

## **Oregon Division of Financial Regulation**

### **Domestic Partnership and Annuity Contracts**

Oregon's domestic partnership law applies to any annuity contracts issued on or after February 4, 2008, regardless of when the form was approved. See Bulletin 2008-2 for more details on how and when the law takes effect for other contracts.

We are providing the following information to help insurers make compliant filings and issue contracts that comply with the new law. It's broken down into forms that have already been approved and new policy filings.

#### **Previously Approved Forms**

1. Any annuity contract issued on or after February 4, 2008, is deemed to be compliant with the law unless it contains language that would otherwise conflict with the law. An example that would conflict with the domestic partnership law is language that specifically limits the definition of "spouse" to only those relationships that comply with the Federal Defense of Marriage Act.
2. Generally speaking, you do not need to refile your forms (base contracts, amendments, endorsements, riders, etc.) unless they contain language that conflicts with the domestic partnership law.
3. If you have language that conflicts with the law, you can refile those contracts using the normal filing process or you can file an amendment, endorsement, or rider. The amendment, endorsement, or rider will contain language that removes the noncomplying language and also states that the language in this new form overrides the base contract.
4. There are several specific instances in which it is appropriate to use the federal definition of "spouse." These include tax-qualified forms and the spousal continuation language in nontax-qualified forms:
  - If the federal definition is used in the spousal continuation situation, it must be clear that it relates only to spousal continuation. Otherwise, you must either remove the language or file an amendment, endorsement, or rider that removes it from all other areas of the contract. In either case, we advise that you indicate to the consumer that the spousal continuation option is not available to a surviving domestic partner and to seek legal counsel for this new area of the law. If the spousal continuation language (or elsewhere) does not refer to the federal definition, you do not need to file an amendment, endorsement, or rider that refers to the new law but may do so if you wish.
  - If the federal definition is used in a tax-qualified contract, the contract itself will contain an approval limitation that it may only be used in qualified contracts. If the tax-qualified language is added to a contract via an amendment, endorsement, or rider, the form title indicates it's qualified and the federal definition is contained in that amendment, endorsement, or rider, that is acceptable as those forms are by their nature limited to tax-qualified issues.
5. Statements such as "joint owners must be husband and wife" should be changed, either in the original document or by amendment, rider, etc., to read something such as "joint owners must be spouses or domestic partners."

#### **New Policy Filings**

In the future, submissions of new policy forms should reference Oregon's domestic partnership law if the form makes reference to marriage, spouse, husband, or wife (with the exception of those references specific to tax-qualified situations and the spousal continuation language). See item 4 (above) for more information on this issue.