

CHAPTER 16
REPLACEMENT OF LIFE INSURANCE AND ANNUITIES

[Prior to 10/22/86, Insurance Department(510)]

191—16.1(507B) Purpose and authority.

16.1(1) The purpose of these rules is:

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

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

(1) Assuring that purchasers receive information with which a decision can be made in the best interests of the purchasers;

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

(3) Establishing penalties for failure to comply with requirements of this chapter.

16.1(2) These rules are authorized by Iowa Code section 507B.12 and are intended to implement Iowa Code section 507B.4.

191—16.2(507B) Definition of replacement. “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 or to the proposing insurer if there is no agent, that by reason of such transaction, existing life insurance or annuity has been or is to be:

16.2(1) Lapsed, forfeited, surrendered, or otherwise terminated;

16.2(2) 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;

16.2(3) 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;

16.2(4) Reissued with any reduction in cash value; or

16.2(5) 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 25 percent of the loan value set forth in the policy.

191—16.3(507B) Other definitions.

16.3(1) “*Conservation*” means any attempt by the existing insurer or its agent or broker to dissuade a policyowner from the replacement of existing life insurance or annuity. Conservation does not include such routine administrative procedures as late payment reminders, late payment offers or reinstatement offers.

16.3(2) “*Direct-response sales*” means any sale of life insurance or annuity where the insurer does not utilize an agent in the sale or delivery of the policy.

16.3(3) “*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.”

16.3(4) “*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.

16.3(5) “*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.

16.3(6) “*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.

191—16.4(507B) Exemptions.

16.4(1) Unless otherwise specifically included, this chapter 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 when a contractual change or conversion privilege is being exercised; and
- d. Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company.

16.4(2) Transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control shall be exempt from the requirements of paragraph 16.7(1)“b” and subrule 16.8(2) only. A replacement notice must be left as required by paragraph 16.5(2)“a.” However, agents or brokers proposing replacement shall comply with the requirements of subrule 16.5(1); and

16.4(3) Registered contracts shall be exempt from the provisions of subparagraph 16.7(1)“b”(2) and subrule 16.7(2) requiring provision of policy summary or ledger statement information; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required in lieu thereof.

191—16.5(507B) Duties of agents and brokers.

16.5(1) Each agent or broker who takes an application for life insurance or annuity shall submit to the insurer, with or as part of each application, the following:

- a. A statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction; and
- b. A signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction.

16.5(2) Where replacement is involved, the agent or broker shall:

- a. 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 (“replacement notice”). The notice shall be signed by both the applicant and the agent or broker and the original shall be left with the applicant.
- b. Obtain with or as part of each application a list of all existing life insurance 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.
- c. Leave with the applicant the original or a copy of written or printed communications used for presentation to the applicant.
- d. Submit to the replacing insurer with the application a copy of the replacement notice provided pursuant to paragraph 16.5(2)“a.”

16.5(3) Each agent or broker who uses written or printed communications in a conservation shall leave with the applicant a copy of the materials used.

191—16.6(507B) Duties of all insurers. Each insurer shall:

16.6(1) Inform its field representatives or other personnel responsible for compliance with this chapter of its requirements.

16.6(2) 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.

191—16.7(507B) Duties of insurers that use agents or brokers.

16.7(1) Each insurer that uses an agent or broker in life insurance or annuity sales shall:

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

b. Where a replacement is involved:

(1) Require a list of all of the applicant's existing life insurance or annuity to be replaced and a copy of the replacement notice provided the applicant pursuant to paragraph 16.5(2)"*a*" to be submitted by the agent or broker with the application for life insurance or annuity. 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.

(2) Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained pursuant to subparagraph 16.7(1)"*b*"(1) and a policy summary or ledger statement containing policy data on the proposed life insurance as required by 191—subrule 15.68(7) or, for an annuity, a summary as required by paragraph 16.7(2)"*c*." Life insurance cost index and equivalent level annual dividend figures need not be included in the policy summary or ledger statement. This written communication shall be made within ten 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.

16.7(2) Existing insurers—conservation.

a. Each existing insurer, or such insurer's agent or broker, that undertakes a conservation shall within 20 days from the date the written communication plus the materials required in paragraph 16.7(1)"*b*" are received by the existing insurer, furnish the policyowner with a policy summary for the existing life insurance or a ledger statement containing policy data on the existing policy or annuity.

b. The policy summary or ledger statement shall be completed in accordance with 191—subrule 15.68(7), except that information relating to premiums, cash values, death benefits and dividends, if any, shall be computed from the current policy year of the existing life insurance. The policy summary shall include the amount of any outstanding indebtedness, the sum of any dividend accumulations or additions, and may include any other information that is not in violation of any regulation or statute. Life insurance cost index and equivalent level annual dividend figures need not be included in the policy summary.

c. When annuities are involved, the information shall be sufficient to disclose all of the material terms of the annuity. The use of the contract summary described in Exhibit B is sufficient.

d. The replacing insurer may request the existing insurer to furnish it with a copy of the summaries which shall be done within five working days of the receipt of the request.

16.7(3) Records maintenance.

a. The replacing insurer shall maintain evidence of the replacement notice, the policy summary, the annuity disclosure and any ledger statements used, and a replacement register, cross-indexed, by replacing agent and existing insurer to be replaced.

b. The existing insurer shall maintain evidence of policy summaries, annuity disclosures or ledger statements used in any conservation.

c. 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 earlier.

16.7(4) 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 20 days commencing from the date of delivery of the policy.

191—16.8(507B) Duties of insurers with respect to direct response sales.

16.8(1) If in the solicitation of a direct response sale, the insurer did not propose the replacement, and a replacement is involved, the insurer shall send a replacement notice omitting the signature lines only, with the policy to the applicant.

16.8(2) If the insurer proposed the replacement it shall:

- a. Provide to applicants or prospective applicants with or as a part of the application a replacement notice.
- b. Request from the applicant with or as part of the application, a list of all existing life insurance or annuity to be replaced and properly identified by name of insurer and insured.
- c. Comply with the requirements of subparagraph 16.7(1)“b”(2) if the applicant furnishes the names of the existing insurers, and the requirements of subrule 16.7(3), except that it need not maintain a replacement register.

191—16.9(507B) Penalties.

16.9(1) A violation of this chapter shall occur if an agent, broker 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.

16.9(2) Any insurer, agent, representative, officer or employee of such insurer failing to comply with the requirements of this chapter shall be subject to such penalties as may be appropriate under Iowa Code sections 507B.1 and 507B.11.

16.9(3) Patterns of action by policyowners who purchase replacing policies from the same agent or broker after indicating on applications that replacement is not involved, shall be deemed prima facie evidence of the agent’s or broker’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 intent to violate this chapter.

16.9(4) This chapter does not prohibit the use of additional material other than that which is required that is not in violation of these rules or any other statute or administrative rule.

191—16.10(507B) Severability. If any rule or portion of a rule of this chapter, or the applicability thereof to any person or circumstance, is held invalid by a court, the remainder of this chapter, or the applicability of such provision to other persons, shall not be affected thereby.

EXHIBIT A
TO CHAPTER 16

NOTICE REGARDING REPLACEMENT

REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY?

Are you thinking about buying a new life insurance policy or an annuity and discontinuing or changing an existing one? If you are, your decision could be a good one—or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed benefits.

Make sure you understand the facts. You should ask the company or agent that sold you your existing policy to give you information about it.

Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest.

We are required by law to notify your existing company that you may be replacing their policy.

Applicant’s Signature

Agent’s Signature

ATTENTION CONSUMER. THIS NOTICE IS REQUIRED BY THE INSURANCE COMMISSIONER. PLEASE READ IT CAREFULLY BEFORE SIGNING.

EXHIBIT B
TO CHAPTER 16
SECTION 4 OF THE MODEL

ANNUITY AND DEPOSIT FUND
DISCLOSURE REGULATION

Contract Summary. For the purposes of this Chapter, Contract Summary means a written statement describing the elements of the annuity contract and deposit fund, including but not limited to:

1. A prominently placed title as follows: STATEMENT OF BENEFIT INFORMATION. (This shall be followed by an identification of the annuity contract or deposit fund, or both, to which the statement applies.)

2. The name and address of the insurance agent or, if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the Contract Summary.

3. The full name and home office or administrative office address of the insurer which will issue the annuity contract or administer the deposit fund.

4. The death benefits for the deposit fund, and for the annuity contract during the deferred period, and the form of the annuity payout. In the case where a choice of annuity payout form is provided, this item shall show the payout options guaranteed and the form of annuity payout selected for items 6, 7 and 9 of this section.

5. A prominent statement that the contract does not provide cash surrender values if such is the case.

6. The amount of the guaranteed annuity payments at the scheduled commencement of the annuity, based on the assumption that all scheduled considerations are paid and there are no prior withdrawals from or partial surrenders of the contract and no indebtedness to the insurer on the contract.

7. On the same basis as for item 6, except for guarantees, illustrative annuity payments not greater in amount than those based on (1) the current dividend scale and the interest rate currently used to accumulate dividends under such contracts, or the current excess interest rate credited by the insurer, and (2) current annuity purchase rates. A dividend scale or excess interest rate which has been declared by the insurer with an effective date not more than two months subsequent to the date of declaration shall be considered a current dividend scale or current excess interest rate.

8. For annuity contracts or deposit funds for which guaranteed cash surrender values at any duration are less than the total considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years, together with a reference to the schedule of guaranteed cash surrender values required by item 9(c) of this section.

9. The following amounts, for the first five contract years and representative contract years thereafter sufficient to clearly illustrate the patterns of considerations and benefits, including but not limited to the tenth and twentieth contract years and at least one age from 60 through 65 or the scheduled commencement of annuity payments, if any, whichever is earlier:

a. The gross annual or single consideration for the annuity contract.

b. Scheduled annual or single deposit for the deposit fund, if any.

c. The total guaranteed cash surrender value at the end of the year or, if no guaranteed cash surrender values are provided, the total guaranteed paid-up annuity at the end of the year. Values for a deposit fund must be shown separately from those for a basic contract.

d. The total illustrative cash value or paid-up annuity at the end of the year, not greater in amount than that based on (1) the current dividend scale and the interest rate currently used to accumulate dividends under such contracts or the current excess interest rate credited by the insurer, and (2) current annuity purchase rates. A dividend scale or excess interest rate which has been publicly declared by the

insurer with an effective date not more than two months subsequent to the date of declaration shall be considered a current dividend scale or current excess interest rate.

10. For a Contract Summary which includes values based on the current dividend scale or the current dividend accumulation or excess interest rate, a statement that such values are illustrations and are not guaranteed.

11. The date on which the Contract Summary is prepared.

The Contract Summary must be a separate document. All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure. Any amounts which remain level for two or more contract years may be represented by a single number if it is clearly indicated what amounts are applicable for each contract year. Amounts in items 4, 6, 7, and 9 of this section shall, in the case of flexible premium annuity contracts, be determined either according to an anticipated pattern of consideration payments or on the assumption that considerations payable will be \$1,000 per year. If not specified in the contract, annuity payments shall be assumed to commence at age 65 or 10 years from issue, whichever is later. Zero amounts shall be displayed as zero and shall not be displayed as blank spaces.

This rule is intended to implement Iowa Code section 507B.4.

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