

CHAPTER 237

AN ACT concerning the filing of certain life insurance policy forms and certain actions by employees of the Department of Banking and Insurance and supplementing Title 17B of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.17B:25-18.4 Filing of certain forms of life insurance approved in other states.

1. a. Notwithstanding the provisions of any other law to the contrary and pursuant to the provisions of this section, an insurer authorized to do business in this State may file with the Commissioner of Banking and Insurance and make available for sale or use, in accordance with subsection d. of this section, any form of life insurance policy, annuity, variable contract, endorsement, riders and application forms. The form shall be accompanied by a certification memorandum that includes a statement that it is filed in accordance with the provisions of this section, and which is executed by a responsible officer of the insurer. The certification shall state that the form has been made available for sale or use in accordance with current state regulations governing the type of product submitted, subject to state variations that do not alter the unique product features or design of the product, in 40 states. If that certification is made, the form shall be available for sale or use in the State of New Jersey. Filing pursuant to this section shall not preclude an insurer from filing under other laws or rules and regulations of this State.

b. Policy and contract forms, including related endorsements, riders and application forms, eligible for certification pursuant to this section shall include, but not be limited to, individual life, individual annuity, group annuity, group life, variable life and variable annuity contracts, excluding specified disease and critical illness policies or contracts.

c. The certification memorandum shall be signed and acknowledged by a responsible officer of the insurer. The acknowledgment by that officer shall be done in the same manner in which documents for recording instruments conveying or affecting interests in real estate in this State must be acknowledged to be eligible for recording, or in such other manner as specified by the commissioner by regulation from time to time.

d. Upon receipt of an acknowledgment from the commissioner that the form and the certification memorandum which conforms to the requirements of this section have been received, the form so submitted may be used in this State by the insurer. The acknowledgment shall be sent by first class mail by the commissioner to the insurer within 30 days of receipt by the commissioner of the form and the certification memorandum that conforms to the requirements of this section.

e. (1) An insurer submitting an improper certification shall be subject to a fine not to exceed \$50,000 and, in addition, a maximum penalty of \$1,000 per policy issued on a form determined to be improperly certified pursuant to the provisions of this section. The commissioner shall promulgate a schedule of penalties to be applied pursuant to this section. In determining the amount of any penalty to be imposed, the commissioner shall consider the severity of the violation based upon the potential adverse impact to the public and whether it is the filer's first violation of this section.

(2) If, after notice and a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14b-1 et seq.), an insurer is found by the commissioner to be in violation of this section, the form may be disapproved, and in addition to any other penalties that may be imposed under Title 17B of the New Jersey Statutes, the commissioner may bar that insurer from participating in the certification process pursuant to this section for a period not to exceed one year.

f. (1) Initial regulations shall be adopted pursuant to this section no later than 120 days after enactment of this act. These regulations shall stand on their own and deal solely and specifically with the provisions of this section and only address the certification and the process of certification required by this section.

(2) Until the commissioner adopts rules and regulations pursuant to this act, an insurer may submit certifications in any format that satisfies the requirements of this section.

(3) The commissioner shall submit an annual report, on or before December 1, to the Governor and the Legislature, on the administration of this act including, but not limited to, the number and type of forms approved and rejected pursuant to the provisions of this section.

g. (1) The certification memorandum shall list the 40 States, the form number submitted and

the date that form was made available for sale or use in each state.

(2) An insurer who files in accordance with this section shall be exempt from the certification requirements of section 17 of P.L.1995, c.73 (C.17B:25-18.3).

h. For purposes of this section:

(1) "A responsible officer of the insurer" means a corporate officer of the level of vice president or higher, or of equivalent title within the insurer's structure, who is either the actuary of the insurer with responsibility for the type of form filed, or the individual with responsibility for managing the form filing process for the insurer with regard to the type of form filed;

(2) "Available for sale or use" means that the insurer has complied with the state's laws, regulations, and procedures to allow the insurer to sell or use the form in that state;

(3) "Improper certification" means providing any misrepresentation or false statement material to a certification form required.

C.17B:25-18.5 Certain actions taken by department employees to result in termination.

2. a. An officer or employee of the Department of Banking and Insurance shall not take or threaten any action or omission in retaliation against a person for efforts of that person, or a person acting on his behalf, to secure or enforce any rights under contract, the laws of this State or the laws of the United States, or the good faith complaint of that person, or a person acting on his behalf, to any other government official, officer or employee or other person concerning any actions or omissions of the officer or employee of the department in regard to that person.

b. Any officer or employee who violates the provisions of subsection a. of this section shall, after notice and a hearing, be terminated from employment with the State.

3. This act shall take effect immediately.

Approved August 31, 2001.