

BEFORE THE COMMISSIONER OF INSURANCE

STATE OF GEORGIA

IN THE MATTER OF:

**REGULATION 120-2-73-.05
APPENDIX TO BUYER'S GUIDE
TO ANNUITIES**

)
)
)
)
)
)

DOCKET NUMBER I-13-I-9

ORDER

I. STATEMENT OF PROCEEDINGS

On October 29, 2013, Notice of Intent to Adopt Rule Changes and Notice of Hearing was given regarding the proposed repeal of the Appendix to Regulation 120-2-73-.05 titled "Appendix-Buyer's Guide to Annuities" and the proposed adoption of a new Appendix to Regulation 120-2-73-.05 with the same title (Record, Exhibit 1). The purpose of the new Appendix (the "Proposed Regulation") is to incorporate an updated NAIC Annuity Buyer's Guide into the Rules and Regulations of the Georgia Department of Insurance.

By letter dated November 26, 2013, the Office of the Attorney General opined that the Proposed Regulation was within this office's scope of authority (Record, Exhibit 5). Pursuant to O.C.G.A. §50-13-4(e), the Proposed Regulation was transmitted to Wayne R. Allen, Legislative Counsel for the General Assembly, for assignment to the appropriate standing committees of the Senate and House of Representatives (Record, Exhibit 6) and was assigned accordingly (Record, Exhibit 7).

Interested persons were given the opportunity to participate in the proposed rulemaking by submitting their written comments by November 27, 2013, and by making oral comments at the public hearing held December 3, 2013. Written submissions were offered by the American

Council of Life Insurers ("ACLI"), the National Association of Fixed Annuities ("NAFA"), and the Insured Retirement Institute ("IRI"). No one from any of the parties that provided written submissions attended the hearing. Tom Carswell, the Assistant Director of the Insurance Product Review Division of this office, was the only person to offer oral comments at the hearing.

According to Mr. Carswell, there are three different but closely related new NAIC Annuity Buyer's Guides.¹ One of those guides covers both fixed and variable annuities. Mr. Carswell recommends that at this time this office adopt that version, which is the Proposed Regulation. He also recommends that the Commissioner consider adopting one or both of the other versions at some future date. (Record, pp. 8-12 of Transcript.)

II. CONSIDERATION OF INTERESTED PARTY COMMENTS

ACLI, NAFA and IRI are generally supportive of the Proposed Regulation. Each has, however, expressed concerns. ACLI and IRI are concerned about the length of time that the industry will have to comply with the Proposed Regulation. Specifically, they are concerned that the Proposed Regulation, if implemented immediately, will place stress on their administrative systems and distribution networks. ACLI specifically requests that the industry have until March 31, 2014, to comply. IRI requests that the industry have at least six months from the date of the Proposed Regulation's adoption.

IRI and NAFA request that the Commissioner adopt all three NAIC versions of the Annuity Buyer's Guide. They assert that the use of different versions of the Annuity Buyer's Guide would be most appropriate in different circumstances. For example, an agent selling a

¹ The NAIC has approved of three different versions of the Annuity Buyer's Guide—one for fixed annuities, one for variable annuities and one that covers both.

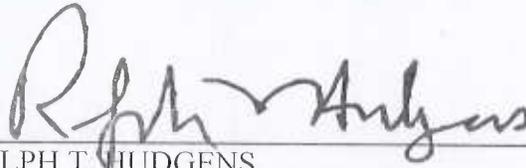
non-variable annuity may prefer to distribute a buyer's guide that does not address variable annuities. IRI also proposes that the Proposed Regulation be modified so that future NAIC modifications to the Annuity Buyer's Guide would automatically become effective in Georgia. This office would merely issue a bulletin which would establish the effective date.

III. DECISION

This office has given careful consideration to Mr. Carswell's recommendations and all of the written comments submitted by ACLI, NAFA and IRI. This office recognizes that the industry will need sufficient time to transition to the new Annuity Buyer's Guide but concludes that the requested time-line is longer than necessary. Accordingly, the industry has until March 1, 2014, to implement the new Annuity Buyer's Guide as adopted herein. This office rejects IRI's recommendation that this office automatically accept future NAIC modifications to the Annuity Buyer's Guide. The interests of Georgians are best served when NAIC model regulations are given a thorough and complete review in light of Georgia law and circumstances. Finally, the Commissioner will consider adopting the two new NAIC Annuity Buyer's guides that were not the subject of the hearing referenced herein. Such consideration does not, however, prevent the Commissioner from adopting the Proposed Regulation.

WHEREAS, this office finds Mr. Carswell's comments in support of the Proposed Regulation persuasive, **IT IS HEREBY ORDERED** that the current Appendix to Regulation 120-2-73-.05 titled "Appendix-Buyer's Guide to Annuities" is repealed and the proposed Appendix to Regulation 120-2-73-.05 with the same title, a copy of which is attached hereto and made a part by reference, is **HEREBY ADOPTED**.

Given under my Hand and Seal this 18th day of December, 2013.

A handwritten signature in black ink, appearing to read "Ralph T. Hudgens". The signature is written in a cursive style with a large initial "R" and a long, sweeping underline.

RALPH T. HUDGENS
INSURANCE AND SAFETY FIRE COMMISSIONER
STATE OF GEORGIA