

INSURANCE DIVISION[191]

Notice of Intended Action

**Proposing rulemaking related to military sales practices
and providing an opportunity for public comment**

The Insurance Division hereby proposes to rescind Chapter 25, “Military Sales Practices,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 505.27A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 505.

Purpose and Summary

The proposed chapter shields members of the United States Armed Forces from abusive and misleading sales practices and protects them from certain life insurance products that are improperly marketed as investment products pursuant to the Military Personnel Financial Services Protection Act.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Division no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

Angela Burke Boston
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6543
Fax: 515.654.6500
Email: angela.burke.boston@iid.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 15, 2024
10 to 11 a.m.

1963 Bell Avenue, Suite 100
Des Moines, Iowa

February 15, 2024
3 to 4 p.m.

1963 Bell Avenue, Suite 100
Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at angela.burke.boston@iid.iowa.gov or by telephone at 515.654.6543 and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 191—Chapter 25 and adopt the following **new** chapter in lieu thereof:

CHAPTER 25
MILITARY SALES PRACTICES

191—25.1(505) Purpose and authority.

25.1(1) The purpose of this chapter is to set forth standards to protect active duty service members of the United States armed forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

25.1(2) Nothing herein shall be construed to create or imply a private cause of action for a violation of this chapter.

25.1(3) This chapter is issued under the authority of Iowa Code section 505.27A.

25.1(4) This chapter shall apply to acts or practices committed on or after January 1, 2008.

191—25.2(505) Scope. This chapter shall apply only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to a service member of the United States armed forces.

191—25.3(505) Exemptions.

25.3(1) This chapter shall not apply to solicitations or sales involving:

- a. Credit insurance;
- b. Group life insurance or group annuities where in-person, face-to-face solicitation of individuals by an insurance producer does not occur or where the contract or certificate does not include a side fund;
- c. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner, or when a term conversion privilege is exercised among corporate affiliates;
- d. Contracts offered by Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965 et seq.;
- e. Life insurance contracts offered through or by a nonprofit military association, qualifying under Section 501(c)(23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer; or
- f. Contracts used to fund:

- (1) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);
- (2) A plan described by Section 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, if established or maintained by an employer;
- (3) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC; or
- (5) Settlements of or assumptions of liabilities associated with personal injury litigation or of any dispute or claim resolution process.

25.3(2) Nothing in this rule shall be construed to abrogate the ability of nonprofit or other organizations to educate members of the United States armed forces in accordance with Department of Defense DoD Instruction 1344.07, Personal Commercial Solicitation on DoD Installations or successor directive.

25.3(3) For purposes of this chapter, general advertisements, direct mail and Internet marketing shall not constitute solicitation. Telephone marketing shall not constitute solicitation, provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the telephone communication. However, nothing in this rule shall be construed to exempt an insurer or insurance producer from the requirements of this chapter in any in-person, face-to-face meeting established as a result of the solicitation exemptions identified in this rule.

191—25.4(505) Definitions. For purposes of this chapter, the following definitions shall apply.

“Active duty” means full-time duty in the active military service of the United States and includes members of the reserve component (national guard and reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days.

“Department of Defense personnel” or *“DoD personnel”* means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.

“Door to door” means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.

“General advertisement” means an advertisement having as its sole purpose the promotion of the reader’s or viewer’s interest in the concept of insurance, or the promotion of the insurer or the insurance producer.

“Insurance producer” means the same as defined in Iowa Code section 522B.1.

“Insurer” means the same as defined in Iowa Code section 522B.1.

“Known” or *“knowingly”* means, depending on its use herein, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited:

- 1. Is a service member; or
- 2. Is a service member with a pay grade of E-4 or below.

“Life insurance” means insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and, unless otherwise specifically excluded, includes individually issued annuities.

“Military installation” means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

“MyPay” is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

“*Service member*” means any active duty officer (commissioned and warrant) or enlisted member of the United States armed forces.

“*Side fund*” means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or other mechanism that accumulates premium or deposits with interest or by other means. The term does not include:

1. Accumulated value or cash value or secondary guarantees provided by a universal life policy;
2. Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or
3. A premium deposit fund which:
 - Contains only premiums paid in advance that accumulate at interest;
 - Imposes no penalty for withdrawal;
 - Does not permit funding beyond future required premiums;
 - Is not marketed or intended as an investment; and
 - Does not carry a commission, either paid or calculated.

“*Specific appointment*” means a prearranged appointment agreed upon by both parties and definite as to place and time.

“*United States armed forces*” means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

191—25.5(505) Practices declared false, misleading, deceptive or unfair on a military installation.

25.5(1) The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive or unfair:

- a. Knowingly soliciting the purchase of any life insurance product door to door or without first establishing a specific appointment for each meeting with the prospective purchaser.
- b. Soliciting service members in a group or mass audience or in a captive audience where attendance is not voluntary.
- c. Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.
- d. Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation.
- e. Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander’s designee.
- f. Posting unauthorized bulletins, notices or advertisements.
- g. Failing to present DD Form 2885, Personal Commercial Solicitation Evaluation, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885.
- h. Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States armed forces without first obtaining for the insurer’s files a completed copy of any required form that confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives or rules of the DoD or any branch of the United States armed forces.

25.5(2) The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

- a. Using DoD personnel, directly or indirectly, as representatives or agents in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.
- b. Using an insurance producer to participate in any United States armed forces-sponsored education or orientation program.

191—25.6(505) Practices declared false, misleading, deceptive or unfair regardless of location.

25.6(1) The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

a. Submitting, processing or assisting in the submission or processing of any allotment form or similar device used by the United States armed forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's MyPay account or other similar Internet or electronic medium for such purposes. This subrule does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form.

b. Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this rule, a formal banking relationship is established when the depository institution:

(1) Provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. §4301 et seq. and the regulations promulgated thereunder; and

(2) Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

c. Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "savings" or "checking" and where the service member has no formal banking relationship as defined in paragraph 25.6(1) "b."

d. Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

e. Using DoD personnel, directly or indirectly, as representatives or agents in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of such personnel.

f. Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member.

g. Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for the service member's attendance at any event where an application for life insurance is solicited.

h. Advising a service member with a pay grade of E-4 or below to change the service member's income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

25.6(2) The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval or affiliation and are declared to be false, misleading, deceptive or unfair:

a. Making any representation, or using any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States armed forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor."

Nothing in this subrule shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science in Financial Services (MSFS), or Masters of Science Financial Planning (MS).

b. Soliciting the purchase of any life insurance product through the use of or in conjunction with any third-party organization that promotes the welfare of or assists a member of the United States armed forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government or the United States armed forces.

25.6(3) The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs or investment returns and are declared to be false, misleading, deceptive or unfair:

a. Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

b. Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product costs nothing or is free.

25.6(4) The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive or unfair:

a. Making any representation regarding the availability, suitability, amount or cost of or exclusions or limitations to coverage provided to a service member or dependents by SGLI or VGLI that is false, misleading or deceptive.

b. Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers that is false, misleading or deceptive.

c. Suggesting, recommending or encouraging a service member to cancel or terminate the service member's SGLI policy, or issuing a life insurance policy that replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States armed forces.

25.6(5) The following acts or practices by an insurer or insurance producer regarding disclosure are declared to be false, misleading, deceptive or unfair:

a. Deploying, using or contracting for any lead-generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.

b. Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.

c. Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance.

d. Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the Military Personnel Financial Services Protection Act, Pub. L. No. 109-290, p.16.

e. Excluding individually issued annuities, when an in-person, face-to-face sale is conducted with an individual known to be a service member, failing at the time the application is taken to provide the applicant:

(1) An explanation of any free-look period with instructions on how to cancel if a policy is issued; and

(2) Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance and the death benefit applied for and its expected first-year cost. A basic illustration that meets the requirements of 191—Chapter 15 and Iowa Code chapter 507B shall be deemed sufficient to meet this requirement for a written disclosure.

25.6(6) The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive or unfair:

a. Excluding individually issued annuities, recommending the purchase of any life insurance product that includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

b. Offering for sale or selling a life insurance product that includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.

(1) "Insurable needs" means the risks associated with premature death, taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and survivors or dependents.

(2) "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE health care benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.

c. Excluding individually issued annuities, offering for sale or selling any life insurance contract that includes a side fund:

(1) Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

(2) Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one to ten and for every fifth policy year thereafter ending at the insured's age 100, the policy's maturity date or the policy's final expiration date; and

(3) That by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premium due.

d. Excluding individually issued annuities, offering for sale or selling any life insurance contract that after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

e. Selling to an individual known to be a service member any life insurance product that excludes coverage if the insured's death is related to war, declared or undeclared, or to any act related to military service except for an accidental death coverage, e.g., double indemnity, which may be excluded.

191—25.7(505) Reporting requirements. No insurer may participate in any military sales unless that insurer has implemented a system to report to the Iowa insurance commissioner in a manner prescribed by the commissioner any military sales disciplinary actions about which the insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the action, and unless the insurer also has reported such action to the commissioner. Failure to comply with this rule shall be a violation of this chapter and shall subject the insurer to penalties set forth in rule 191—25.8(505).

191—25.8(505) Violation and penalties.

25.8(1) Any insurance producer or insurer found after hearing to have violated a provision of this chapter shall be deemed to have committed an unfair trade practice under Iowa Code chapter 507B and shall be subject to the penalties set forth in Iowa Code chapters 505 and 507B.

25.8(2) Any insurance producer or insurer found after hearing to have violated a provision of this chapter will be reported by the commissioner pursuant to, and may be subject to, the penalties set forth in Section 10(d) of the Military Personnel Financial Services Protection Act, Pub. L. No. 109-290 (2006).

191—25.9(505) Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these rules that can be given effect without the invalid provisions or application. To this end, all provisions of these rules are declared to be severable.

These rules are intended to implement Iowa Code section 505.27A.