

CHAPTER 16
REPLACEMENT OF LIFE INSURANCE AND ANNUITIES

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

DIVISION I

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.

These rules are intended to implement Iowa Code chapter 507B.

191—16.11 to 16.20 Reserved.

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.

DIVISION II
(Effective July 1, 2000)

191—16.21(507B) Purpose.

16.21(1) The purpose of these rules is:

a. To regulate the activities of insurers 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 or financed purchase transactions by:

(1) Ensuring that purchasers receive information with which a decision can be made in the purchaser's own best interest;

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

(3) Establishing penalties for failure to comply with requirements of these rules.

16.21(2) These rules are authorized by Iowa Code section 507B.12 and are intended to implement Iowa Code section 507B.4.

191—16.22(507B) Definitions.

"Commissioner" means the Iowa insurance commissioner.

"Contract" means an individual annuity contract.

"Direct-response solicitation" means a solicitation through a sponsoring or endorsing entity or individually solely through mails, telephone, the Internet or other mass communication media.

"Existing insurer" means the insurance company whose policy or contract is or will be changed or affected in a manner described within the definition of "replacement."

"Existing policy or contract" means an individual life insurance policy (policy) or annuity contract (contract) in force, including a policy under a binding or conditional receipt or a policy or contract that is within an unconditional refund period.

"Financed purchase" means the purchase of a new policy involving the actual or intended use of funds obtained by the withdrawal or surrender of, or by borrowing from, values of an existing policy to pay all or part of any premium due on a new policy. For purposes of a regulatory review of an individual transaction only, if a withdrawal, surrender, or borrowing involving the policy values of an existing policy is used to pay premiums on a new policy owned by the same policyholder and issued by the same company, within 4 months before or 13 months after the effective date of the new policy, it will be deemed prima facie evidence of the policyholder's intent to purchase the new policy with existing policy values. This prima facie standard is not intended to increase or decrease the monitoring obligations contained in paragraph 16.25(1)"e."

"Illustration" means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years as defined in Iowa Administrative Code 191—Chapter 14.

"Policy" means an individual life insurance policy.

"Policy summary," for the purposes of these rules, means:

1. For policies or contracts other than universal life policies, a written statement regarding a policy or contract which shall contain to the extent applicable, but need not be limited to, the following information: current death benefit; annual contract premium; current cash surrender value; current dividend; application of current dividend; and amount of outstanding loan.

2. For universal life policies, a written statement that shall contain at least the following information: the beginning and end date of the current report period; the policy value at the end of the previous report period and at the end of the current report period; the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders); the current death benefit at the end of the current report period on each life covered by the policy; the net cash surrender value of the policy as of the end of the current report period; and the amount of outstanding loans, if any, as of the end of the current report period.

“Producer” means a person licensed under Iowa Code chapter 522.

“Registered contract” means a variable annuity contract or variable life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933.

“Replacement” means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract has been or is to be:

1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;
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;
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;
4. Reissued with any reduction in cash value; or
5. Used in a financed purchase.

“Replacing insurer” means the insurance company that issues or proposes to issue a new policy or contract that replaces an existing policy or contract or is a financed purchase.

“Sales material” means a sales illustration and any other written, printed or electronically presented information created, completed or provided by the company or producer that is used in the presentation to the policy or contract owner related to the policy or contract which is purchased.

191—16.23(507B) Exemptions.

16.23(1) Unless otherwise specifically included, these rules shall not apply to transactions involving:

- a. Credit life insurance.
- b. Group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer. Direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct-response solicitation shall be subject to the provisions of rule 16.28(507B).
- c. Group life insurance and annuities used to fund formal prepaid funeral contracts.
- d. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner.
- e. Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company.
- f. Except as noted below, policies or contracts used to fund:
 - (1) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);
 - (2) A plan described by Section 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;
 - (3) A governmental or church plan defined in Section 414 of the Internal Revenue Code, a governmental 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; or
 - (4) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

These rules shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pretax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two or more annuity providers or policy providers and there is a direct solicitation of an individual employee by an insurance producer for the purchase of a contract or policy. As used in this subrule, direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement or, when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee.

g. New coverage provided under a life insurance policy or contract where the cost is borne wholly by the insured's employer or by an association of which the insured is a member.

h. Existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed.

i. Immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities purchased with proceeds from an existing policy are not exempted from the requirements of this chapter.

j. Structured settlement annuities.

16.23(2) Registered contracts shall be exempt from the requirements of paragraph 16.26(1) "b" and subrule 16.27(2) with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.

191—16.24(507B) Duties of producers.

16.24(1) A producer who initiates an application for a policy or a contract shall submit to the insurer, with or as part of the application, a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts. If the applicant does not have an existing policy or contract, the producer's duties with respect to replacement are complete.

16.24(2) If the applicant does have an existing policy or contract, the producer shall present and read to the applicant, not later than at the time of taking the application, a notice regarding replacements in the form as described in Appendix A or other substantially similar form approved by the commissioner. No approval shall be required when amendments to the notice are limited to the omission of references not applicable to the product being sold or replaced.

a. The notice shall be signed by both the applicant and the producer attesting that the notice has been read aloud by the producer or that the applicant did not wish the notice to be read aloud (in which case the producer need not have read the notice aloud) and that a copy of the notice was left with the applicant.

b. The notice shall list all life insurance policies or annuities proposed to be replaced, properly identified by name of insurer, the insured or annuitant, and policy or contract number if available; and shall include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing for the new policy. If a policy or contract number has not been issued by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

16.24(3) In connection with a replacement transaction, the producer shall leave with the applicant at the time an application for a new policy or contract is completed the original or a copy of all sales material. A copy of any electronically presented sales material shall be provided to the policyholder in printed form no later than at the time of policy or contract delivery.

16.24(4) Except as provided in subrule 16.26(3), in connection with a replacement transaction, the producer shall submit to the insurer to which an application for a policy or contract is presented a copy of each document required by this subrule, a statement identifying any preprinted or electronically presented insurer-approved sales materials used, and copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.

191—16.25(507B) Duties of all insurers that use producers on or after January 1, 2001.

16.25(1) Each insurer that uses producers shall maintain a system of supervision and control to ensure compliance with the requirements of these rules that shall include at least the following:

- a.* Informing its producers of the requirements of these rules and incorporating the requirements of these rules into all relevant producer training manuals prepared by the insurer;
- b.* Providing to each producer a written statement of the insurer's position with respect to the acceptability of replacements including providing guidance to its producer as to the appropriateness of these transactions;
- c.* Reviewing the appropriateness of each replacement transaction that the producer does not indicate is in accord with paragraph 16.25(1) "b" above;
- d.* Confirming that the requirements of these rules have been met; and
- e.* Detecting transactions that are replacements of existing policies or contracts by the existing insurer but that have not been reported as such by the applicant or producer. Compliance with this subrule may include, but shall not be limited to, systematic customer surveys, interviews, confirmation letters or programs of internal monitoring.

16.25(2) Each insurer that uses producers shall have the capacity to monitor each producer's life insurance policy and annuity contract replacements for that insurer and shall, upon request, make such records available to the insurance division. The capacity to monitor shall include the ability to produce records for each producer's:

- a.* Life replacements, including financed purchases, as a percentage of the producer's total annual sales for life insurance;
- b.* Number of lapses of policies by the producer as a percentage of the producer's total annual sales for life insurance;
- c.* Annuity contract replacements as a percentage of the producer's total annual annuity contract sales;
- d.* Number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the insurer's monitoring system as required by paragraph "e" of subrule 16.25(1); and
- e.* Replacements, indexed by replacing producer and existing insurer.

16.25(3) Each insurer that uses producers shall require with or as a part of each application for life insurance or for an annuity a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts.

16.25(4) Each insurer that uses producers shall require with each application for life insurance or for an annuity that indicates an existing policy or contract a completed notice regarding replacements as contained in Appendix A.

16.25(5) When the applicant has existing policies or contracts, each replacing insurer that uses producers shall be able to produce completed and signed copies of the notice regarding replacements for at least five years after the termination or expiration of the proposed policy or contract.

16.25(6) In connection with a replacement transaction, each replacing insurer that uses producers shall be able to produce copies of any sales material required by subrule 16.24(4), the basic illustration and any supplemental illustrations related to the specific policy or contract which is purchased and the producer's and applicant's signed statements with respect to financing and replacement for at least five years after the termination or expiration of the proposed policy or contract.

16.25(7) Each insurer that uses producers shall ascertain that the sales material and illustrations required by subrule 16.24(4) meet the requirements of these rules and are complete and accurate for the proposed policy or contract.

16.25(8) If an application does not meet the requirements of these rules, each insurer that uses producers shall notify the producer and applicant and fulfill the outstanding requirements.

16.25(9) Records required to be retained by this rule may be maintained in paper, photographic, microprocessed, magnetic, mechanical or electronic media or by any process which accurately reproduces the actual document.

191—16.26(507B) Duties of replacing insurers that use producers.

16.26(1) Where a replacement is involved in the transaction, the replacing insurer that uses producers shall:

- a.* Verify that the required forms are received and are in compliance with these rules;
- b.* Notify any other existing insurer that may be affected by the proposed replacement within five business days of receipt of a completed application indicating replacement or when the replacement is identified if not indicated on the application, and mail a copy of the available illustration or policy summary for the proposed policy or available disclosure document for the proposed contract within five business days of a request from an existing insurer;
- c.* Be able to produce copies of the notification regarding replacement required in subrule 16.24(2), indexed by producer, for at least five years or until the next regular examination by the insurance department of an insurer's state of domicile, whichever is later; and
- d.* Provide to the policy or contract owner notice of the right to return the policy or contract within 30 days of the delivery of the contract and receive an unconditional full refund of all premiums or considerations paid on it including any policy fees or charges or, in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract. The notice may be included in Appendix A or C.

16.26(2) Where a replacement is involved in the transaction and where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control, the replacing insurer shall allow credit for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide period up to the face amount of the existing policy or contract. With regard to financed purchases, the credit may be limited to the amount that the face amount of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.

16.26(3) Where a replacement is involved in the transaction and where an insurer prohibits the use of sales material other than that approved by the insurer, the insurer may, as an alternative to the requirements of subrule 16.24(4) do all of the following:

- a.* Require of and obtain from the producer a signed statement with each application that:
 - (1) Represents that the producer used only insurer-approved sales material; and
 - (2) Represents that copies of all sales material were left with the applicant in accordance with subrule 16.24(3).
- b.* Provide to the applicant a letter or by verbal communication by a person whose duties are separate from the marketing area of the insurer, within ten days of the issuance of the policy or contract, which shall include:
 - (1) Information that the producer has represented that copies of all sales material have been left with the applicant in accordance with subrule 16.24(3);
 - (2) The toll-free number by which the applicant can contact company personnel involved in the compliance function if copies of all sales material were not left with the applicant; and
 - (3) Information regarding the importance of retaining copies of the sales material for future reference.
- c.* Be able to produce a copy of the letter or other verification obtained pursuant to this subrule in the policy file for at least five years after the termination or expiration of the policy or contract.

191—16.27(507B) Duties of the existing insurer. Where a replacement is involved in the transaction, the existing insurer shall:

16.27(1) Retain and be able to produce all replacement notifications received, indexed by replacing insurer, for at least five years or until the conclusion of the next regular examination conducted by the insurance department of its state of domicile, whichever is later.

16.27(2) Send a letter to the policy or contract owner notifying the owner of the right to receive information regarding the existing policy or contract values including, if available, an in-force illustration or policy summary if an in-force illustration cannot be produced within five business days of receipt of a notice that an existing policy or contract is being replaced. The information shall be provided within five business days of receipt of the request from the policy or contract owner.

16.27(3) Upon receipt of a request to borrow, surrender or withdraw any policy values, send to the applicant a notice, advising the policyowner that the release of policy values may affect the guaranteed elements, nonguaranteed elements, face amount or surrender value of the policy from which the values are released. The notice shall be sent separate from the check if the check is sent to anyone other than the policyowner. In the case of consecutive automatic premium loans, the insurer is only required to send the notice at the time of the first loan.

191—16.28(507B) Duties of insurers with respect to direct-response solicitations.

16.28(1) In the case of an application that is initiated as a result of a direct-response solicitation, the insurer shall require, with or as part of each completed application for a policy or contract, a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue or change an existing policy or contract. If the applicant indicates a replacement or change is not intended or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, the notice regarding replacement in Appendix B, or other substantially similar form approved by the commissioner.

16.28(2) If the insurer has proposed the replacement or if the applicant indicates a replacement is intended and the insurer continues with the replacement, the insurer shall:

a. Provide to applicants or prospective applicants with the policy or contract a notice, as described in Appendix C, or other substantially similar form approved by the commissioner. In these instances the insurer may delete the references to the producer, including the producer's signature, and references not applicable to the product being sold or replaced, without having to obtain approval of the form from the commissioner. The insurer's obligation to obtain the applicant's signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the notice referred to in this paragraph. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed, postage prepaid envelope with instructions for the return of the signed notice referred to in this subrule; and

b. Comply with the requirements of paragraph 16.26(1)"*b*," if the applicant furnishes the names of the existing insurers, and the requirements of paragraphs 16.26(1)"*c*" and "*d*" and subrule 16.26(2).

191—16.29(507B) Violations and penalties.

16.29(1) Any failure to comply with these rules shall be considered a violation of Iowa Administrative Code rules 191—15.7(507B) and 191—15.8(507B). Examples of violations include but are not limited to:

- a.* Any deceptive or misleading information set forth in sales material;
- b.* Failing to ask the applicant in completing the application the pertinent questions regarding the possibility of financing or replacement;
- c.* The intentional incorrect recording of an answer;
- d.* Advising an applicant to respond negatively to any question regarding replacement in order to prevent notice to the existing insurer; or
- e.* Advising a policy or contract owner to write directly to the insurer in such a way as to attempt to obscure the identity of the replacing producer or insurer.

16.29(2) Policy and contract owners have the right to replace existing life insurance policies or annuity contracts after indicating in or as a part of applications for new coverage that replacement is not their intention; however, patterns of such action by policy or contract owners of the same producer shall be deemed prima facie evidence of the producer's knowledge that replacement was intended in connection with the identified transactions, and these patterns of action shall be deemed prima facie evidence of the producer's intent to violate these rules.

16.29(3) Where it is determined that the requirements of these rules have not been met, the replacing insurer shall provide to the policy owner an in-force illustration if available or policy summary for the replacement policy or available disclosure document for the replacement contract and the appropriate notice regarding replacements in Appendix A or C.

16.29(4) Violations of these rules shall subject the violators to penalties that may include the revocation or suspension of a producer's or insurer's license, monetary fines, the forfeiture of any commissions or compensation paid to a producer as a result of the transaction in connection with which the violations occurred, or any other penalties authorized by Iowa Code chapter 507B or Iowa Administrative Code 191—Chapter 15.

191—16.30(507B) Severability. If any rule or portion of a rule of this division, or its applicability to any person or circumstances, is held invalid by a court, the remainder of this division, or the applicability of its provisions to other persons, shall not be affected.

These rules are intended to implement Iowa Code chapter 507B.

APPENDIX A

**IMPORTANT NOTICE:
REPLACEMENT OF LIFE INSURANCE OR ANNUITIES**

This document must be signed by the applicant and the producer, if there is one, and a copy left with the applicant.

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interest. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements before you make your purchase decision and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? YES NO

2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? YES NO

If you answered "yes" to either of the above questions, list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured, and the contract number if available) and whether each policy will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY #	INSURED	REPLACED (R) OR FINANCING (F)
1.			
2.			
3.			

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. [If you request one, an in-force illustration, policy summary or available disclosure document must be sent to you by the existing insurer.] Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

The existing policy or contract is being replaced because_____.

I certify that the responses herein are, to the best of my knowledge, accurate:

 Applicant's Signature and Printed Name

 Date

 Producer's Signature and Printed Name

 Date

I do not want this notice read aloud to me. _____ (Applicants must initial only if they do not want the notice read aloud.)

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

PREMIUMS: Are they affordable?

Could they change?

You're older—are premiums higher for the proposed new policy?

How long will you have to pay premiums on the new policy? On the old policy?

POLICY VALUES: New policies usually take longer to build cash values and to pay dividends. Acquisition costs for the old policy may have been paid; you will incur costs for the new one.

What surrender charges do the policies have?

What expense and sales charges will you pay on the new policy?

Does the new policy provide more insurance coverage?

INSURABILITY: If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.

You may need a medical exam for a new policy.

[Claims on most new policies for up to the first two years can be denied based on inaccurate statements. Suicide limitations may begin anew on the new coverage.]

IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:

How are premiums for both policies being paid?

How will the premiums on your existing policy be affected?

Will a loan be deducted from death benefits?

What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

Will you pay surrender charges on your old contract?

What are the interest rate guarantees for the new contract?

Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

What are the tax consequences of buying the new policy?

Is this a tax-free exchange? (See your tax advisor.)

Is there a benefit from favorable "grandfathered" treatment of the old policy under the federal tax code?

Will the existing insurer be willing to modify the old policy?

How does the quality and financial stability of the new company compare with your existing company?

APPENDIX A1—Rescinded IAB 6/14/00, effective 5/17/00.

APPENDIX B

**NOTICE REGARDING REPLACEMENT
REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY?**

Are you thinking about buying a new life insurance policy or 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 policy or contract's benefits.

Make sure you understand the facts. You should ask the company or agent that sold you your existing policy or contract 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.

APPENDIX C

**IMPORTANT NOTICE:
REPLACEMENT OF LIFE INSURANCE OR ANNUITIES**

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interest. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? ___ YES ___ NO

2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? ___ YES ___ NO

Please list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured, and the contract number if available) and whether each policy will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY #	INSURED	REPLACED (R) OR FINANCING (F)
1.			
2.			
3.			

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. [If you request one, an in-force illustration, policy summary or available disclosure document must be sent to you by the existing insurer.] Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

I certify that the responses herein are, to the best of my knowledge, accurate:

Applicant's Signature and Printed Name Date

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

PREMIUMS: Are they affordable?

Could they change?

You're older—are premiums higher for the proposed new policy?

How long will you have to pay premiums on the new policy? On the old policy?

POLICY VALUES: New policies usually take longer to build cash values and to pay dividends. Acquisition costs for the old policy may have been paid; you will incur costs for the new one.

What surrender charges do the policies have?

What expense and sales charges will you pay on the new policy?

Does the new policy provide more insurance coverage?

INSURABILITY: If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.

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How are premiums for both policies being paid?

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Will a loan be deducted from death benefits?

What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

Will you pay surrender charges on your old contract?

What are the interest rate guarantees for the new contract?

Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

What are the tax consequences of buying the new policy?

Is this a tax-free exchange? (See your tax advisor.)

Is there a benefit from favorable "grandfathered" treatment of the old policy under the federal tax code?

Will the existing insurer be willing to modify the old policy?

How does the quality and financial stability of the new company compare with your existing company?

[Filed 11/18/83, Notice 9/14/83—published 12/7/83, effective 4/1/84]

[Filed emergency 2/22/84—published 3/14/84, effective 4/1/84]

[Editorially transferred from [510] to [191], IAC Supp. 10/22/86; see IAB 7/30/86]

[Filed 10/2/87, Notice 8/26/87—published 10/21/87, effective 11/25/87]

[Filed 11/12/99, Notice 10/6/99—published 12/1/99, effective 7/1/00]

[Filed emergency 5/17/00—published 6/14/00, effective 5/17/00]