November 13, 2023

**Group Annuity Forms used with a Pension Risk Transfer Agreement**

**Guidance Document from the Virginia Bureau of Insurance (the Bureau)**

The Bureau of Insurance (the “Bureau”) is aware that some insurers are not using approved forms to implement pension risk transfer agreements and paying benefits, as required by [subsections A and C of § 38.2-316](https://law.lis.virginia.gov/vacode/title38.2/chapter3/section38.2-316/) of the Code of Virginia. All annuity contracts and other related forms delivered in Virginia must be approved by the Bureau prior to use.

The Bureau acknowledges that administration of pension risk transfer agreements is complex; however, insurers are required to issue an approved annuity contract. Therefore, insurers must comply with the following:

1. Prior to accepting premiums or paying benefits, the insurer must either issue a filed and approved annuity contract or attach a filed and approved specimen annuity contract to the executed commitment agreement that is delivered to the plan sponsor.
2. Within 6 months of the liability assumption date, the insurer must:
	1. File for approval either a modified annuity contract or an amendment to the specimen annuity contract; or
	2. Issue a specimen annuity contract that is consistent with the filed statement of variability and is effective as of the liability assumption date.

1. Upon approval of the modified annuity contract or amendment to the specimen annuity contract, the insurer must issue the approved annuity contract or amendment to be effective as of the liability assumption date.
2. If an insurer provides certificates to annuitants, they do not have to be issued prior to making benefit payments but must be filed with and approved by the Bureau before they are issued.

When a group annuity contract or other related form that will be used with a pension risk transfer agreement is filed with the Bureau for approval, the insurer must identify whether the form is a specimen contract, modified contract, or an amendment to the specimen contract.  If the filed form is a modified annuity contract or an amendment to the specimen annuity contract, the insurer must note in the SERFF filing the form number, approval date and SERFF Tracking Number of the specimen contract that was issued or attached to the commitment agreement.

Virginia’s requirement to use approved forms also applies to annuity contracts submitted to the Interstate Insurance Compact. Failure to follow filling and approval requirements are violations of § 38.2-316 of the Code of Virginia and may result in penalties.

Questions should be sent to Amanda McCauley at amanda.mccauley@scc.virginia.gov.