

BEFORE THE COMMISSIONER OF INSURANCE

STATE OF GEORGIA

IN THE MATTER OF:

CHAPTER 120-2-94  
SUITABILITY IN ANNUITY  
TRANSACTIONS

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DOCKET NUMBERS  
I-15-I-3 AND I-15-I-7

ORDER

I. STATEMENT OF PROCEEDINGS

I-15-I-3

On April 2, 2015, A *Notice of Intent to Adopt Rule Changes and Notice of Hearing* was issued regarding the proposed repeal of Regulation Chapter 120-2-94 entitled “Suitability in Annuity Regulations” and the proposed adoption in lieu thereof of a new Regulation Chapter 120-2-94 with the same title. (Record, Exhibit 1). The purpose of the proposed regulatory action was to update this Office’s regulations to incorporate the NAIC’s most recent model regulation concerning suitability in annuity transactions. By letter dated April 7, 2015, the Office of the Attorney General opined that the proposed regulations were within this Office’s scope of authority. (Record, Exhibit 5). Pursuant to O.C.G.A. §50-13-4(e), the proposed regulations were 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). The proposed regulations were assigned accordingly. (Record, Exhibit 7)

Interested persons were given the opportunity to participate in the proposed rulemaking by submitting their written comments by June 5, 2015, and by making oral comments at the public

hearing held on June 10, 2015. The only comment letter submitted was from Jason Berkowitz, vice president and counsel of regulatory affairs for the Insured Retirement Institute (“IRI”).

Teresa Winer, an actuary with this Department’s Products Review Division, was the only person to offer oral comments at the hearing. According to Ms. Winer, the proposed and more modern NAIC version of the “Suitability in Annuity Regulations” Chapter would improve regulatory processes, controls, and protections for insurers, for producers, and for consumers. (Testimony, Winer).

**I-15-I-7**

Consistent with O.C.G.A. Section 50-13-4, a second hearing in this matter was scheduled to allow the public sufficient time to consider IRI’s submitted comments. Accordingly, on June 29, 2015, a second *Notice of Intent to Adopt Rule Changes and Notice of Hearing* was given regarding the proposed incorporation of IRI’s comments into the proposed new Regulation Chapter 120-2-94. (Record, Exhibit 1). By letter dated July 31, 2015, the Office of the Attorney General opined that the proposed regulations (including the incorporation of IRI’s suggestions) were within this office’s scope of authority. (Record, Exhibit 5). Pursuant to O.C.G.A. §50-13-4(e), the proposed regulations were again 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). Again, the proposed regulations were assigned accordingly. (Record, Exhibit 7)

Interested persons were given the opportunity to participate in the proposed rulemaking by submitting their written comments by August 3, 2015, and by making oral comments at the public hearing held on August 6, 2015. No additional written comments were received by this Office. Tom Carswell, Assistant Director of the Products Review Division of this Office, was

the only person to offer oral comments at the hearing. Mr. Carswell supports the inclusion of IRI's suggestions into the proposed and more modern NAIC version of the "Suitability in Annuity Regulations" Chapter. (Testimony, Carswell). Although IRI's requests for changes in wording may appear minor, they reflect the NAIC most updated language – even more recent language than this Office was initially considering at the June 10, 2015.

## II. CONSIDERATION OF INTERESTED PARTY COMMENTS

IRI's comments were the only written comments received by this Office in this matter.

## III. DECISION

**WHEREAS**, no written or oral comments were submitted in opposition to either the regulations proposed at the June 10, 2015 or to IRI's requests for minor modifications to the proposed regulations, and **WHEREAS** this Office finds the comments offered by Ms. Winer, Mr. Carswell and IRI persuasive, **IT IS HEREBY ORDERED** that Regulation Chapter 120-2-94 entitled "Suitability in Annuity Transactions" is **HEREBY REPEALED**. **IT IS ALSO HEREBY ORDERED** that the new proposed Regulation Chapter 120-2-94, also entitled "Suitability in Annuity Transactions," a copy of which is attached hereto and made a part hereof by reference, is **HEREBY ADOPTED**.

Given under my Hand and Official Seal this 7<sup>th</sup> day of August, 2015.



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

