

TEXAS DEPARTMENT OF INSURANCE  
INFORMAL DRAFT  
LIFE RULE CHANGES  
SUMMARY OF ATTACHED DOCUMENTS A-E

Published on TDI website  
Stakeholder Meeting-July 26, 2018  
Written Comments Requested-July 27, 2018

The Texas Department of Insurance has posted proposed new rules regulating life and annuity policy forms and other matters relating to life insurance. The stated purpose is to reorganize and consolidate multiple subchapters in 28 TAC Ch. 3 to a new Chapter 4 applicable only to life and annuities. Other purposes are to update life related sections, add new rules to provide more clear guidance on certain types of products, update obsolete references to repealed laws, and make updates consistent with national and industry standards. The proposed changes are included in several lengthy documents summarized below.

The Department states it is also considering revising consumer disclosure notices related to reinstatement, acceleration of life benefits, replacement, and indeterminate premium reduction policies.

DOCUMENT A

DOCUMENT A summarizes the various rules relating to life insurance and annuities that will be moved to a new Chapter 4 in the Texas Administrative Code.

DOCUMENT A is a table mapping existing provisions in Chapter 3 to the proposed new Chapter 4.

CAREFUL ATTENTION SHOULD BE GIVEN TO ANY SECTION MARKED AS NEW.  
These would be new substantive rules.

New Rules identified in Document A include:

1. NEW SUBCH. C regulating market value adjustments and index-linked crediting features.
2. NEW SUBCH. E-regulating general requirements for life policies.
3. NEW SUBCH. J-regulating Universal life policies.
4. NEW SUBCH. N-regulating Life Disclosures including cost of insurance disclosures.

DOCUMENT B

DOCUMENT B is a table that briefly compares language in New Chapter 4 with existing language in existing Chapter 3.

The following worksheet is provided for preliminary comments:

Informal Text Provision	Preliminary Comments and Questions	Existing Text
Subch. A, Life and Annuity Generally		
4.1. applicability and Scope	applies to all life and annuity	No comparable provision
4.2. Definitions	Only defines face page and policy	No comparable provision
4.3. policy Face page	Requires signatures of two officers	No comparable provision
4.4 Table of Contents	No applicable existing provision. Applies only for policies with 3,000 words or more.	No comparable provision
4.5 Premium & Policy Charges	Requires policy to contain description of min/max charges and timing of charge. What is meant by timing of charge? How does this compare to existing policy language?	No comparable provision
4.6. Policy Values	Must describe method of calculating all values including death benefits, surrender values, partial withdrawal, and election of income option. Must describe surrender charges, fees, and other charges	No comparable provision
4.7 Payment of Premiums	similar to existing text but deletes place of payment.	Sec. 3.101
4.8. Required Statutory provisions	replaces current rules by inserting only a reference to actual statutes for grace period, entire contract, incontestability, statements of insured, adjustment of amount payable if age understated, policy loans.	3.102, 3.103, 3.104, 3.105, are replaced with one rule.
4.9 Underpayment and Overpayment	Requires policy to discuss both overpayment and underpayment. Policy must state interest rate or how it is determined if interest discussed. This proposed change appears to be contract to TIC 1101.008, which only applies to understatement of age.	3.106 only provides for understatement of age.
4.10 Reinstatement	Similar to existing text.	3.111
4.11 Payment of Benefits	<b>Applies only to annuities;</b>	No comparable provision.

	<b>appears to provide that an annuity benefit, including systematic withdrawal or death benefit, is considered a claim for purposes of prompt pay penalties in Ch. 542. THIS SHOULD BE RED FLAGGED. IT COULD HAVE NUMEROUS UNINTENDED CONSEQUENCES AND SEEMS INCONSISTENT WITH STATUTORY PROVISIONS. IT DETERMINES THAT ANY PAYMENT IS A SEPARATE CLAIM THAT COULD BE SUBJECTED TO 18 % PENALTY INTEREST AND ATTORNEY'S FEES</b>	Payment of claims provisions in Rule 3.112 is repealed as being duplicative of statute in TIC Sec. 1101.011.
4.12. Conversion of Exchange Provisions	<b>Adds the word “exchange” but otherwise does not mention exchange in the text. An exchange is different than a conversion. The text appears similar to the current rule.</b>	3.118
4.13 Limitation on Lawsuits	Similar to existing text. Deletes the word “shall” before accrues. This may be nonsubstantive.	3.119. Limit is 2 years from date a cause of action shall accrue.
4.14. Settlement at maturity	Similar to existing text except for deletion of section (f) dealing with graded death benefits, such as juvenile policies. Also deletes section (g) prohibiting deduction of all indebtedness of the holder of the contract to the company.	3.121.
4.15 Assignment provisions	<b>Changes existing text to require an assignment provision</b>	3.123. Only provides that there is no prohibition against a provision that permits assignment.
4.16 Ownership Designation	<b>NEW PROVISION. OWNERS MUST BE DEFINED AND RIGHTS AND RESPONSIBILITIES.</b>	no comparable provision.

	<b>MUST ADDRESS CHANGE; STATUS OF POLICY ON DEATH OF OWNER BEFORE MATURITY DEATH; PROHIBITS ATTEMPTS TO RESTRICT THE OWNER'S RIGHTS.THIS IS VAGUE.</b>	
4.17 Beneficiary Designation	Must address beneficiary, distribution of proceeds if no beneficiary. Policy must explain why beneficiary cannot be changed if irrevocable	no comparable provision
4.18 conformity with state statute	Policy must state it complies with law of state in which it was issued. <b>This seems awkward especially considering the title. Why is this necessary? Is this a representation and warranty that subjects insurers to litigation?</b>	no comparable provision.
4.19 Method of Calculating Policy Values	Must define and describe methods of any values and benefits as well as fees, charges and credits that impact values and benefits. <b>Is this doable in the policy?</b>	No comparable provision
4.20 Grace Period Fixed premium policies	Requires grace period at least 31 days. <b>Not clear what is intended here?</b>	No comparable provision
4.21 partial Withdrawal	Conditions for partial withdrawal must be stated	No comparable provision
4.22 Provisions relating to Dividends, coupon benefits, or other guaranteed returns.	Similar to existing text but adds phrase "divisible surplus". <b>This is not defined. Adds a reference to a policy intended to qualify under the Internal Revenue Code. This is not clear.</b>	3.124.
4.23 Bonus Benefits	<b>new provision that requires bonus to include the effective date of the bonus. How can this be done for future bonuses benefits? Adds description of when not fully earned, effect of bonus on</b>	no comparable provision

	<b>policy values, and charges for a bonus.</b>	
4.24 Premium Deposit Fund	New text is almost identical to existing rule text.	3.127
4.26. Written Consent of the Insured	Prohibits a third party, without familial interest, from obtaining group or individual insurance on another person without written consent. Requires written disclosure at time of application. <b>This may prohibit some types of corporate owned life insurance on individual employees.</b>	No comparable provision
4.27. General Guidelines for riders, endorsements and amendments	Must show effective date. If there is a rider premium it must be shown.	Appears to replace either checklists or Sections 3.101-3.128
4.27 Prohibited Provisions	Similar to current text. Still refers to Board of Insurance Commissioners	3.127
4.28. Additional Payments for different types of death	Permits death benefits in addition to face amount, such as accidental death, if reasonably related to the policy.	No comparable provision
4.29 guaranteed living benefits	Imposes requirements for this type of benefit. Must include a policy provision or attachment describing benefits; how account values will be calculated; benefit base and date, roll up or step ups; any charges; conditions of termination. An actuarial memorandum appears to be required. Must be certified by actuary that charges for living benefits are not included in calculation of minimum guaranteed policy values.	no comparable provision
4.30 Cash value table	requires disclosure of net premiums (gross minus expense). Only guaranteed values can be shown.	No comparable provision
4.31 right to Examine	Gives 20 days to return policy and receive an unconditional	No comparable provision

	refund of premiums.	
4.32 Waiver of Surrender Charges	Must define terms; clarify eligibility; specify conditions for eligibility; clarify eligibility is effective on issue date for terminal illness or hospice care; clarify waiting period not to exceed one year for other waivers; clarify if medical exam required; Clarify waiver is ineffective if terminal illness or confinement occurred on the effective date or before the policy date. <b>CHECK THIS CAREFULLY. APPEARS TO BE SOME UNDEFINED TERMS AND POSSIBLE CONFLICT BETWEEN EFFECTIVE DATE AND POLICY DATE. ALSO MAY BE FRAUD WHERE RESCISSION IS MORE APPROPRIATE.</b>	No comparable provision
4.33 Unilateral Amendments	prohibits unilateral changes by insurer with exception. <b>Check the language in (b) carefully.</b>	No comparable provision
4.34 Group Contracts sold individually	Provides that such policies are not exempt under TIC sec. 1105.003 or 1107.002. Must meet cash surrender values equivalent to those required.	No comparable provision.
4.35 Tontine provisions	Similar to current text	Sec. 3.122
NEW CH. 4, SUBCH. E. LIFE GENERALLY		
4.501 applicability and scope	individual and group life	
4.502 gross and net premium	policy must disclose gross and net premiums used for calculating cash value tables	no comparable provision
4.503 automatic premium loans	similar to current law	sec. 3.109
4.505 substitute or change of insured riders	similar to current law	sec. 3.116
4.506 Preliminary term life insurance	similar to current law	Sec. 3.117
4.507 renewal premium on term policies	similar to current law	Sec. 3.128

Sec. 4.508 preexisting condition prohibition	PROHIBITS EXCLUSION FROM COVERAGE DEATH BECAUSE OF ANY SPECIFIC MEDICAL CONDITION. <b>This appears to be a material change for a life policy.</b>	No comparable provision
sec. 4.509 Waiver of Premium	Permits waiver for specific events outlined in policy. If issued as a rider, must state incontestable for 2 years from date of issue. <b>Is this issue date of policy or rider?</b>	no comparable provision
Sec. 4.510 Application for life	Regulates the form of an application. Must include amount of coverage and describe any variable elements	No comparable provision.
4.511 guaranteed purchase options	permits additional amounts of life insurance on a guaranttd basis without requiring evidence of insurability. <b>PLEASE CHECK THIS.</b>	No comparable provision
4.512 Return of Premium	Permits return of premium. Policy must disclose amount to be returned, period when return is credited, sample schedule page, mortality table and an actuarial memorandum.	No comparable provision
4.513 Required Report	Group or individual policy must require deliver report with information on policy status. Report must be delivered annually and with no charge. Information in the report is stated in the proposed rule. The report must have info not more than four months before the date of mailing. Info includes account values, amounts credited or debited, current death benefit, csv, loans, May permit additional reports not to exceed \$25.	No comparable provision except in life illustration regulation.
4.514 extension of maturity date	Sets forth various requirements for extension of maturity dates;	No comparable provision

CH 4, NEW SUBCH. C; MARKET VALUE ADJUSTMENTS ; DIV. 1		
4.301 APPLICABILITY AND SCOPE	applies to all life and annuity policies with market value adjustments. Both individual and group.	No comparable provision
4.302 MVA REQUIRED POLICY PROVISIONS	Must state on face page amounts payable are subject to MVA and MVA may result in both up and down adjustments. -Must state point or points in time and conditions MVA will be applied; describe MVA formula; adjustment to reflect charges may not exceed 25 basis points; policy must state info in annual report. <b>Check all of this carefully. This is new text .</b>	No Comparable provision
4.303 MVA Required Actuarial Requirements	Requires actuarial memo. Signed by member of AAA and describes info required to be included. <b>NOTICE THE USE OF THE TERM QUALIFIED ACTUARY IN OTHER PARTS AND MEMBER OF AAA IN THIS RULE. MEMBER ACTUARIES SHOULD CAREFULLY REVIEW THIS .</b>	No comparable section.
DIVISION 2. INDEX LINKED CREDITING PROVISIONS		
4.311 applicability and scope	applies to all life and annuity with index-linked crediting provisions	no comparable section
4.312. Required Policy Provisions	Prominent Notice on face page; disclose all available index term periods; defined formula ; provide for substitute index; disclose guaranteed participate rate; disclose maximum index percentage; disclose applicable minimum cap or floor;	No comparable section
4.313. Actuarial Requirements	REQUIRES ACTUARIAL MEMORANDUM. Check this	No comparable provision



	Carefully. <b>NO REQUIREMENT ON ACTUARY MAKING CERTIFICATION. PLEASE CHECK THESE CAREFULLY</b>	
Ch. 4 Subch. J. UNIVERSAL LIFE	<b>THIS IS ALL NEW TEXT EVEN THOUGH IT MAY APPEAR IN SOME CHECKLISTS</b>	
4.1001 Applicability and Scope	applies to individual and group universal or flexible premium adjustable life.	no comparable provision
4.1002 Requirements	Must define maturity date; disclosure statement coverage may expire; define minimum required to maintain policy; define net premium factors, contain a table of guaranteed maximum cost of insurance rates	no comparable provision
4.1003 No Lapse Guarantee	May include this under conditions that satisfy certain disclosures;	
4.1004 Actuarial Requirements	No lapse requires actuarial memorandum. <b>THIS REFERENCES RESERVES UNDER 7.18, A GENERAL RULE ADOPTING THE NAIC ACCOUNTING PRACTICES MANUAL. THIS IS VERY GENERAL. Is this in addition to memo for annual statements? Would this memo have to be filed with each policy form that has a no lapse guarantee?</b>	
4.1005 UL Overloan Protection	Creates standards for overloan protection benefits in variable or non variable UL policies. There are extensive provisions required in the policy. <b>Please check this carefully</b>	
4.1006 Policy Values	UL must contain complete and detailed info computing policy value and CSV including	

	guaranteed max charges; limitation on crediting interest; assume interest rate; guaranteed max mortality charges; other guaranteed charges; surrender or partial charges. <b>PLEASE CHECK THESE CAREFULLY.</b>	
4.1007 Nonguaranteed Elements	Disclosure Require for nonguaranteed elements on face page; requires disclosure notice 90 days before adverse change in a particular nonguaranteed element that would materially impact the longevity of the policy; annual statement shows current and projected values and other info; policy must contain provision if policy owner requests loan the insurer will provide not later than 10 days after request a disclosure that change could impact longevity and should request an illustration on the impact of the change.	
CH. 4, SUBCH. N. LIFE DISCLOSURES	<b>THIS IS ALL NEW</b>	
4.1401 Purpose	To provide standards for disclosure with minimum info on life contracts and basic features.	
4.1402 Applicability and Scope	Applies to all individual and group except for credit; group <b>this is very confusing.</b> LIFE ISSUED IN CONNECTION WITH ERISA PENSION PLANS; variable life with a separate account; preneed funeral contracts.	
4.1403 Definitions	Contains numerous defined terms including NAIC buyers guide; current scale of nonguaranteed elements; generic name; nonguaranteed elements is broad defined;	

	<b>THESE ARE BROAD DEFINITIONS AND SHOULD BE CAREFULLY REVIEWED</b>	
4.1404 Required Consumer Notices	Has separate requirements for newly issued policies and existing policies.	

## **DOCUMENT C**

**Document C** transfers various existing rules into new Subchapters in Ch. 4. These include:

1. A. new Subchapter F for Indeterminate Premium Reduction Policies with new Sections 4.601-4.611. These new sections appear to make changes to existing regulations which appear in 28 TAC §§3.301-3.311.
2. A new Subchapter K for Variable Life to 28 TAC §§4.1101-4.1111. These replace existing regulations in Sections 3.801-3.811.
3. A new subchapter L for Reinstatement Relating to Mental Incapacity of the Insured fo Individual Life Policies without Nonforfeiture Benefits to 28 TAC §§4.1201-4.1213, that replace existing rules in 28 TAC Sections 3.901-3.913.
4. A new subchapter M for Nonforfeiture Standards for Individual Life Insurance in Employer Pension in 28 TAC §§4.1301-4.1307 replacing 28 TAC §§3.1301-3.1307.
5. A new subchapter G. Life Standards for Acceleration of Life Insurance Benefits for Individual and Group Policies and Riders to 28 TAC §§4.701-4.717 replacing 28 TAC §§3.4301-3.4317.
6. A new subchapter B. Consumer Notices for Life Insurance and Annuity Contract Replacements to 28 TAC §§4.201-4.206 replacing 28 TAC §§3.9501-3.9506.

## **DOCUMENT D**

**Document D** transfers life and annuity mortality tables into a single Subchapter AA.

Division 1 moves annuity mortality tables to 28 TAC §§4.2701-4.2706 replacing 28 TAC §§3.1501-3.1506.

Division 2 is the Smoker-Nonsmoker Composite Mortality Tables moved to 28 TAC §§4.2711-4.2716 replacing 28 TAC 3.1401-3.1406.

Division 3 is the 2001 CSO Mortality Table moved to 28 TAC §§4.2721-4726 replacing 28 TAC 3.9101-3.9106.

Division 4 is the Preferred Mortality Tables moved to 28 TAC §§4.2731-4.2734 replacing 28 TAC 3.9401-3.9404.

## **DOCUMENT E**

Document E transfers life and annuity reserve requirement rules to a new Subchapter BB.

Division 1. Actuarial Opinion and Memorandum Regulation is moved to 28 TAC §§4.2801-4.2808 replacing 28 TAC 3.1601-3.1608.

Division 2. Strengthen Reserves Pursuant to Insurance Code §425.067 is moved to 28 TAC §4.2811 replacing 28 TAC § 3.1101.

Division 3. Valuation of Life Policies is moved to 28 TAC §§4.2821-4.2829 replacing 28 TAC §3.4501-3.4509.

Division 4. Preneed Life Insurance Minimum Mortality Standards for Determining Reserve liabilities and Nonforfeiture Values is moved to 28 TAC §§4.2831-4.2836 replacing 28 TAC 3.9601-3.9606.

Documents C, D, and E do not appear to contain material substantive changes.