Rule Summary and Fiscal Analysis
Part A - General Questions

Rule Number: 3901-6-07

Rule Type: Amendment

Rule Title/Tagline: Universal life insurance.

Agency Name: Department of Insurance

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes

   A. **What is the rule's five year review date?** 8/31/2022

2. **Is this rule the result of recent legislation?** No

3. **What statute is this rule being promulgated under?** 119.03

4. **What statute(s) grant rule writing authority?** 3901.041

5. **What statute(s) does the rule implement or amplify?** 3903.72 to 3903.7211, 3915.05, 3915.073, 3915.09, 3915.14, 3921.16

6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No

   A. **If so, what is the citation to the federal law or rule?** Not Applicable

7. **What are the reasons for proposing the rule?**

   This rule is being reviewed as a part of the agency five year rule review.

8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

The purpose of this rule is to supplement existing regulations on life insurance policies in order to accommodate the development and issuance of universal life insurance plans. Universal life products are a flexible premium type of policy that combines traditional term life insurance with an investment vehicle. This rule adopts the NAIC model for universal life products.
Recommended amendments correct citations as a result of changes made to Ohio Revised Code.

9. **Does the rule incorporate material by reference?** No

10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

    Not Applicable

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

    Not Applicable

II. <u>Fiscal Analysis</u>

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

    This will have no impact on revenues or expenditures.

    0.00

    Not applicable.

13. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

    Not applicable.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).** No

15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C).** No

16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

    Life Insurance companies are impacted by these rules. The nature of the impact is quantified as minimal employee time for maintaining compliance. Proposed amendments will not substantially increase employee time or review.

III. Common Sense Initiative (CSI) Questions

17. **Was this rule filed with the Common Sense Initiative Office?** Yes

18. **Does this rule have an adverse impact on business?** Yes

    A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business?** No

       This rule applies only to insurers authorized to write life insurance policies.

    B. **Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms?** No

    C. **Does this rule require specific expenditures or the report of information as a condition of compliance?** Yes

       The rule requires periodic disclosure to the policyowner at least annually, to advise to the status of the policy as detailed in paragraph (G)(1) of this rule, as well as the filing requirements in paragraph (H).

    D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies?** No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. **Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95?** No

    A. **How many new regulatory restrictions do you propose adding to this rule?**

       Not Applicable

B. How many existing regulatory restrictions do you propose removing from this rule?

Not Applicable

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

Not Applicable

D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable

3901-6-07 **Universal life insurance.**

(A) Purpose

The purpose of this rule is to supplement existing regulations on life insurance policies in order to accommodate the development and issuance of universal life insurance plans.

(B) Authority

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041, 3903.72 to 3903.7211, 3915.05, 3915.07 to 3915.073, 3915.09, 3915.14, and 3921.16 of the Revised Code.

(C) Scope

This rule applies to all individual universal life insurance policies and group universal life insurance certificates except those policies defined under paragraph (C)(19) of rule 3901-6-08 of the Administrative Code (variable life insurance).

(D) Definitions

As used in this rule:

(1) "Account Value" means the amount to which separately identified interest credits and mortality, expense, or other charges are made under a universal life insurance policy.

(2) "Cash Surrender Value" is the account value less any applicable surrender charges.

(3) "Fixed Premium Universal Life Insurance Policy" means a universal life insurance policy other than a flexible premium universal life insurance policy.

(4) "Flexible Premium Universal Life Insurance Policy" means a universal life insurance policy which permits the policyowner to vary, independently of each other, the amount or timing of one or more premium payments or the amount of insurance.

(5) "Guaranteed Maturity Fund" at any duration is that amount which, together with future guaranteed maturity premiums, will mature the policy based on all policy guarantees at issue.

(6) "Guaranteed Maturity Premium" for flexible premium universal life insurance policies shall be that level gross premium, paid at issue and periodically thereafter over the period during which premiums are allowed to be paid, which

will mature the policy on the latest maturity date, if any, permitted under the policy, otherwise at the highest age in the valuation mortality table, for an amount which is in accordance with the policy structure. The guaranteed maturity premium is calculated at issue based on all policy guarantees at issue excluding guarantees linked to an external referent. The guaranteed maturity premium for fixed premium universal life insurance policies shall be the premium defined in the policy which at issue provides the minimum policy guarantees. The guaranteed maturity premium for both flexible and fixed premium policies shall be adjusted for death benefit corridors provided by the policy. The guaranteed maturity premium may be less than the premium necessary to pay all charges.

(7) "Interest-indexed Universal Life Insurance Policy" means any universal life insurance policy where the interest credits are linked to an external referent.

(8) "Maturity Amount" shall be the initial death benefit where the death benefit is level over the lifetime of the policy except for the existence of a minimum-death-benefit corridor, or shall be the specified amount where the death benefit equals a specified amount plus the account value or cash surrender value except for the existence of a minimum-death-benefit corridor.

(9) "Net Surrender Value" is the cash surrender value less any amounts outstanding as policy loans.

(10) "Structural Changes" are those changes which are separate from the automatic workings of the policy. Such changes usually would be initiated by the policyowner and include changes in the guaranteed benefits, changes in the latest maturity date, or changes in allowable premium payment period. For fixed premium universal life policies with redetermination of all credits and charges no more frequently than annually, on policy anniversaries, structural changes also include changes in guaranteed benefits, or in fixed premiums, unanticipated by the guaranteed maturity premium for such policies at the date of issue, even if such changes arise from automatic workings of the policy.

(11) "Universal Life Insurance Policy" means any individual life insurance policy or group life insurance certificate under the provisions of which separately identified interest credits, other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts, and mortality and expense charges are made to the policy. A universal life insurance policy may provide for other credits and charges, such as charges for the cost of benefits provided by rider.

(E) Valuation

(1) Requirements

The minimum valuation standard for universal life insurance policies shall be the commissioners reserve valuation method, described in this paragraph for such policies, and the tables and interest rates specified in this paragraph. The terminal reserve for the basic policy and any benefits and/or riders for which premiums are not paid separately as of any policy anniversary shall be equal to the net level premium reserves less (C) and less (D), where:

Reserves by the net level premium method shall be equal to ((A)-(B))r where (A), (B) and "r" are as defined in this paragraph.

(A) is the present value of all future guaranteed benefits at the date of valuation

(B) is the quantity (PVFB/$\ddot{a}_x$) $\ddot{a}_{x+t}$ where

PVFB is the present value of all benefits guaranteed at issue assuming future guaranteed maturity premiums are paid by the policyowner and taking into account all guarantees contained in the policy or declared by the insurer, $\ddot{a}_x$ and $\ddot{a}_{x+t}$ are present values of an annuity of one per year payable on policy anniversaries beginning at ages x and x+t, respectively, and continuing until the highest attained age at which a premium may be paid under the policy,

x is the issue age, and

t is the duration of the policy.

"r" is equal to one, unless the policy is a flexible premium policy and the account value is less than the guaranteed maturity fund, in which case "r" is the ratio of the account value to the guaranteed maturity fund.

(C) is the unamoritzed expense allowance which equals

((a)-(b)) ($\ddot{a}_{x+t}$/$\ddot{a}_x$) r where

$\ddot{a}_{x+t}$, $\ddot{a}_x$ and r are as defined in this paragraph.

(a) is a net level annual premium equal to the present value, at the date of issue based on the plan of insurance defined at issue by the guaranteed maturity premiums and all guarantees contained in the policy or declared by the insurer, of life insurance and endowment benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium is allowed to be paid; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(b) is a net one year term premium for such benefits provided for in the first policy year.

(D) is the sum of any additional quantities analogous to (C) which arise because of structural changes in the policy, with each such quantity being determined on a basis consistent with that of (C) using the maturity date in effect at the time of the change.

The guaranteed maturity premium, the guaranteed maturity fund and (B) in this paragraph shall be recalculated to reflect any structural changes in the policy. This recalculation shall be done in a manner consistent with the descriptions in this paragraph.

The recalculation of (B) in this paragraph, for fixed premium universal life structural changes, shall exclude from PVFB, the present value of future guaranteed benefits, those guaranteed benefits which are funded by the excess of the insurer's declared guarantees of interest, mortality and expenses, over the guarantees contained in the policy at the date of issue.

Future guaranteed benefits are determined by (A) in this paragraph projecting the greater of the guaranteed maturity fund and the account value, taking into account future guaranteed maturity premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or declared by the insurer; and (B) in this paragraph taking into account any benefits guaranteed in the policy or by declaration which do not depend on the account value.

All present values shall be determined using (A) in this paragraph an interest rate (or rates) specified by section 3903.723 or 3903.724 of the Revised Code, for policies issued in the same year; (B) in this paragraph the mortality rates specified by section 3903.723 of the Revised Code, for policies issued in the same year or contained in such other table as may be approved by the superintendent for this purpose; and (C) in this paragraph any other tables needed to value supplementary benefits provided by a rider which is being valued together with the policy.

The reserve shall never be less than the greater of (A) in this paragraph the amount determined by the method in this paragraph, or (B) in this paragraph the cash surrender value.

(2) Alternative minimum reserves

If, in any policy year, the guaranteed maturity premium on any universal life insurance policy is less than the valuation net premium for such policy, calculated by the valuation method actually used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such contract shall be the greater of (A) or (B) in this paragraph.

(a) The reserve calculated according to the method, the mortality table, and the rate of interest actually used.

(b) The reserve calculated according to the method actually used but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the guaranteed maturity premium in each policy year for which the valuation net premium exceeds the guaranteed maturity premium.

For universal life insurance reserves on a net level premium basis, the valuation net premium is $PVFB/\ddot{a}_x$ and for reserves on a commissioners reserve valuation method, the valuation net premium is $(PVFB/\ddot{a}_x) + ((a) - (b))/\ddot{a}_x$.

(F) Nonforfeiture

(1) Minimum cash surrender values for flexible premium universal life insurance policies

Minimum cash surrender values for flexible premium universal life insurance policies shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy shall be equal to the accumulation to that date of the premiums paid minus the accumulations to that date of:

(a) The benefit charges;

(b) The averaged administrative expense charges for the first policy year and any insurance-increase years;

(c) Actual administrative expense charges for other years;

(d) Initial and additional acquisition expense charges not exceeding the initial or additional expense allowances, respectively;

(e) Any service charges actually made (excluding charges for cash surrender or election of a paid-up nonforfeiture benefit); and

(f) Any deductions made for partial withdrawals.

All accumulations shall be at the actual rate or rates of interest at which interest credits have been made unconditionally to the policy (or have been made conditionally, but for which the conditions have since been met), less any unamortized unused initial and additional expense allowances.

Interest on the premiums and on all charges referred to in paragraphs (F)(1)(a) to (F)(1)(f) of this rule shall be accumulated from and to such dates as are consistent with the manner in which interest is credited in determining the account value.

The benefit charges shall include the charges made for mortality and any charges made for riders or supplementary benefits for which premiums are not paid separately. If benefit charges are substantially level by duration and develop low or no cash values, then the superintendent shall have the right to require higher cash values unless the insurer provides adequate justification that the cash values are appropriate in relation to the policy's other characteristics.

The administrative expense charges shall include charges per premium payment, charges per dollar of premium paid, periodic charges per thousand dollars of insurance, periodic per policy charges, and any other charges permitted by the policy to be imposed without regard to the policyowner's request for services.

The averaged administrative expense charges for any year shall be those which would have been imposed in that year if the charge rate or rates for each transaction or period within the year had been equal to the arithmetic average of the corresponding charge rates which the policy states will be imposed in policy years two through twenty in determining the account value.

The initial acquisition expense charges shall be the excess of the expense charges, other than service charges, actually made in the first policy year over the averaged administrative expense charges for that year. Additional acquisition expense charges shall be the excess of the expense charges, other than service charges, actually made in an insurance-increase year over the averaged administrative expense charges for that year. An insurance-increase year shall be the year beginning on the date of increase in the amount of insurance by policyowner request (or by the terms of the policy).

Service charges shall include charges permitted by the policy to be imposed as the result of a policyowner's request for a service by the insurer or of special transactions.

The initial expense allowance shall be the allowance provided by divisions (D) and (E) of section 3915.07 of the Revised Code or by divisions (D)(1) and (D)(2) of section 3915.071 of the Revised Code, as applicable, for a fixed premium, fixed benefit endowment policy with a face amount equal to the initial face amount of the flexible premium universal life insurance policy, with level premiums paid annually until the highest attained age at which a premium may be paid under the flexible premium universal life insurance policy, and maturing on the latest maturity date permitted under the policy, if any, otherwise at the highest age in the valuation mortality table. The unused initial expense allowance shall be the excess, if any, of the initial expense allowance over the initial acquisition expense charges as defined in this rule.

If the amount of insurance is subsequently increased upon request of the policyowner (or by the terms of the policy), an additional expense allowance and an unused additional expense allowance shall be determined on a basis consistent with this rule and with division (D)(4)(d) of section 3915.071 of the Revised Code, using the face amount and the latest maturity date permitted at that time under the policy.

The unamortized unused initial expense allowance during the policy year beginning on the policy anniversary at age x+t (where "x" is the same issue age) shall be the unused initial expense allowance multiplied by $ä_{x+t}/ä_x$ where $ä_{x+t}$ and $ä_x$ are present values of an annuity of one per year payable on policy anniversaries beginning at ages x+t and x, respectively, and continuing until the highest attained age at which a premium may be paid under the policy, both on the mortality and interest bases guaranteed in the policy. An unamortized unused additional expense allowance shall be the unused additional expense allowance multiplied by a similar ratio of annuities, with $ä_x$ replaced by an annuity beginning on the date as of which the additional expense allowance was determined.

(2) Minimum cash surrender values for fixed premium universal life insurance policies.

For fixed premium universal life policies, the minimum cash surrender values shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy shall be equal to ((A)-(B)-(C)-(D) in this paragraph), where:

(A) is the present value of all future guaranteed benefits.

(B) is the present value of future adjusted premiums. The adjusted premiums are calculated as described in divisions (D) and (E) of section 3915.07 of the Revised Code or divisions (D)(1) and (D)(2) of section 3915.071 of the Revised Code, as applicable. If divisions (D)(1) and (D)(2) of section 3915.071 of the Revised Code are applicable, the nonforfeiture net level premium is equal to the quantity PVFB/$ä_x$,

Where PVFB is the present value of all benefits guaranteed at issue assuming future premiums are paid by the policyowner and all guarantees contained in the policy or declared by the insurer.

$ä_x$ is the present value of an annuity of one per year payable on policy anniversaries beginning at age x and continuing until the highest attained age at which a premium may be paid under the policy.

(C) is the present value of any quantities analogous to the nonforfeiture net level premium which arise because of guarantees declared by the insurer after the issue date of the policy. $ä_x$ shall be replaced by an annuity beginning on the date as of which the declaration became effective and payable until the end of the period covered by the declaration.

(D) is the sum of any quantities analogous to (B) which arise because of structural changes in the policy.

Future guaranteed benefits are determined by (a) projecting the account value, taking into account future premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or declared by the insurer; and (b) taking into account any benefits guaranteed in the policy or by declaration which do not depend on the account value.

All present values shall be determined using (a) an interest rate (or rates) specified by section 3915.07 or 3915.071 of the Revised Code for policies issued in the same year and (b) the mortality rates specified by section 3915.07

or 3915.071 of the Revised Code for policies issued in the same year or contained in such other table as may be approved by the superintendent for this purpose.

(3) Minimum paid-up nonforfeiture benefits

If a universal life insurance policy provides for the optional election of a paid-up nonforfeiture benefit, it shall be such that its present value shall be at least equal to the cash surrender value provided for by the policy on the effective date of the election. The present value shall be based on mortality and interest standards at least as favorable to the policyowner as (a) in the case of a flexible premium universal life insurance policy, the mortality and interest basis guaranteed in the policy for determining the account value, or (b) in the case of a fixed premium policy the mortality and interest standards permitted for paid-up nonforfeiture benefits by section 3915.07 or 3915.071 of the Revised Code. In lieu of the paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits, or, if applicable, a greater amount or earlier payment of endowment benefits.

Any secondary guarantees should be taken into consideration when computing minimum paid-up nonforfeiture benefits.

To preserve equity between policies on a premium paying basis and on a paid-up basis, present values must comply with paragraph (E)(1) of this rule for flexible premium universal life insurance policies and with paragraph (F)(2) of this rule for fixed premium policies.

A charge may be made at the surrender of the policy provided that the result after the deduction of the charge is not less than the minimum cash surrender value required by this paragraph.

(G) Mandatory policy provisions

The policy shall provide the following:

(1) Periodic disclosure to policyowner

The policy shall provide that the policyowner will be sent, without charge, at least annually, a report which will serve to keep such policyowner advised as to the status of the policy. The end of the current report period must be not more than three months previous to the date of the mailing of the report.

Such report shall include the following:

(a) The beginning and end date of the current report period.

(b) The account value at the end of the previous report period and at the end of current report period.

(c) The total amounts which have been credited or debited to the account value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders).

(d) The current death benefit at the end of the current report period on each life covered by the policy.

(e) The net cash surrender value of the policy as of the end of the current report period.

(f) The amount of outstanding loans, if any, as of the end of the current report period.

(g) For fixed premium policies:

If, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report.

(h) For flexible premium policies:

If, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

(2) Policy guarantees

The policy shall provide guarantees of minimum interest credits and maximum mortality and expense charges. All values and data shown in the policy shall be based on guarantees. No figures based on nonguarantees shall be included in the policy. Minimum and maximum guarantees are in addition to any index guarantees. If "guaranteed" credits and/or charges are also the "current" credits and/or charges, such amounts may be included in the policy if clearly labeled. The maturity date is not considered a guarantee for purposes of this rule.

(3) Calculation of cash surrender values

The policy shall contain at least a general description of the calculation of cash surrender values including the following information:

(a) The guaranteed maximum expense charges and loads.

(b) Any limitation on the crediting of additional interest. Interest credits shall not remain conditional for a period longer than twenty-four months.

(c) The guaranteed minimum rate or rates of interest.

(d) The guaranteed maximum mortality charges.

(e) Any other guaranteed charges.

(f) Any surrender or partial withdrawal charges.

For fixed premium universal life insurance policies, a table of the cash surrender value and/or nonforfeiture benefits must be shown for the first twenty policy years or the terms of the policy, if shorter.

(4) Changes in basic coverage

If the policyowner has the right to change the basic coverage, any limitation on the amount or timing of such change shall be stated in the policy. If the policyowner has the right to increase the basic coverage, the policy shall state whether a new period of contestability and/or suicide is applicable to the additional coverage.

(5) Grace period and lapse

The policy shall provide for written notice to be sent to the policyowner's last known address at least thirty days prior to termination of coverage.

A flexible premium policy shall provide for a grace period of at least one month after lapse. Unless otherwise defined in the policy, lapse shall occur on that date on which the net cash surrender value first equals zero.

A fixed premium policy shall provide for a grace period of at least one month after lapse.

(6) Misstatement of age or sex

If there is a misstatement of age or sex in the policy, the amount of the death benefit shall be that which would be purchased by the most recent mortality charge at the correct age or sex. The superintendent may approve other methods which are deemed satisfactory.

(7) Maturity date

If a policy provides for a "maturity date," "end date," or similar date, then the policy shall also contain a statement, in close proximity to that date, that it is possible that coverage may not continue to the maturity date even if scheduled premiums are paid in a timely manner, if such is the case.

(H) Interest-indexed universal life insurance policies

(1) Initial filing requirements

The following information shall be submitted in connection with any filing of interest-indexed universal life insurance policies ("interest-indexed policies").

(a) A description of how the interest credits are determined, including:

(i) A description of the index;

(ii) The relationship between the value of the index and the actual interest rate to be credited;

(iii) The frequency and timing of determining the interest rate;

(iv) The allocation of interest credits, if more than one rate of interest applies to different portions of the policy value.

(b) The insurer's investment policy, which includes a description of the following:

(i) How the insurer addressed the reinvestment risks;

(ii) How the insurer plans to address the risk of capital loss on cash outflows;

(iii) How the insurer plans to address the risk that appropriate investments may not be available or not available in sufficient quantities;

(iv) How the insurer plans to address the risk that the indexed interest rate may fall below the minimum contractual interest rate guaranteed in the policy;

(v) The amount and type of assets currently held for interest-indexed policies;

(vi) The amount and type of assets expected to be acquired in the future.

(c) If policies are linked to an index for a specified period less than to the maturity date of the policy, a description of the method used (or currently contemplated) to determine interest credits upon the expiration of such period.

(d) A description of any interest guarantee in addition to or in lieu of the index.

(e) A description of any maximum premium limitations and the conditions under which they apply.

(2) Additional filing requirements

(a) Annually, every insurer shall submit a statement of actuarial opinion by the insurer's actuary similar to the example contained in paragraph (H)(3) of this rule.

(b) Annually, every insurer shall submit a description of the amount and type of assets currently held by the insurer with respect to its interest-indexed policies.

(c) Prior to implementation, every domestic insurer shall submit a description of any material change in the insurer's investment strategy or method of determining the interest credits. A change is considered to be material if it would affect the form or definition of the index (i.e., any change in the information supplied in paragraph (H)(1) of this rule) or if it would significantly change the amount or type of assets held for interest-indexed policies.

(d) The requirements of paragraphs (H)(2)(a) and (H)(2)(b) of this rule may be omitted if an actuarial opinion~~ as defined in paragraph (G) of rule 3901-3-11 of the Administrative Code (actuarial opinion and memorandum)~~, in accordance with the requirements of sections 3903.722 and 3903.726 of the Revised Code, is filed annually.

(3) Statement of actuarial opinion for interest-indexed universal life insurance policies.

"I, ____________ (name), am ____________ (position or relationship to insurer) for the xyz life insurance company (the insurer) in the state of ____________________(state of domicile of insurer).

I am a member of the "American Academy of Actuaries" and I fulfill the requirements of a qualified actuary as defined in ~~paragraph (E)(2) of rule 3901-3-11 of the Administrative~~ division (B)(9) of scetion 3903.72 of the Revised Code~~, actuarial opinion and memorandum~~.

I have considered the provisions of the policies. I have considered any reinsurance agreements pertaining to such policies, the characteristics of the identified assets and the investment policy adopted by the insurer as they affect future insurance and investment cash flows under such policies and related assets. My examination included such tests and calculations as I considered necessary to form an opinion concerning the insurance and investment cash flows arising from the policies and related assets.

I relied on the investment policy of the insurer and on projected investment cash flows.

The tests were conducted under various assumptions as to future interest rates, and particular attention was given to those provisions and characteristics that might cause future insurance and investment cash flows to vary with changes in the level of prevailing interest rates.

In my opinion, the anticipated insurance and investment cash flows referred to above make good and sufficient provision for the contractual obligations of the insurer under these insurance policies."

_____________________________ signature of actuary

If the actuary has not examined the underlying records but has relied upon listings and summaries of policies in force, an appropriate statement of such reliance should be included here.

If the actuary has not developed the investment cash flows, but has relied upon someone else, an appropriate statement of such reliance should be included with this statement.

(I) Severability

If any paragraph, term or provision of this rule is adjudged invalid for any reason, the judgment shall not affect, impair or invalidate any other paragraph, term or provision of this rule, but the remaining paragraphs, terms and provisions shall be and continue in full force and effect.

Effective:

Five Year Review (FYR) Dates: 8/31/2022

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3901.041
Rule Amplifies:	3903.72 to 3903.7211, 3915.05, 3915.073, 3915.09, 3915.14, 3921.16
Prior Effective Dates:	10/01/1997, 02/19/2013, 11/16/2017

Ohio | Common Sense Initiative

Mike DeWine, Governor | **Jon Husted**, Lt. Governor | **Carrie Kuruc**, Director

Business Impact Analysis

Agency Name: ***Ohio Department of Insurance***
Rule Contact Name: ***Loretta Medved***
Rule Contact Information: ***loretta.medved@insurance.ohio.gov***
614-644-0239

Regulation/Package Title *(a general description of the rules' substantive content)*:
Life insurance illustrations, Accelerated death benefits, Universal life insurance

Rule Number(s): ***3901-6-04, 3901-6-06, 3901-6-07***

Date of Submission for CSI Review: ***June 15, 2022***
Public Comment Period End Date: ***June 30, 2022 12:00AM***

Rule Type/Number of Rules:

☐ New/ rules | ☐ No Change/ rules (FYR?)
☒ Amended/ ***3*** rules (FYR? ***2022***) | ☐ Rescinded/ rules (FYR?)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 requires agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

   Which adverse impact(s) to businesses has the Agency determined the rule(s) create?

   The rule(s):

   - ☒ a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
   - ☐ b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
   - ☐ c. Requires specific expenditures or the report of information as a condition of compliance.
   - ☐ d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.
   Please include the key provisions of the regulation as well as any proposed amendments.

   Rule 3901-6-04: The purpose of this rule is to provide illustrations, disclosures and other standards for insurers to provide consumers in order to foster consumer education and protections during the sale of life insurance products. The rule adopts the National Association of Insurance Commissioners (NAIC) model. Proposed amendments remove gender specific language.

   Rule 3901-6-06: This rule regulates accelerated death benefit provisions of individual and group life insurance policies. An accelerated death benefit (ADB) is a benefit that can be attached to a life insurance policy enabling the policy holder to receive cash advances against the death benefit in the case of being diagnosed with a terminal illness or other qualifying event. The rule adopts the NAIC model standard and establishes product filing and consumer disclosure standards. Proposed amendments remove gender specific language.

   Rule 3901-6-07: The purpose of this rule is to supplement existing regulations on life insurance policies in order to accommodate the development and issuance of universal life insurance plans. Universal life products are a flexible premium type of policy that combines traditional term life insurance with an investment vehicle. This rule adopts the NAIC model for universal life products. Proposed admendments correct citations as a result of changes made to Ohio Revised Code.

3. Please list the Ohio statute(s) that authorize the Agency to adopt the rule(s) and the statute(s) that amplify that authority.

   Sections 3901.041, 3901.21 and 3915.24 of the Revised Code.

4. Does the regulation implement a federal requirement? ☐ Yes ☒ No
   Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?
   ☐ Yes ☒ No
   If yes, please briefly explain the source and substance of the federal requirement.

   Not applicable.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

   Not applicable.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

   The rules in this packet allow for innovation in the life insurance market while maintaining a clear regulatory framework for insurers.

   3901-6-04: The life insurance illustrations rule establishes requirements for transparency and ease of understanding for consumers during the sale of life insurance. By providing descriptions of life insurance products consumers are able to better understand the specifics of the products they are purchasing and investing in.

   3901-6-06: An accelerated death benefit on a life insurance policy provides an opportunity to consumers who are facing terminal illness or other chronic conditions. Benefits, or payments, may be accessible for end of life care or other reasons. This rule permits insurers to provide consumer access to these benefits and establishes necessary guidelines for insurers in offering the appropriate products for Ohioans.

   3901-6-07: Universal life policies provide greater flexibility and transparency than more traditional forms. These policies "unbundle" and "itemize" charges and credits in their premium structure, allowing for greater understanding for consumers. Originally, reserving and on-forfeiture laws were developed for more traditional (fixed premium) products. This rule is needed to describe how these laws are to apply to universal life products.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

   The success of these regulations is evident in strong consumer education, protections and understanding throughout the regulated industry. The department can monitor the success by tracking consumer complaints and maintaining product filing records from life insurers.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931? ☐ Yes ☒ No

   If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

   Not applcable.

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation. *If applicable, please include the date and medium by which the stakeholders were initially contacted.*

   On April 28th, 2022, the department sent an email to industry stakeholders, including insurance companies and trade groups. This list included the American Fraternal Alliance, Ohio Insurance Institute, the Association of Ohio Life Insurance companies, Ohio Association of Health Plans, Property Casualty Insurers of America, and National Association of Mutual Insurance Companies among others.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

    No comments were received regarding this rule packet.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

    All rules in the packet are derived from NAIC model laws. These models are developed with thorough review and study by industry leaders, regulators and consumer advocates nationwide.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

    These rules are derived from NAIC models and are regulated similarly across other states. The current rules maintain appropriate guidance for insurers while allowing for innovation in the industry, and also promote uniformity across the states.

13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

    The accelerated death benefit and universal life rules can be considered performance based rules as they both allow for the issuance of products that meet modern consumers' needs. Both rules establish protective guardrails to assist insurers in developing appropriate

products, but do not prescribe how insurers meet those regulations. The life illustration rule utilizes industry-vetted materials to provide to consumers, in order to strengthen disclosures to consumers.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

    The regulation of these insurance products is exclusive to the department of insurance, thus they do not duplicate any other rule or regulation.

15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

    Substantively, all rules will remain in-force, the department maintains the life and health product regulation division to assist with any concerns insurers may have.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:
    a. Identify the scope of the impacted business community;
    b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and
    c. Quantify the expected adverse impact from the regulation.
    The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

    a.-c. Life insurance companies are impacted by these rules. The nature of the impact is quantified as minimal employee time for maintaining compliance. Proposed amendments will not substantially increase employee time or review.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

    Any impact to the industry is quantified as minimal employee time for maintaining compliance. These practices already have been implemented by life insurers, as these rules do not have any substantive proposed amendments. Many of Ohio's admitted life insurers sell similar products in other states, since the rules in this package adopt nationally recognized models the overall administrative burden on insurers is reduced as regulations are generally consistent. Ultimately, the rules included in this packet are in place to establish consumer protections during the purchase and term of their policy.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

    These rules must be applied consistently to the life insurance industry in order to maintain a balanced market. Department staff is available to assist in the understanding of compliance matters.

19. How will the Agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

    Non-compliant filings are identified in the review process and discussed with the company. Generally, companies agree to change a filing as requested by the department or will propose another solution. No monetary fines or penalties exist for the submission of a non-compliant product filing.

20. What resources are available to assist small businesses with compliance of the regulation?

    The department's product regulation and actuarial staff are available to answer any questions insurance companies may have concerning these rules, regardless of the size of the insurer.

Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Loretta Medved, Ohio Department of Insurance

FROM: Joseph Baker, Business Advocate

DATE: August 26, 2022

RE: **Life Insurance Illustrations, Accelerated Death Benefits, Universal Life Insurance (OAC 3901-6-04, 3901-6-06, and 3901-6-07)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of three amended rules proposed by the Ohio Department of Insurance (Department) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on June 15, 2022, and the public comment period was held open through June 30, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on June 15, 2022.

Ohio Administrative Code (OAC) 3901-6-04 sets forth the responsibilities of entities selling life insurance to provide certain information and disclosures to consumers through illustrations, as well as standards for such illustrations and required accompanying disclosures. The rule has been amended to remove gender-specific pronouns. OAC 3901-6-06 regulates accelerated death benefits and sets forth the responsibilities of insurers with respect to offering that benefit and has also been amended to remove gendered pronouns. Lastly, OAC 3901-6-07 establishes special regulations for universal life insurance offerings, including the minimum value of such offerings and how it should be calculated, reserve requirements, and minimum cash surrender values, among others. The rule has been amended to update references to the Revised Code in accordance with recent statutory changes.

During early stakeholder outreach, the Department sent the proposed rules to stakeholders including the Ohio Insurance Institute, the Association of Ohio Life Insurance Companies, the Ohio Association of Health Plans, Property Casualty Insurers of America, and the National Association of Mutual Insurance Companies, among others. No comments were provided in response to the request for early stakeholder feedback or during the CSI public comment period.

The business community impacted by the rules includes life insurance companies that operate in Ohio. The adverse impact to business includes employee staff time necessary to comply with the requirements for life insurance illustrations, accelerated death benefit offerings, and universal life insurance offerings. The Department states that the adverse impact to business will be relatively minor as the required practices in the rule have already been implemented by insurers and that the adverse impact to business is justified to promote consumer protections in the industry.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.

Ohio Department of Insurance

Mike DeWine, Governor
Jon Husted, Lt. Governor
Judith L. French, Director

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MEMORANDUM

To: Joseph Baker, Business Advocate, Common Sense Initiative Office

CC: Sean McCullough, Director of the Common Sense Initiative Office

From: Loretta Medved, Policy Analyst

Date: August 30, 2022

Re: Response to CSI Review – Life Insurance Illustrations, Accelerated Death Benefits, Universal Life Insurance (OAC 3901-6-04, 3901-6-06, and 3901-6-07)

On August 26, 2022, the Ohio Department of Insurance (the Department) received the Recommendation Memorandum (CSI Recommendation) from the Common Sense Initiative Office for rule 3901-6-04 Life insurance illustrations, 3901-6-06 Accelerated death benefits, and 3901-6-07 Universal life insurance.

The CSI Recommendation stated that the office does not have any recommendations regarding this rule package, and therefore should proceed with a formal filing of the rule package.

At this time, the Department plans to move forward with the filing of this rule package with the Joint Committee on Agency Rule Review.

If you have any questions please contact Loretta Medved at 614-644-0239 or Loretta.Medved@insurance.ohio.gov.