a single sum unless they are shown separately in close proximity thereto.**
- G. A statement regarding the use of the life insurance cost indexes shall include an explanation to the effect that the indexes are useful only for the comparison of the relative costs of 2 or more similar policies.**
- H. A life insurance cost index which reflects dividends or an equivalent level annual dividend shall be accompanied by a statement that it is based on the company's current dividend scale and is not guaranteed.**
- I. For the purposes of this section, the annual premium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.**
- J. This section does not prohibit the use of additional material which is not in violation of this section or any other statute or regulation.**
- 5. Failure to comply. Failure of an insurer to provide or deliver a buyer's guide or a policy summary as provided in subsection 3 shall constitute an omission which misrepresents the benefits, advantages, conditions or terms of an insurance policy.**

STATEMENT OF FACT

The purpose of this bill is to require insurers to deliver to purchasers of life insurance information which will improve the buyer's ability to select the most appropriate plan of life insurance for his needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance.