

INTERSTATE INSURANCE  
PRODUCT REGULATION COMMISSION



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## FILING INFORMATION NOTICE 2013-3

DATE: October 1, 2013

FROM: Karen Z. Schutter  
IIPRC Executive Director

RE: **Filing Process for Product Filings that Include Montana to Demonstrate Compliance with Constitutional Unisex Requirement**

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**Statutory References:** Articles IV(3) and (6), X(2), and XVI(2) of the *Interstate Insurance Product Regulation Compact* as adopted by Compacting States.

**Operating Procedure References:** Section 103 of the *Operating Procedure for the Filing and Approval of Product Filings* (“*Product Filing Rule*”).

**Purpose:** *Filing Information Notices explain steps or clarifications in the IIPRC’s process for filing and review of product filings under the applicable Uniform Standards. This Filing Information Notice only applies to product filings where Montana is an included Compacting State for purposes of use and approval.*

### **BACKGROUND:**

On October 1, 2013, Montana joined the Interstate Insurance Product Regulation Commission (“IIPRC”) when Senate Bill 28 became effective. The IIPRC will begin allowing companies to include Montana on applicable product filings on and after October 15, 2013.

In its enabling legislation, Montana opted out by legislation of long-term care Uniform Standards and disability income Uniform Standards. Furthermore, Montana’s constitutional equal protection requirement, as codified in Mont. Code Ann. § 49-2-309, prohibits discrimination solely on the basis of sex or marital status in the issuance or operation of any type of insurance policy, plan or coverage. This requirement is applicable to Compact-approved products issued or sold in Montana pursuant to Article XVI, Section 2 of the Interstate Insurance Product Regulation Compact.

This Filing Information Notice outlines the process for demonstrating compliance with Montana’s unisex requirement where Montana is an included Compacting State for purposes of use and approval.

## **FILING PROCEDURES:**

### **1. Updated Submission Requirement for Stating Whether Policy is Sex-Distinct or Unisex:**

- a. Filers will be required to comply with an *updated* submission requirement for new Compact filing submissions submitted under applicable group and individual life Uniform Standards regarding the statement as to whether the policy is sex-distinct or unisex as follows:

State whether the policy is sex-distinct or unisex. If sex-distinct, the company shall confirm that the policy will not be issued in any employer-employee plans that are subject to the *Norris* decision and/or Title VII of the Civil Rights Act of 1964. If Montana is included in this filing or added to the filing after approval, please confirm that the company will issue the forms included in this filing to Montana residents on a unisex basis only, and will not issue to Montana residents on a sex-distinct basis.

- b. Filers will be required to comply with a *new* submission requirement for new Compact filing submissions submitted under applicable individual annuity Uniform Standards regarding the statement as to whether the policy is sex-distinct or unisex as follows:

State whether the policy is sex-distinct or unisex. If sex-distinct, the company shall confirm that the policy will not be issued in any employer-employee plans that are subject to the *Norris* decision and/or Title VII of the Civil Rights Act of 1964. If Montana is included in this filing or added to the filing after approval, please confirm that the company will issue the forms included in this filing to Montana residents on a unisex basis only, and will not issue to Montana residents on a sex-distinct basis.

### **2. Including Montana in New Compact Filing Submissions**

- a. Filers may only include Montana on new Compact filing submissions that include forms and/or supporting documentation that can be issued on a unisex basis.
- b. Filers have several methods for making a Compact filing submission that can be issued on a unisex basis such as:
  - i. A unisex endorsement filed for use with a Compact-approved product;
  - ii. Two separate policies – one sex-distinct and one unisex;
  - iii. Two versions of specification/data pages – one sex-distinct and one unisex (NOTE: this option requires separate form numbers for each version of the specification/data pages which must be separate and distinct from the contract form number); or

- iv. One version of the form that is gender neutral or caveats or brackets the applicability of sex/gender references. Please note the IIPRC will not approve forms that specifically reference a particular Compacting State. Filers using bracketed language shall ensure consistency with the Statement of Variability.
- c. Please note the Montana Office of the Commissioner of Securities and Insurance has informed the IIPRC Office it will not accept unisex endorsement filings filed directly with their Office on a mix-and-match basis with IIPRC-approved filings. If a filer wishes to use a unisex endorsement with an approved Compact filing, it must file with the IIPRC.

**3. Adding Montana to Previously-Approved Compact Filings**

- a. Filers may only add Montana to previously-approved Compact filings that already include forms and/or supporting documentation that can be issued on a unisex basis.
- b. Filers must not add Montana to previously-approved Compact filings that include forms and/or supporting documentation that can only be issued only on a sex-distinct basis.
- c. If a previously-approved Compact filing has been approved on a sex-distinct basis, the filer shall not reopen the previously-approved filing to add forms or supporting documentation for a unisex basis. Instead, a new filing will be required for the unisex version. Please refer to Section 4.a. below.

**4. Making a Product Filing for Purposes of Making Previously-Approved Compact Product Filings Unisex**

- a. If a filer has previously-approved Compact filings that include forms and/or supporting documentation that can be issued only on a sex-distinct basis, the filer must make a new product filing that includes a unisex version of the forms and/or supporting documentation, to be used with the previously submitted and/or approved forms. Please refer to Section 2.b. above for the suggested options.
- b. The filer shall identify in the General Filing Description section the SERFF Tracking number for the previously submitted and/or approved Compact filings that the new forms will be used with.
- c. Once the new product filing (i.e., the filing that is unisex) is approved by the IIPRC, the filer may add Montana to the previously-approved product filings (i.e., the filings that were originally only sex-distinct) provided the forms when issued in Montana, can only be issued on a unisex basis.
- d. Please note applicable IIPRC filing fees as well as filing fees for states selected on the new filing will apply (NOTE: Montana does not have product filing fees).

**APPLICABLE IPRC FORMS:**

None

**EFFECTIVE DATE:**

**OCTOBER 15, 2013**

**CONTACT INFORMATION:**

Questions regarding this Notice should be directed to:

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