West Virginia Offices of the Insurance Commissioner
Review Requirements Checklist
Life Insurance and Annuity Advertisements

REVIEW REQUIREMENTS	REFERENCE	COMMENTS
General Requirements		SERFF filings are submitted in accordance with SERFF filing procedures.
Fees	33-6-34	The Filing Fee is $50.00 per form Filing. Effective 6/30/2002.
Submission, filing	*WVIL* (Informational Letter) 163	All filings **must** be submitted through SERFF (System for Electronic Rate and Form Filing). Filing fees **must** be remitted via EFT (Electronic Funds Transfer) through SERFF.
Signature of Company Official	33-6-15	Every insurance policy shall be executed in the name of and on behalf of the insurer by its officer, attorney in fact, employee, or representative duly authorized by the insurer. A facsimile signature of any such executing individual may be used in lieu of an original signature, the countersignature shall be in original handwriting, except in vending machine policies. Electronic signatures are allowable on electronic policies.
Time Frame	33-6-8(b)	The filing must be filed 60 days prior to use. Analysts make every effort to resolve any issues within 60 days and approve the filing, unless before the 60 days expires the filing is disapproved.
Form and Content		
Form and Contents Of Advertisements	§114-11-4	4.1. Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy must be sufficiently complete and clear so as to avoid deception. The Insurance Commissioner shall determine whether an advertisement has the capacity or tendency to mislead or deceive from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed. 4.2. No advertisement shall use the terms “investment,” “investment plan,” “founder’s plan,” “charter plan,” “deposit,” “expansion plan,” “profit,” “profits,” “profit sharing,” “interest plan,” “savings,” “savings plan,” “private pension plan,” “retirement plan” or other similar terms in connection with a policy in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of such policy to believe that he or she will receive, or that it is possible that he or she will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.
Disclosure Requirements	§114-11-5	5.1 The information required to be disclosed by this rule may not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading. 5.2. An advertisement may not omit material information or use words, phrases, statements, references or illustrations having the capacity, tendency or effect of misleading or deceiving prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable, or state or federal tax consequences. The fact that (a) the policy is made available to a prospective insured for inspection prior to consummation of the sale, (b) an offer is made to refund the premium if the purchaser is not satisfied or (c) that the policy or contract includes a “free look” period that satisfies or exceeds regulatory requirements, does not remedy misleading statements. 5.3. If an advertisement uses the terms “non-medical,” “no medical examination required,” or similar terms where issue is not guaranteed, the advertisement shall include a disclosure of equal prominence and in juxtaposition thereto that issuance of the policy may depend upon the answers to health questions in the application. 5.4. An advertisement may not use as the name or title of a life insurance policy any phrase that does not include the words “life insurance” unless accompanied by other language clearly indicating the policy is for life insurance. An advertisement may not use as the name or title of an annuity contract any phrase that does not include the word “annuity” unless accompanied by other language clearly indicating the contract is an annuity. An annuity advertisement may not refer to an annuity as a “CD annuity,” or deceptively compare an annuity to a certificate of deposit. 5.5. An advertisement must prominently describe the type of policy advertised. 5.6. An advertisement of an insurance policy marketed by direct response techniques may not falsely state or imply that because there is no insurance producer or commission involved there will be a cost savings to prospective purchasers. Justification for any statement or implication of cost savings must be submitted and approved by the Insurance Commissioner prior to dissemination of the advertisement.

	§114-11-5	5.7. An advertisement for a life insurance policy containing graded or modified benefits must prominently display any limitation of benefits. The advertisement must disclose that the premium is level and coverage decreases or increases with age or duration. An advertisement of or for a life insurance policy under which the death benefit varies with the length of time the policy has been in force must accurately describe and clearly call attention to the amount of minimum death benefit under the policy. 5.8. An advertisement for the types of policies described in subsections 5.6 and 5.7 of this section may not use the words “inexpensive,” “low cost,” or other phrase or words of similar import when the policies being marketed are guaranteed issue. 5.9. Premiums a. An advertisement for a policy with non-level premiums shall prominently describe the premium changes. b. An advertisement for a policy which reserves to the insurer the right to change the amount of the premium during the policy term must prominently describe this feature. Failure to do so is deemed to be deceptive and misleading and is prohibited. c. An advertisement may not contain a statement or representation that premiums paid for a life insurance policy can be withdrawn under the terms of the policy. An advertisement may state that amounts paid into an advance premium fund, which are intended to pay premiums at a future time, may be withdrawn under the conditions of the prepayment agreement. An advertisement may also refer to withdrawal rights under any unconditional premium refund offer. d. An advertisement that represents that a pure endowment benefit has a “profit” or “return” on the premium paid, rather than a policy benefit for which a specified premium is paid is deemed to be deceptive and misleading and is prohibited. e. An advertisement may not falsely represent or imply in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits. f. An advertisement may not use the term “vanish” or “vanishing premium” or a similar term that implies the policy becomes paid up to describe a plan using nonguaranteed elements to pay a portion of future premiums. 5.10. Analogies between a life insurance policy or annuity contract’s cash values and savings accounts or other investments and between premium payments and contributions to savings accounts or other investments must be complete and accurate. An advertisement may not emphasize the investment or tax features of a life insurance policy to such a degree that the advertisement would mislead the purchaser to believe the policy is anything other than life insurance. 5.11. An advertisement may not state or imply in any way that interest charged on a policy loan or the reduction of death benefits by the amount of outstanding policy loans is unfair, inequitable or in any manner an incorrect or improper practice. 5.12. Nonforfeiture values featured in any advertisement must be shown either for the entire amount of the basic life policy death benefit or for each $1,000 of initial death benefit. 5.13. The words “free,” “no cost,” “without cost,” “no additional cost,” “at no extra cost,” or words of similar import may not be used with respect to any benefit or service being made available with a policy unless true. If there is no charge to the insured, the identity of the payor shall be prominently disclosed. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the premium or use other appropriate language. 5.14. No insurance producer may use terms such as “financial planner,” “investment adviser,” “financial consultant” or “financial counseling” to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales unless that actually is the case. This provision does not preclude persons who hold some form of formal recognized financial planning or consultant designation from using this designation even when they are only selling insurance. This provision also does not preclude an insurance producer from citing his or her membership in a recognized trade or professional association having such terms as part of its name, as long as the fact that the producer is

	§114-11-5	authorized only to sell insurance products is disclosed. This provision does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies. 5.15. Nonguaranteed Elements a. An advertisement may not use or describe nonguaranteed elements in a manner that is misleading or has the capacity or tendency to mislead. b. An advertisement may not state or imply that the payment or amount of nonguaranteed elements is guaranteed. Unless otherwise specified in 114 CSR 11C, if nonguaranteed elements are illustrated, they shall be based on the insurer's current scale and the illustration shall contain a statement to the effect that they are not to be construed as guarantees or estimates of amounts to be paid in the future. c. Unless otherwise specified in 114 CSR 11C, an advertisement that includes any illustrations or statements containing or based upon nonguaranteed elements shall set forth, with equal prominence comparable illustrations or statements containing or based upon the guaranteed policy elements. d. An advertisement may not use or describe determinable policy elements in a manner that is misleading or has the capacity or tendency to mislead. e. Advertisement may describe determinable policy elements as guaranteed but not determinable at issue. This description should include an explanation of how these elements operate, and their limitations, if any. f. If an advertisement refers to any nonguaranteed policy element, it shall indicate that the insurer reserves the right to change any such element at any time and for any reason. However, if an insurer has agreed to limit this right in any way; such as, for example, if it has agreed to change these elements only at certain intervals or only if there is a change in the insurer's current or anticipated experience, the advertisement may indicate any such limitation on the insurer's right. g. An advertisement may not refer to dividends as "tax-free" or use words of similar import, unless the tax treatment of dividends is fully explained and the nature of the dividend as a return of premium is indicated clearly. h. An advertisement may not state or imply that illustrated dividends under either or both a participating policy or pure endowment will be or can be sufficient at any future time to assure without the future payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains the benefits or coverage provided at that time and the conditions required for that to occur. An advertisement may not state that a purchaser of a policy will share in or receive a stated percentage or portion of the earnings on the general account assets of the company. 5.16. Testimonials, Appraisals, Analysis, or Endorsements by Third Parties a. Testimonials, appraisals or analysis used in advertisements must be genuine; represent the current opinion of the author; be applicable to the policy advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective insureds as to the nature or scope of the testimonial, appraisal, analysis or endorsement. In using testimonials, appraisals or analysis; the insurer or insurance producer makes as its own all the statements contained therein, and these statements are subject to all the provisions of this rule. b. If the individual making a testimonial, appraisal, analysis or an endorsement has a financial interest in the insurer or related entity as a stockholder, director, officer, employee or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

	§114-11-5	c. An advertisement may not state or imply that an insurer or a policy has been approved or endorsed by a group of individuals, society, association or other organization unless such is the fact and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial is owned, controlled or managed by the insurer, or receives any payment or other consideration from the insurer for making an endorsement or testimonial, that fact shall be disclosed in the advertisement. d. When an endorsement refers to benefits received under a policy for a specific claim, the claim date, including claim number, date of loss and other pertinent information shall be retained by the insurer for inspection for a period of five (5) years after the discontinuance of its use or publication. 5.17. An advertisement may not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any statistics used in advertisement shall be identified. 5.18. Policies Sold to Students a. The envelope in which insurance solicitation material is contained may be addressed to the parents of students. The address may not include any combination of words which imply that the correspondence is from a school, college, university or other education or training institution nor may it imply that the institution has endorsed the material or supplied the insurer with information about the student unless such is a correct and truthful statement. b. All advertisements including, but not limited to, informational flyers used in the solicitation of insurance shall be identified clearly as coming from an insurer or insurance producer, if such is the case, and these entities shall be clearly identified as such. c. The return address on the envelope may not imply that the soliciting insurer or insurance producer is affiliated with a university, college, school or other educational or training institution, unless true. 5.19. Introductory, Initial or Special Offers and Enrollment Periods a. An advertisement of an individual policy or combination of policies may not state or imply that the policy or combination of policies is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless that is the fact. An advertisement may not describe an enrollment period as “special” or “limited” or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies. b. An advertisement may not state or imply that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy. c. An advertisement may not offer a policy that utilizes a reduced initial premium rate in a manner that overemphasizes the availability and the amount of the reduced initial premium. A reduced initial or first year premium may not be described as constituting free insurance for a period of time. When insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol that refers the reader to that specific portion of the advertisement that contains the full rate schedule for the policy being advertised. d. An enrollment period during which a particular insurance policy may be purchased on an individual basis may not be offered within this state unless there has been a lapse of not less than six (6) months between the close of the immediately preceding enrollment period for the same policy and the opening of the new enrollment period. The advertisement shall specify the date by which the applicant must mail the application, which shall be not less than ten (10) days and not more than forty (40) days from the date on which the enrollment period is advertised for the first time. This rule applies to all advertising media —i.e., mail, newspapers, radio, television, magazines and periodicals —by any one insurer or insurance producer. The phrase “any one insurer” includes all the affiliated companies of a group of insurance companies under common management or control. This rule does not apply to the use of a termination or cutoff date beyond which an individual application for a guaranteed

	§114-11-5	issue policy will not be accepted by an insurer in those instances where the application has been sent to the applicant in response to his or her request. It is also inapplicable to solicitations of employees or members of a particular group or association that otherwise would be eligible under specified provisions of the insurance code for group, blanket or franchise insurance. In cases where an insurance product is marketed on a direct mail basis to prospective insureds by reason of some common relationship with a sponsoring organization, this rule shall be applied separately to each sponsoring organization. 5.20. An advertisement of a particular policy may not state or imply that prospective insureds shall be or become members of a special class, group, or quasi-group and as such enjoy special rates, dividends or underwriting privileges, unless that is the fact. 5.21. An advertisement may not make unfair or incomplete comparisons of policies, benefits, dividends or rates of other insurers. An advertisement may not disparage other insurers, insurance producers, policies, services or methods of marketing. 5.22. For individual deferred annuity products or deposit funds, the following shall apply: a. Any illustrations or statements containing or based upon nonguaranteed interest rates shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. The nonguaranteed interest rate may not be greater than those currently being credited by the company unless the nonguaranteed rates have been publicly declared by the company with an effective date for new issues not more than three (3) months subsequent to the date of declaration. b. If an advertisement states the net premium accumulation interest rate, whether guaranteed or not, it shall also disclose in close proximity thereto and with equal prominence, the actual relationship between the gross and the net premiums. c. If the contract does not provide a cash surrender benefit prior to commencement of payment of annuity benefits, an illustration or statement concerning the contract shall prominently state that cash surrender benefits are not provided. d. Any illustrations, depictions or statements containing or based on determinable policy elements shall likewise set forth with equal prominence comparable illustrations, depictions or statements containing or based on guaranteed policy elements. 5.23. An advertisement of a life insurance policy or annuity that illustrates nonguaranteed values shall only do so in accordance with current applicable state law relative to illustrating such values for life insurance policies and annuity contracts.
Identity of Insurer	§114-11-6	6.1. The name of the insurer shall be clearly identified in all advertisements about the insurer or its products, and if any specific individual policy is advertised it shall be identified either by form number or other appropriate description. If an application is a part of the advertisement, the name of the insurer shall be shown on the application. However, if an advertisement contains a listing of rates or features that is a composite of several different policies or contracts of different insurers, the advertisement shall so state, shall indicate, if applicable, that not all policies or contracts on which the composite is based may be available in all states, and shall provide a rating of the lowest rated insurer and reference the rating agency, but need not identify each insurer. If an advertisement identifies the issuing insurers, insurance issuer ratings need not be stated. 6.2. An advertisement may not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, a reinsurer of the insurer, service mark, slogan, symbol or other device or reference without disclosing the name of the insurer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy. 6.3. An advertisement may not use any combination of words, symbols or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with a governmental program or agency.

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Jurisdictional Licensing and Status of Insurer	§114-11-7	7.1. An advertisement that is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed may not imply licensing beyond those limits. 7.2. An advertisement may state that an insurer or insurance producer is licensed in a particular state or states, provided it does not exaggerate that fact or suggest or imply that competing insurers or insurance producers may not be so licensed.
	§114-11-7	7.3. An advertisement may not create the impression that the insurer, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by any governmental entity. However, where a governmental entity has recommended or endorsed a policy form or plan, that fact may be stated if the entity authorizes its recommendation or endorsement to be used in an advertisement.
Statements About the Insurer	§114-11-8	An advertisement may not contain statements, pictures or illustrations which are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement may not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of the recommendation, including, but not limited to, the placement of insurer's rating in the hierarchy of the rating system cited.
Enforcement Procedures	§114-11-9	9.1. Each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published or prepared advertisement of its individual policies and specimen copies of typical printed, published or prepared advertisements of its blanket, franchise and group policies, hereafter disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. The file shall be subject to inspection by the department. All advertisements shall be maintained in the file for a period of five (5) years after discontinuance of its use or publication. 9.2. If the Insurance Commissioner determines that an advertisement has the capacity or tendency to mislead or deceive the public, the commissioner may require an insurer or insurance producer to submit all or any part of the advertising material for review or approval prior to use. 9.3. Each insurer subject to the provisions of these rules shall file with the Insurance Commissioner with its annual statement a certificate of compliance executed by an authorized officer of the insurer stating that to the best of his or her knowledge, information and belief the advertisements which were disseminated by or on behalf of the insurer in this state during the preceding statement year, or during the portion of the year when these rules were in effect, complied or were made to comply in all respects with the provisions of these rules and the insurance laws of this state as implemented and interpreted by this rule.