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**IDAPA 18
TITLE 01
CHAPTER 41**

18.01.41 - REPLACEMENT OF LIFE INSURANCE AND ANNUITIES

000. LEGAL AUTHORITY.

Title 41, Sections 1305 and 1327, Idaho Code, and Title 67, Chapter 52, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.

The purpose of this rule is: (7-1-93)

01. Insurers, Agents and Brokers. To regulate the activities of insurers, agents and brokers with respect to the replacement of existing life insurance and annuities. (7-1-93)

02. Minimum Standards. To protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement transactions by: (7-1-93)

a. Assuring that purchasers receive adequate information upon which to base a decision that will be in their best interest; (7-1-93)

b. Reducing the opportunity for misrepresentations and incomplete disclosures; and (7-1-93)

c. Establishing penalties for failure to comply with requirements of this rule. (7-1-93)

002. -- 003. (RESERVED).

004. DEFINITION OF REPLACEMENT.

“Replacement” means any transaction by 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 existing life insurance or an annuity has been or is to be: (7-1-93)

01. Termination. Lapsed, forfeited, surrendered, or otherwise terminated. (7-1-93)

02. Conversion or Continuance. 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. (7-1-93)

03. Amendment. 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. (7-1-93)

04. Reissuance. Reissued with any reduction in cash value. (7-1-93)

05. Loans. 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. (7-1-93)

005. OTHER DEFINITIONS.

01. Conservation. “Conservation” means any attempt by the existing insurer or its agent or broker to dissuade a policy owner from the replacement of existing life insurance or annuity. Conservation does not include such routine administrative procedures such as late payment reminders, late payment offers or reinstatement offers. (7-1-93)

02. Direct-Response Sales. “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. (7-1-93)

03. Existing Insurer. “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”. (7-1-93)

04. Existing Life Insurance or Annuity. “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. (7-1-93)

05. Replacing Insurer. “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. (7-1-93)

006. -- 010. (RESERVED).

011. EXEMPTIONS.

Unless otherwise specifically included, this rule shall not apply to transactions involving: (7-1-93)

01. Credit Life Insurance. (7-1-93)

02. Group Life Insurance or Group Annuities. (7-1-93)

03. Existing Insurer. An application to the insurer that issued the existing life insurance and a contractual change or conversion privilege being exercised; (7-1-93)

04. Binding or Conditional Receipt Issued by Same Company. Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company. (7-1-93)

05. Common Ownership or Control. 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 proposing replacement shall comply with the requirements of Subsection 012.01. (7-1-93)

012. DUTIES OF AGENTS AND BROKERS.

01. Statement Submitted to Insurer. Each agent or broker 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: (7-1-93)

a. A statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction; and (7-1-93)

b. A signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction. (7-1-93)

02. Notice to Applicant. Where a replacement is involved, the agent or broker shall: (7-1-93)

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 Director. The notice shall be signed by both the applicant and the agent or broker and left with the applicant. (7-1-93)

b. Obtain with or as part of each application a list of all existing life insurance and/or annuities 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. (7-1-93)

c. Leave with the applicant the original or a copy of written or printed communications used for presentation to the applicant. (7-1-93)

d. Submit to the replacing insurer with the application a copy of the replacement notice provided pursuant to Subsection 012.02.a. (7-1-93)

03. Conservation. Each agent or broker who uses written or printed communications in a conservation

shall leave with the applicant the original or a copy of such materials used. (7-1-93)

013. DUTIES OF ALL INSURERS.

Each insurer shall: (7-1-93)

01. Notice to Representatives of Rule. Inform its field representatives or other personnel responsible for compliance with this rule of the requirements of this rule. (7-1-93)

02. Application. 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. (7-1-93)

014. DUTIES OF INSURERS THAT USE AGENTS OR BROKERS.

Each insurer that uses an agent or broker in a life insurance or annuity sale shall: (7-1-93)

01. Statement by Agent or Broker. 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 he or she knows if replacement is involved in the transaction. (7-1-93)

02. Replacement Notice and List of Existing Insurance. Where a replacement is involved: (7-1-93)

a. Require from the agent or broker with the application for life insurance or annuity a list of all of the applicant's existing life insurance or annuities to be replaced and a copy of the replacement notice provided the applicant pursuant to Section 012. 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. (7-1-93)

b. Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained pursuant to Subsection 014.02.a. and a policy summary or ledger statement containing policy data on the proposed life insurance or annuity as required by the model life insurance solicitation rule and/or the model annuity and deposit fund disclosure rule. 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 five (5) 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. (7-1-93)

c. Each existing insurer, or such insurer's agent or broker that undertakes a conservation shall within twenty (20) days from the date the written communication plus the materials required in Subsections 014.02.a. and 014.02.b. is received, furnish the policy owner with a policy summary for the existing life insurance or a ledger statement containing policy data on the existing Policy and/or annuity. Such policy summary or ledger statement shall be completed in accordance with information relating to premiums, cash values, death benefits and dividends, if any, and 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 rule or statute. Life insurance cost index and equivalent level annual dividend figures need not be included in the policy summary. When annuities are involved, the disclosure information shall be that required in a contract summary under the annuity and deposit fund disclosure rule. The replacing insurer may request the existing insurer to furnish it with a copy of the summaries. (7-1-93)

03. Maintenance of Records. The replacing insurer shall maintain evidence of the "Notice Regarding Replacement," the policy summary, the contract summary and any ledger statements used, and a replacement register, cross indexed, by replacing agent and existing insurer to be replaced. The existing insurer shall maintain evidence of policy summaries, contract summaries or ledger statements used in any conservation. Evidence that all requirements were met shall be maintained for at least three (3) years or until the conclusion of the next succeeding regular examination by the insurance department of its state of domicile, whichever is later. (7-1-93)

04. Refund. 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) days commencing from the date of delivery of the policy. (7-1-93)

015. DUTIES OF INSURERS WITH RESPECT TO DIRECT RESPONSE SALES.

01. Insurer Did Not Propose Replacement. 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 to the applicant with the policy a Replacement Notice as described in Exhibit A or other substantially similar form approved by the Director.

(7-1-93)

02. Insurer Proposed Replacement. If the insurer proposed the replacement it shall: (7-1-93)

a. Provide to applicants or prospective applicants with or as part of the application a replacement notice as described in Exhibit A or other substantially similar form approved by the Director. (7-1-93)

b. Request from the applicant with or as part of the application, a list of all existing life insurance or annuities to be replaced and properly identified by name of insurer and insured. (7-1-93)

c. Comply with the requirements of Subsection 014.02.b., if the applicant furnishes the names of the existing insurers, and the requirements of Subsection 014.03, except that it need not maintain a replacement register. (7-1-93)

016. EXHIBITS.

Exhibit A, Notice Regarding Replacement, is a part of this rule. This form is hereby approved for use as specified in this rule. Equivalent forms may be adopted only with the prior approval of the Director of the Department of Insurance. The company shall assume the responsibility of adopting this form to fit annuities. (7-1-93)

017. PENALTIES.

Failure by an insurer, agent, representative, officer, or employee of such insurer to comply with the requirements of this rule shall be subject to such penalties as may be appropriate under the Idaho Code, including Section 41-1327, Idaho Code. (7-1-93)

018. REPEAL OF RULE NO. 21.

This rule superseded and repealed Rule No. 21 entitled "Replacement of Life Insurance and Annuities", dated November 15, 1969. (7-1-93)

019. -- 999. (RESERVED).

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