



**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

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BULLETIN 2008-18

TO: All Insurance Companies Licensed to Provide Annuity Products  
FROM: Nonnie S. Burnes, Commissioner of Insurance  
DATE: October 29, 2008  
RE: Filing Guidelines for Compliance with Chapter 230 of the Acts of 2008

This bulletin is issued to provide insurance companies (“insurers”) with guidance regarding their new responsibilities under Chapter 230 of the Acts of 2008, An Act Relative to Equitable Coverage for Annuity Policies, and to clarify certain provisions of this new law. This law requires insurers to calculate reserves on a gender neutral or gender blended basis. It also requires all individual and group annuity contracts issued on or after January 1, 2009 that cover residents of Massachusetts to be neutral as to race, color, religion, sex, marital status or national origin with regard to pricing and benefits.

The Division of Insurance (the “Division”) considers an individual annuity contract to cover residents of the Commonwealth when the contract owner is a resident of Massachusetts on the date when the contract is issued. This includes contracts issued outside of Massachusetts. Such contracts must be issued on a Massachusetts approved form if the contract owner is a resident of Massachusetts. A joint or contingent annuity contract covers residents of Massachusetts when the primary contract owner is a Massachusetts resident on the date when the contract is issued.

Group annuity contracts cover residents of the Commonwealth when the contract owner is a resident of Massachusetts on the date when the master contract is issued. When a group annuity contract is issued to a resident of Massachusetts, the contract must be issued on a Massachusetts approved form and all certificates must be gender neutral, regardless of the residency of the certificate holders.

Group annuity contracts offered through employee benefit plans that comply with Title VII of the Civil Rights Act of 1964, as required by the decision issued in *Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans, et al v. Norris*, 463 U.S. 1073, are considered compliant with Chapter 230 of the Acts of 2008.

### **Form Filing Requirements**

The Policy Form Review Section of the Division has developed an expedited "Self-Certification" process for insurers who wish to file for the sole purpose of bringing previously reviewed annuity policies and contracts into compliance with Chapter 230 of the Acts of 2008. This expedited process will be available to companies only until January 31, 2009. Insurers seeking to make other amendments to previously reviewed filings are not eligible for this expedited review process and must submit all required documents. These filings will be reviewed according to normal review guidelines.

The filing must be made via SERFF and include: (1) certification in the Filing Description under the General Information tab that they are in compliance with Chapter 230 of the Acts of 2008 and that no other changes are being made; (2) the required \$75 filing fee; and (3) a list of the product type, form number, state tracking number and approval date of all applicable previously approved forms. No actuarial memorandum is required. Only the self-certification is subject to the Division's review. The filing description field in SERFF should begin with the phrase "GENDER NEUTRAL ANNUITY FILING."

Insurers also must submit a copy of the contract language intended to satisfy the requirements of Chapter 230 of the Acts of 2008, either with the self-certification or separately via SERFF before January 31, 2009. Either endorsements, contract replacement pages, or an amended contract form will suffice for this purpose. This additional documentation will be placed on file at the Division for our reference.

Forms containing references to "gender" or "sex" need not be amended if the reference does not pertain to the issue of life expectancy.

Any questions about this bulletin should be directed to Edward Charbonnier, Director of Policy Form Review, at 617-521-7481 or to [edward.charbonnier@state.ma.us](mailto:edward.charbonnier@state.ma.us).