

§ 58-58-330. Exemptions.

- (a) This Part does not apply to solicitations or sales involving:
- (1) Credit insurance.
 - (2) Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund.
 - (3) An application to the existing insurer that issued the existing policy or contract when (i) a contractual change or a conversion privilege is being exercised, (ii) the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the Commissioner, or (iii) a term conversion privilege is exercised among corporate affiliates.
 - (4) Contracts offered by Servicemembers' Group Life Insurance or Veterans' Group Life Insurance, as authorized by 38 U.S.C. § 1965, et seq.
 - (5) Individual stand-alone health policies, including disability income policies.
 - (6) Life insurance contracts offered through or by a nonprofit military association, qualifying under section 501(c)(23) of the Internal Revenue Code (IRC), and that are not underwritten by an insurer.
 - (7) Contracts used to fund:
 - a. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA).
 - b. A plan described by sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code, if established or maintained by an employer.
 - c. A government or church plan defined in section 414 of the Internal Revenue Code, 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 Internal Revenue Code.
 - d. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.
 - e. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process.
 - f. Prearranged funeral contracts.

(b) Nothing in this Part shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the Armed Forces in accordance with Department of Defense "DoD Instruction 1344.07 – Personal Commercial Solicitation on DoD Installations" or successor directive.

(c) For purposes of this Part, general advertisements, direct mail, and Internet marketing do not constitute "solicitation." Telephone marketing does 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 solicitation. Provided, however, nothing in this subsection shall be construed to exempt an insurer or insurance producer from this Part in any in-person, face-to-face meeting established as a result of the "solicitation" exemptions identified in this subsection. (2007-535, s. 1; 2011-183, s. 45.)