

CHAPTER 12
REGULATION GOVERNING REPLACEMENT OF LIFE
INSURANCE POLICIES AND ANNUITIES

Section 1. **Authority**

These rules and regulations governing the replacement of life insurance policies and annuities in the State of Wyoming supplement the provisions of ~~W.S. 26-3-116(b)(i), W.S. 26-9-136(a)(v), W.S. 26-9-136(a)(vii)~~, W.S. 26-13-102, W.S. 26-13-103, W.S. 26-13-104, W.S. 26-13-105, W.S. 26-13-106, W.S. 26-13-107, W.S. 26-15-109, and W.S. 26-15-110. They are promulgated by authority of and pursuant to the Wyoming Administrative Procedure Act (W.S. 16-3-101 through W.S. 16-3-115) and Wyoming Insurance Code (W.S. 26-2-110 and W.S. 26-2-125).

Section 2. **Purpose**

The purpose of this Regulation is:

(a) To regulate the activities of insurers, ~~agents and brokers~~ and producers with respect to the replacement of existing life insurance and annuities.

(b) To protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement transactions by:

(i) Assuring that purchasers receive information with which a decision can be made in his or her own best interest~~;~~;

(ii) Reducing the opportunity for misrepresentation and incomplete disclosures; and

(iii) Establishing penalties for failure to comply with requirements of this Regulation.

(c) To declare that failure to comply with the provisions of this Regulation will be deemed an unfair method of competition and an unfair trade practice.

Section 3. **Definitions**

(a) “Replacement” means any transaction in which new life insurance or a new annuity is to be purchased, and it is known or should be known to the proposing ~~agent or broker~~ producer or to the proposing insurer if there is no ~~agent~~ producer, that by reason of such transaction, existing life insurance or annuity has been or is to be:

(i) Lapsed, forfeited, surrendered, or otherwise terminated;

(ii) Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(iii) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(iv) Reissued with any reduction in cash value; or

(v) Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding twenty-five percent (25%) of the loan value set forth in the policy.

(b) “Conservation” means any attempt by the existing insurer or its ~~agent or broker~~ producer to dissuade a policy owner from the replacement of existing life insurance or annuity. Conservation does not include routine administrative procedures such as late payment reminders, late payment offers or reinstatement offers.

(c) “Direct-Response Sales” means any sale of life insurance or annuity where the insurer does not utilize ~~an agent or a~~ producer in the sale or delivery of the policy.

(d) “Existing Insurer” means the insurance company whose policy is or will be changed or terminated in such a manner as described within the definition of “replacement.”

(e) “Existing Life Insurance or Annuity” means any life insurance or annuity in force, including life insurance under a binding or conditional receipt or a life insurance policy or annuity that is within an unconditional refund period.

(f) “Replacing Insurer” means the insurance company that issues or proposes to issue a new policy or contract which is a replacement of existing life insurance or annuity.

(g) “Registered Contract” means variable annuities, investment annuities, variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account, or any other contracts issued by life insurance companies which are registered with the Federal Securities and Exchange Commission.

Section 4. **Exemptions**

Unless otherwise specifically included, this Regulation shall not apply to transactions involving:

(a) Credit life insurance;

- (b) Group life insurance or group annuities;
- (c) An application to the existing insurer that issued the existing life insurance and a contractual change or a conversion privilege is being exercised;
- (d) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company; and
- (e) Transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control; provided, however, ~~agents or brokers~~producers proposing replacement shall comply with the requirements of Section 5(a).

Section 5. **Duties of ~~Agents and Brokers~~Producers**

(a) Each ~~agent or broker~~producer who initiates the application shall submit to the insurer to which an application for life insurance or annuity is presented, with or as part of each application:

(i) A statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction; and

(ii) A signed statement as to whether the ~~agent or broker~~producer knows replacement is or may be involved in the transaction.

(b) Where a replacement is involved, the ~~agent or broker~~producer shall:

(i) Present to the applicant, not later than at the time of taking the application, a “Notice Regarding Replacement” in the form as described in Exhibit A, or other substantially similar form approved by the Commissioner. The Notice shall be signed by both the applicant and the ~~agent or broker~~producer and left with the applicant. The “Notice Regarding Replacement” shall include any applicable surrender charges of the policy being replaced, and any surrender periods and/or charges applicable to the new policy being purchased.

(ii) Obtain with or as part of each application a list of all existing life insurance and/or annuity to be replaced and properly identified by name of insurer, the insured and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(iii) Leave with the applicant the original or a copy of written or printed communications used for presentation to the applicant.

(iv) Submit to the replacing insurer with the application a copy of the Replacement Notice provided pursuant to Section 5(b)(i).

(c) Each ~~agent or broker~~producer who uses written or printed communications in a conversation shall leave with the applicant the original or a copy of such materials used.

Section 6. **Duties of All Insurers**

Each insurer shall:

(a) Inform its field representatives or other personnel responsible for compliance with this Regulation of the requirements of this Regulation.

(b) Require with or as a part of each completed application for life insurance or annuity a statement signed by the applicant as to whether such proposed insurance or annuity will replace existing life insurance or annuity.

Section 7. **Duties of Insurers That Use ~~Agents or Brokers~~Producers**

Each insurer that uses an ~~agent or broker~~ producer in a life insurance or annuity sale shall:

(a) Require with or as part of each completed application for life insurance or annuity, a statement signed by the ~~agent or broker~~producer as to whether he or she knows replacement is or may be involved in the transaction.

(b) Where a replacement is involved:

(i) Require from the ~~agent or broker~~producer with the application for life insurance or annuity a list of all the applicant's existing life insurance or annuity to be replaced and a copy of the Replacement Notice provided the applicant pursuant to Section 5(b)(i). Such existing life insurance or annuity shall be identified by name of insurer, insured and contract number. If a number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(ii) Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained pursuant to Section 7(b)(i). This written communication shall be made within three (3) working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner.

(c) The replacing insurer shall maintain evidence of the "Notice Regarding Replacement," all written communications with respect to replacement, and a replacement register, cross indexed by replacing ~~agent~~ producer and existing insurer to be replaced. Evidence that all requirements were met shall be maintained for at least three years or until the conclusion of the next succeeding regular examination by the Insurance Department of its state of domicile, whichever is later.

(d) The replacing insurer shall provide in its policy or in a separate written notice which is delivered with the policy that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised within a period of twenty ~~(20)~~ (20) days ~~(20)~~ commencing from the date of delivery of the policy.

Section 8. **Duties of Insurers to Direct Response Sales**

Each insurer shall:

(a) Inform its personnel responsible for compliance with this Regulation of the requirements of this Regulation;

(b) Require with or as a part of each completed application for insurance a statement signed by the applicant as to whether such proposed insurance will replace existing insurance;

(c) Where a replacement is proposed by an insurer in the solicitation of a direct-response sale or it is known by the insurer on the date of application that a replacement will occur:

(i) Provide the applicant or prospective applicant with or as part of the application the Replacement Notice with the request that the applicant properly complete, sign and return a copy of the Notice with the application;

(ii) Send to the existing insurer at its home office within three (3) working days of the date the Notice is received, a copy of the Notice advising of the replacement or proposed replacement of existing insurance. Forwarding of the Notice is not required if the replacing insurer and existing insurer are one and the same in name and direct management control;

(iii) Maintain copies of the Notice, all written communications with respect to replacement, and a replacement register, cross-indexed by existing insurer to be replaced, for at least three (3) years or until the conclusion of the next regular examination by the Insurance Department of its state of domicile, whichever is later;

(iv) Provide the applicant with a right to an unconditional refund of all premiums paid, which right may be exercised within a twenty (20) day period of delivery of the policy or contract.

(d) Where no replacement is proposed by an insurer in the solicitation of a direct-response sale and a Replacement Notice was not included with or as part of the application and returned to the insurer, but it is indicated on the application that a replacement might occur and the insurer plans to issue a policy:

(i) Suspend the application process for no longer than ten (10) days;

~~(ii)~~ ~~(ii)~~—Provide the applicant with the Replacement Notice within three (3) days after receipt of the application;

(iii) Request that the applicant properly complete, sign and return a copy of the Notice within five (5) days; and

(iv) Continue the process as outlined in Sections 8(c)(ii) through 8(c)(iv). However, the insurer may continue the application process after ten (10) days from receipt of application even if a copy of the Notice has not been received.

Section 9. Penalties

(a) A violation of this Regulation shall occur if an ~~agent, broker~~producer or insurer recommends the replacement or conservation of an existing policy by use of a substantially inaccurate presentation or comparison of an existing contract's premiums and benefits or dividends and values, if any. Any insurer, ~~agent~~producer, representative, officer or employee of such insurer failing to comply with the requirements of this Regulation shall be subject to such penalties as may be appropriate under the Insurance Code.

(b) Patterns of action by policy owners who purchase replacing policies from the same ~~agent or broker~~producer, after indicating on applications that replacement is involved, shall be deemed prima facie evidence of the ~~agent's or broker's~~producer's knowledge that replacement was intended in connection with the sale of those policies, and such patterns of action shall be deemed prima facie evidence of the ~~agent's or broker's~~producer's intent to violate this Regulation.

(c) This Regulation does not prohibit the use of additional material other than that which is required that is not in violation of this Regulation or any other statute or regulation.

Section 10. Severability

If any section or portion of a section of this Regulation, or the applicability thereof to any person or circumstance, is held invalid by a court, the remainder of this Regulation, or the applicability of such provision to other persons, shall not be affected thereby.

Section 11. Effective Date

This Regulation shall become effective ~~on August 1, 1986~~upon filing with the Secretary of State.

REPLACEMENT NOTICE

ASK QUESTIONS -- IT'S YOUR MONEY -- GET THE FACTS

Whether it is to your advantage to replace or change your existing insurance or annuity program, only you can decide. It is in your best interest to obtain adequate information in order to compare relatively short and long range costs and benefits before a final decision is made.

The ~~agent-producer~~ or insurance company assisting you with this new purchase must notify your existing ~~agent-producer~~ or company so that they may prepare a detailed, current statement concerning your existing program for your comparison. Statements and illustrations should not, however, be used as the sole basis to compare policies or contracts. We want you to understand the effects of replacements before you make your purchase decision, and ask that you review the statements listed under "Items to Consider."

EXISTING INSURANCE WHICH MAY BE REPLACED OR CHANGED

Full Name of Insurance Company Including Home Office Location	Policy or Contract Number*	Insured
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Surrender Charge of Policy Being Replaced _____ % and \$ _____

Sales Charge of Policy Being Purchased (if applicable) \$ _____

New Surrender Period and Surrender Charges of Policy Being Purchased.

<u>YEARS</u>										
<u>% CHARGE</u>										

<u>YEARS</u>										
<u>% CHARGE</u>										

* If a number has not been assigned by the existing insurer, indicate alternative identification, such as an application or receipt number.

ITEMS TO CONSIDER

1. Due to a possible change in insurability status (health, occupation or high risk recreational activities) you might be denied new coverage, or the premium may be higher than a standard premium.

2. The Incontestability and Suicide Clause time periods would probably begin anew in a new policy. This could possibly result in a claim being denied that might otherwise have been paid under an existing policy or contract.

3. Your present insurance company may be able to modify your existing plan on terms which may be more favorable for you than completely replacing it with a new policy or contract.

4. Don't terminate or alter your existing policy until after the new policy has been delivered to you and accepted by you.

5. If you terminate your existing policy, you may incur surrender charges and/or penalties. The new policy you are purchasing may have a new surrender charge period and/or sales charges.

6. There may be tax consequences in replacing an existing policy. Is there a benefit from favorable "grandfathered" treatment of the old policy under the federal tax code? Is this transaction a "tax free" exchange? See your tax advisor for specific tax advice regarding the proposed transaction.

4.7. Take your time in making your decision about purchasing the new policy. Gather all information about the new policy and compare it to your old policy. Remember, you do not have to make a decision during the first meeting with your sales person.

5.8. REMEMBER: Following receipt of a new life insurance policy or annuity contract you should immediately examine its contents. If you are not satisfied with it for any reason, you have the right to return it within the twenty (20) day ~~(20)~~ "examination period" to the insurer at its home office or branch office or to the agent-producer through whom it was purchased, for a full refund of premium. If you do return the policy or contract, you should request a dated receipt indicating that it was returned.

DID YOU READ THE "ITEMS TO CONSIDER"?

Applicant's Signature

Date

Producer's Signature

Date

Applicant's Name (printed)

Producer's Name (printed) and License No.

Address

Address

City, State, Zip Code

City, State, Zip Code

Telephone Number

Telephone Number