
CZECHOSLOVAK SOCIETY OF AMERICA

NEW YORK STATE REGULATION 60 PROCEDURES.

REPLACEMENT OF LIFE INSURANCE POLICIES AND ANNUITY CONTRACTS.

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NY 60 100



***Czechoslovak
Society of America***

THE PURPOSE OF THIS REGULATION

- To implement the New York Insurance Law by regulating the acts and practices of insurers, insurance agents, insurance brokers, and other licensees of the department with respect to the replacement of life insurance policies and annuity contracts.
- To protect the interest of the public.
- To establish minimum standards of conduct regarding the replacement of life insurance and annuities.
- To provide full and clear information so an applicant can make an informed decision.
- To reduce the opportunity for misrepresentation and incomplete comparison in replacement.

DEFINITIONS OF REPLACEMENT

Replacement of a life insurance policy or an annuity contract means that new life insurance or annuities are to be purchased and delivered or issued for delivery in New York and it is known to the department licensee that, as part of the transaction, existing life insurance policies or annuity contracts have been or are likely to be:

- lapsed, surrendered, partially surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated;
- changed or modified into paid-up insurance, continued as extended term or another form of nonforfeiture benefit or otherwise reduced in value by the use of nonforfeiture benefits, dividend accumulations, dividend cash values or other cash values;
- changed or modified to reduce the amount of existing life insurance or annuity benefit or in the period of time the existing life insurance or annuity benefit will remain in force;
- reissued with a reduction in amount such that any cash values are released, including dividend accumulations or paid-up additions;
- assigned as collateral for a loan or made subject to borrowing or withdrawal of any portion of the loan value, including dividend accumulation or paid-up insurance;
- continued with a stoppage of premium payments or a reduction in the amount of premium paid.

EXEMPTIONS

Policies issued under the following circumstances are exempt from the requirements of Regulation 60.

- The application for the new life insurance policy or new annuity contract is made to the same insurer that issued the existing life insurance policy or annuity contract or to any authorized life insurer in such insurer's holding company system, and the new life insurance policy or new annuity contract is being issued in accordance with the terms of a contractual conversion privilege in the existing life insurance policy or annuity contract or is being issued pursuant to a plan approved by the superintendent for the insurer to meet its obligations under Insurance Law section 3220(a)(6);
- A policy change customarily granted by the insurer is being exercised, provided such change results in no additional surrender or expense charge or suicide or contestable restrictions, and only to the extent that the change is approved by the superintendent.

EXEMPTIONS, continued

- The new coverage is provided under:
 - a group life insurance policy or group annuity contract, except when an insurance agent or broker or insurer directly solicits the certificate holder for the new coverage and a portion of the premium or consideration is borne, directly or indirectly, by the certificate holder;
 - an individual life insurance policy or individual annuity contract where the cost of the policy or contract is borne wholly by the applicant's employer or by an association of which the applicant is a member; or
 - individual life insurance policies or individual annuity contracts covering employees of an employer, debtors of a creditor, or members of an association, that are distributed on a mass merchandising basis and administered by group-type methods, except when an insurance agent or broker or insurer directly solicits the applicant for the new coverage and a portion of the premium or consideration is borne, directly or indirectly, by the applicant; or
 - the existing life insurance is a nonrenewable, nonconvertible term policy with five years or less to its expiration date.

DUTIES OF INSURANCE AGENT AND BROKER

Each insurance agent and broker shall:

- Obtain with each application a completed and signed Definition of Replacement form. Leave a copy for your client. Every Definition of Replacement shall contain a signed statement by the agent/broker as to whether, to the best of his/her knowledge, replacement is involved in the transaction. If no replacement involved, submit copy of signed Definition of Replacement form with the application to the insurer. If replacement is indicated:
 1. obtain a list of all coverage proposed to be replaced.
 2. submit to existing insurer a list of coverage to be replaced, as well as the policy or contract number, with Authorization form signed by the policy owner requesting information needed to complete the Disclosure Statement. Send to contact person at address listed on the NYSID website.
 3. present to the applicant, not later than at the time of signing the application, review and sign the Important Notice Regarding Replacement and leave a copy of such form with applicant for the applicant's records.
 4. submit the application to the insurer with:
 - signed and dated Authorization to Release Information listing all policies to be replaced (NY 60 102);
 - a copy of any new business illustration if required, along with any other sales or related materials required in §51.5(c)(6);
 - proof of receipt by applicant of the IMPORTANT Notice Regarding Replacement (NY 60 106);
 - signed and dated Definition of Replacement (NY 60 101);
- Prior to the delivery of the life insurance policy or annuity contract, complete an accurate "Disclosure Statement" (NY 60 108 or NY 60 107) signed by the agent or broker **and policy owner** and submit to the insurer replacing the life insurance policy or annuity contract. The statement shall specify the primary reasons for recommending the new life insurance policy or annuity contract and why the existing life insurance policy or annuity contract cannot meet the applicant's objectives. The "Disclosure Statement" must also include the information provided by the insurer that issued the policy or contract that is being replaced or a good faith approximation.

DUTIES OF REPLACING INSURER

- Designate Compliance Officer. Section 51.6(e).
- Training its agents/brokers about this regulation.
- With each application, life or annuity, with or without a replacement involved, require a Definition of Replacement form signed by the applicant and agent/broker.
- Date all materials upon receipt.
- Maintain signed and completed Definition of Replacement in accordance with Part 243 of Title 11.
- Require with each application a signed statement by the agent/broker (page 11 of the Czechoslovak Society of America application) as to whether, to the best of his/her knowledge, replacement is involved in the transaction.
- If replacement is indicated, the insurer must require the submission of:
 1. A copy of any new business illustration if required;
 2. Proof of receipt by applicant of the IMPORTANT Notice Regarding Replacement (NY 60 106);
 3. Signed and dated Definition of Replacement (NY 60 101);
 4. Signed and dated Authorization to release information (NY 60 102);
 5. prior to the delivery of the life insurance policy or annuity contract, require an accurate and complete Disclosure Statement (NY 60 108 or NY 60 107) signed by the insurance agent or broker including the primary reason or reasons for recommending the new life insurance policy or annuity contract and why the existing life insurance policy or annuity contract cannot meet the applicant's objectives in addition to containing the information provided by the insurer that issued the policy or contract that is being replaced or a good faith approximation.
 6. Copy of in force illustration provided by replaced carrier;
 7. In the event that the insurer that issued the coverage that is being replaced fails to provide the information requested to complete the "Disclosure Statement" in the prescribed time pursuant to §51.6(c) (2)(twenty days), ensure that the insurer or the agent or broker replacing the policy or contract uses good faith approximations for completion of the form, based on the information available.
- If replacement is indicated, the insurer must:
 - examine the proposal and sales material for accuracy;
 - examine the Disclosure Statement for accuracy and compliance with regulation.
- If replacement is indicated, after receiving a Disclosure Statement signed by agent or broker and applicant, within 10 business days the replacing insurer must:
 - notify existing insurer at address listed on NYSID website:
 - provide existing insurer copy of proposal, sales material and Disclosure;
 - maintain all aforementioned documents, indexed by agents, in accordance with Part 243 of Title
- Reject the application within 10 days of receipt if the required forms are not received, or if the forms are not correct and so notify the applicant of such rejection and the reason therefore.
- Submit electronic report by February 1st of each year on replaced insurers who have failed to provide the information as required per Circular Letter No. 5 (2006) and §51.6(b)(5) of Reg. 60, even if no instances of non-compliance existed for the period.

DUTIES OF REPLACING INSURER, continued

- Provide the policy owner a 60-day refund provision. §51.6(d).
- Treat proposed policies in all respects as if it were new issuance subject to no differences in underwriting or in other considerations including but not limited to: premium discount, interest rate credit, and or broker compensation or expenses, or incentives such as bonuses or other inducements to agents and or brokers.
- If the policy issued differs from the application applied for, obtain revised documents including but not limited to a revised “Disclosure Statement”, revised or additional sales material and acknowledgment by the applicant of receipt of such material.
- Guard against engaging in any of the Prohibited Acts specified in §51.7 of the Regulation.
- Ensure that the owner of the new policy or contract is provided with the right to return the policy or contract within sixty (60) days from the date of delivery of such policy or contract and ensure that the owner receives an unconditional full refund of all premiums or considerations paid on it or, in the case of variable or market value adjustment policies or contracts, a payment of the cash surrender benefits provided under the policy or contract, plus the amount of all fees and other charges deducted from gross considerations or imposed under the policy or contract.

DUTIES OF EXISTING INSURER

- Designate Compliance Officer. Section §51.6(e).

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- Inform and train its agents/brokers about this regulation.
- Date all materials upon receipt.
- Maintain all aforementioned documents, indexed by insurers, in accordance with Part 243 of Title 11
- Within 20 days of receipt of a request from the replacing agent/broker with proper authorization from the applicant, furnish the required information to complete the Disclosure Statement with respect to the contract being replaced, including:
 - the insurer’s customer service telephone number;
 - current status;
 - currently illustrated dividends/interest and other non-guaranteed costs and benefits.
- Allow a 60 day free look period on replaced policies. Should policy owner elect to not accept the new policy within 60 days of receipt and upon written proof of cancellation, reinstate existing insurance without evidence.
§51.6(d)