

MARYLAND REGISTER

**Proposed Action on Regulations**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	12/07/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 1/22/2016**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

31 09 04 02, .08

**3. Name of Promulgating Authority**

Maryland Insurance Administration

**4. Name of Regulations Coordinator**

Catherine E Grason

**Telephone Number**

410-468-2201

**Mailing Address**

200 St. Paul Place, Suite 2700

**City State Zip Code**

Baltimore MD 21202

**Email**

Catherine.Grason@maryland.gov

**5. Name of Person to Call About this Document**

Catherine Grason

**Telephone No.**

410-468-2201

**Email Address**

catherine.grason@maryland.gov



**Title 31**  
**MARYLAND INSURANCE ADMINISTRATION**  
**Subtitle 09 LIFE INSURANCE AND ANNUITIES**

**31.09.04 Contracts on a Variable Basis**

Authority: Insurance Article, §§2-109 and 16-601—16-603, Annotated Code of Maryland

**Notice of Proposed Action**

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The Insurance Commissioner proposes to adopt amendments to Regulations .02 and .08 of COMAR 31.09.04 Contracts on a Variable Basis.

**Statement of Purpose**

The purpose of this action is to update an inaccurate reference to the Insurance Article in Regulation .02, and to clarify that the maximum asset deduction charge for investment expenses and annuity mortality guarantees under variable contract accounts applies only to contract accounts for individual variable contracts, and not to group variable contracts in Regulation .04. The distribution, administration and servicing of a group annuity contract is quite different and more costly than an individual contract. Additionally, the group annuity purchase is typically a commercial (as opposed to an individual) transaction between businesses. As with other forms of insurance contracts, the regulatory restrictions for the group (commercial) contracts should be more flexible than the individual contracts. Based on market experience to date, these amendments will increase consumer choices in the group variable contract marketplace.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**

This proposed action may have an impact on the issuing agency, the insurance industry and the public. This amendment clarifies that the current requirement in COMAR 31.09.04.08L that establishes a maximum asset deduction charge for investment expenses and annuity mortality guarantees applies only to contract accounts for individual variable contracts and not to contract accounts for group variable contracts.

**II. Types of Economic Impact.**

Revenue (R+/R-)

Expenditure (E+/E-)

Magnitude

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A. On issuing agency:

Contract Review	(R-)	Minimal
B. On other State agencies:	NONE	
C. On local governments:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
Asset Deduction Charges	(+)	Unknown

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

A. The Maryland Insurance Administration anticipates receiving filings of amendments to variable material in certain group variable contracts as well as new group variable contract filings as a result of these regulations. No additional revenue would accompany amendments to existing filings, since variable material filings do not require a filing fee. A filing fee would be assessed on carriers who file new contracts with the state.

F. Based on market activity to date, purchasers of group variable contracts will find new choices in the marketplace for this product as a result of these regulations.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 St. Paul Place, Ste. 2700, Baltimore, Maryland 21202, or call 410-468-2201, or email to [insuranceregreview.mia@maryland.gov](mailto:insuranceregreview.mia@maryland.gov), or fax to 410-468-2020. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

**Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 16

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

No funds are needed to implement this amendment to the current regulation.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

This regulation does not apply directly to small businesses, as insurers are not small businesses. Based on market activity to date, small businesses that purchase group variable contracts will find new choices in the marketplace for this product as a result of these regulations.

G. Small Business Worksheet:

Attached Document:

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# **Title 31 MARYLAND INSURANCE ADMINISTRATION**

## **Subtitle 09 LIFE INSURANCE AND ANNUITIES**

### **Chapter 04 Contracts on a Variable Basis**

Authority: Insurance Article, §§2-109 and 16-601—16-603, Annotated Code of Maryland

#### **.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) "Contracts on a variable basis" means annuity contracts, as defined in Insurance Article, [§1-101(f)] §1-101(e), Annotated Code of Maryland, which provide for payments varying directly with the investment experience of a segregated asset account, hereinafter referred to as "variable contract account", as distinguished from "fixed annuity contracts". This definition does not include any of the forms of insurance prohibited by Insurance Article, 16-112 and 27-207, Annotated Code of Maryland.

(2) "Fixed annuity contracts" or "guaranteed annuity contracts" means annuity contracts, as defined in Insurance Article, [§1-101(f)] §1-101(e), Annotated Code of Maryland, which provide for payment of fixed dollar amounts guaranteed in the contract.

C. (text unchanged)

#### **.08 Administration and Accounting Procedures.**

A.–K. (text unchanged)

L. Maximum Asset Deduction Charge.

(1) The maximum asset deduction charge which an insurer may make against a variable contract account *that applies to individual variable contracts* for investment expenses and annuity mortality guarantees may not exceed 1-1/2 percent in the aggregate. This maximum charge shall be reduced by the amount of any asset deduction charge for investment expenses made by an affiliated open-end diversified management investment company in which the assets of the variable contract account are invested in accordance with the provisions of §I of this regulation.

(2)-(3) (text unchanged)

M.–N. (text unchanged)

