

This rule was filed as 13 NMAC 9.2.

TITLE 13 INSURANCE
CHAPTER 9 LIFE INSURANCE AND ANNUITIES
PART 2 SALES OF LIFE INSURANCE, ENDOWMENTS OR ANNUITY CONTRACTS
CONCURRENT WITH SALES OF MUTUAL FUNDS OR OTHER SECURITIES

13.9.2.1 ISSUING AGENCY: New Mexico State Corporation Commission [Public Regulation Commission], Department of Insurance, Post Office Box 1269, Santa Fe, NM 87504-1269.
[7/1/97; Recompiled 11/30/01]

13.9.2.2 SCOPE: This rule shall apply, but is not limited, as follows:

A. to acts and practices in the advertising, promotion, offering, solicitation, negotiation of or effecting the sale of:

(1) life insurance policies, endowments and annuity contracts being offered for sale or purchase concurrently with the sale of shares of a mutual fund or other security;

(2) contracts which contemplate the offering or the purchase of a life insurance policy, endowment or annuity contract concurrent with the sale of shares of a mutual fund or other security;

B. to any acts and practices, whether they involve the use of language disseminated by means of sales kits, policy jackets or covers, letters, personal presentations, visual aids and other sales media in connection with the solicitation, sale, servicing or collection of premiums for a life insurance policy, an endowment or an annuity contract involved concurrently with an integrated plan or an investment program of a mutual fund or other security engaged in by any insurer as defined by Section 59A-1-8 NMSA 1978;

C. to sales of life insurance policies, endowments or annuity contracts and mutual fund shares or other securities as part of an integrated plan;

D. to sales in which both life insurance policies, endowments and annuity contracts and mutual fund shares or other securities are offered as part of the same investment program;

E. to sales programs in which both life insurance policies, endowments and annuity contracts and mutual fund shares or other securities are discussed and their purchase solicited during the same interview.

[7/1/97; Recompiled 11/30/01]

13.9.2.3 STATUTORY AUTHORITY: Section 59A-2-9 NMSA 1978.

[7/1/97; Recompiled 11/30/01]

13.9.2.4 DURATION: Permanent.

[7/1/97; Recompiled 11/30/01]

13.9.2.5 EFFECTIVE DATE: July 1, 1997, unless a later date is cited at the end of a section or paragraph.

[7/1/97; Recompiled 11/30/01]

[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

13.9.2.6 OBJECTIVE: The purpose of this rule is to establish the minimum standards for disclosure of information in the sales of life insurance policies, endowments or annuity contracts, concurrently with the sale of mutual fund shares or other securities.

[7/1/97; Recompiled 11/30/01]

13.9.2.7 DEFINITIONS: [RESERVED]

13.9.2.8 RESPONSIBILITY OF INSURANCE COMPANY AND AGENT: No insurance company, agent, or person to whom this rule applies shall make, concurrent with the sales of life insurance policies, endowments and annuity contracts and mutual fund shares or other securities, a proposal or billing other than in accordance with the requirements of this rule.

[7/1/97; Recompiled 11/30/01]

13.9.2.9 TIE-IN SALES: The insurance agent or solicitor at the commencement of and throughout the sales presentation, must fully disclose to the purchaser that he has the right to purchase a life insurance policy, an endowment or an annuity contract only; mutual fund shares or other securities only, or together a life insurance policy or an endowment or an annuity and mutual fund shares or other securities.

[7/1/97; Recompiled 11/30/01]

13.9.2.10 WRITTEN PROPOSAL: In any solicitation of an offer to buy, or in any sale of a life insurance policy, an endowment or an annuity contract, concurrently with the sale of shares of a mutual fund or other security, the prospect or policyholder must be furnished a copy of a clear and unambiguous written proposal not later than at the time the solicitation or proposal is made. A copy of such written proposal shall be kept on file by the insurance agent, or by the insurance company if no agent is involved.

[7/1/97; Recompiled 11/30/01]

13.9.2.11 CONTENTS OF PROPOSAL: Any proposal referred to in this rule must:

- A. be dated and signed by the insurance agent;
- B. state the name of the company in which the life insurance policy, or endowment or annuity contract is to be written;
- C. state that the purchaser has the right to purchase a life insurance policy, or an endowment or an annuity contract only, mutual fund shares or other securities only, or together a life insurance policy, an endowment and an annuity contract and mutual fund shares or other securities;
- D. be accurate and complete and state all facts without which the proposal would have the capacity or tendency to mislead or deceive;
- E. show the premium charge for life insurance policy, or endowment or annuity contract separately from any other charge;
- F. show the value of the life insurance policy, or endowment or annuity contract, if any, separately from any other value;
- G. show the amount of the death benefit for the life insurance policy, if it is involved in the presentation, separately from any other benefit which may accrue upon the death of the insured;
- H. set forth separately all matters pertaining to the life insurance policy, endowment or annuity contract, if any are involved;
- I. set forth policy numbers, name of company, face value and cash values of all existing policies which are to be surrendered if the proposal is accepted.

[7/1/97; Recompiled 11/30/01]

13.9.2.12 STATEMENT TO BE SEPARATE: Any bill, statement, draft, or representation sent or delivered to any policyholder must show the premium charge for the life insurance policy, an endowment or an annuity contract separate from any other charges or values shown in the same billing, but nothing in this section shall prevent the disclosure of the total premium charge for the life insurance policy or the endowment or the annuity contract stated with any other charges or values shown in the same billing to arrive at the total billing charge.

[7/1/97; Recompiled 11/30/01]

13.9.2.13 MAINTENANCE OF FILE BY INSURANCE COMPANY:

A. **File of advertising and other sales material:** Each insurance company to whom this rule applies, shall maintain at its home or principal office a complete file containing every printed, published, or prepared advertisement, advertising material, sales literature and sales aid of any other kind used in connection with the concurrent sale of life insurance policies, endowments or annuity contracts and mutual fund shares or other securities as may hereafter be prepared or disseminated in this state, with a notation attached to each such piece of material which shall indicate the manner and extent of distribution, the nature of use and the form number of any policy or contract issued in connection with the offering. Such file shall be subject to regular and periodical inspection by the superintendent of insurance or his authorized representatives. All such material shall be maintained in said file for a period of not less than three years.

B. **Certificate of compliance:** Each insurance company required to file an annual statement which is now or which hereafter becomes subject to the provisions of this rule must file with the department of insurance,

together with its annual statement, a certificate executed by an authorized officer of the insurance company wherein it is stated that to the best of his knowledge, information and belief the advertisements, advertising material, sales literature and sales aids which were disseminated by the insurance company during the preceding statement year comply or were made to comply in all respects with the provisions of the insurance laws of this state as implemented and interpreted by this rule.

[7/1/97; Recompiled 11/30/01]

13.9.2.14 EXCLUSION: The provisions of this rule shall not apply to any arrangement for the concurrent purchase of a life insurance policy, an endowment or an annuity contract and mutual fund shares or other securities which arrangement would be deemed a “security” as defined by the Sale of Insurance Securities Law, Section 59A-35-1 et seq NMSA 1978. However, any sales literature and contract to purchase a life insurance policy, an endowment or an annuity contract in connection with such arrangement shall be furnished to the department of insurance prior to the offering of any sale of life insurance policies, endowments or annuity contracts under such an arrangement.

[7/1/97; Recompiled 11/30/01]

13.9.2.15 DUAL LICENSE REQUIRED: No person shall solicit an offer to buy or solicit the sale of life insurance, endowments or annuity contracts concurrent with a sale of shares of a mutual fund or other security unless the person is licensed as a life insurance agent in accordance with the provisions of Section 59A-11-1 et seq. and Section 59A-12-1 et seq NMSA 1978. and is also licensed to sell securities by the chief of the securities bureau of the financial institutions division of the regulation and licensing department.

[7/1/97; Recompiled 11/30/01]

13.9.2.16 VIOLATIONS:

A. Any insurance company or agent who willfully violates any of the provisions of this rule shall, after a hearing, be subject to have its insurance suspended or revoked by the superintendent of insurance.

B. Nothing in this section shall be construed as limiting the power of the state to punish any person for any conduct which constitutes a crime by statute or at common-law, or to limit any statutory or common-law right of any person in any court for any act involved in the sale of life insurance, endowments or annuity contracts concurrently with the sale of shares of a mutual fund or other securities.

[7/1/97; Recompiled 11/30/01]

HISTORY OF 13.9.2 NMAC:

Pre-NMAC History: The material in this rule was originally filed with the State Records Center as: ID 67-1, Sections 5-1-2 through 5-1-11, New Mexico Official Administrative Rules and Regulations Code, on 12/1/67.

History of Repealed Material: [RESERVED]