



STATE OF WEST VIRGINIA

Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

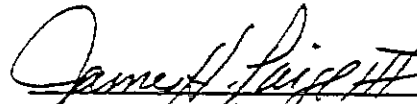
HANLEY C. CLARK
Insurance Commissioner

CONSENT TO FILING OF RULE

To Whom It May Concern:

Pursuant to West Virginia Code § 5F-2-2(a)(12), the undersigned hereby grants consent to the filing of the following rule proposed by the Insurance Commissioner of the State of West Virginia: Title 114, Series 8, relating to "Replacement of Life Insurance."

Signed this 26th day of July, 1996.


James H. Paige, III
Secretary of Tax and Revenue

114CSR8

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 8
REPLACEMENT OF LIFE INSURANCE

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FILED

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TITLE 114

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 8
REPLACEMENT OF LIFE INSURANCE

§ 114-8-1. General.

1.1. Scope. -- The purpose of this ~~regulation rule~~ is to protect the interests of the life insurance public by establishing minimum standards of conduct to be observed in the replacement or proposed replacement of life insurance policies; by making available full and clear information on which an applicant for life insurance can make a decision in his own best interest; by reducing the opportunity for misrepresentation and incomplete comparisons in replacement situations; and by precluding unfair methods of competition and unfair practices. The ~~regulation rule~~ encompasses the general acts and practices of insurers and agents transacting life insurance in West Virginia.

1.2. Authority. - W. Va. Code § 33-2-10, § 33-11-5a and § 33-11-6.

1.3. Filing Date. -

1.4. Effective Date. -

§ 114-8-2. Definitions.

~~For the purposes of this regulation, the following definitions shall apply:~~

2.1. "Replacement" means any transaction in which new life insurance is to be purchased, and it is known or should be known to the proposing agent, or to the proposing insurer if there is no agent, that by reason of such transaction, existing life insurance has been or is to be:

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~~(a)~~ a. Lapsed, forfeited, surrendered, or otherwise terminated; or

~~(b)~~ b. 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; or

~~(c)~~ c. 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; or

~~(d)~~ d. Reissued with any reduction in cash value; or

~~(e)~~ e. 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.

2.2. "Cash dividend" means the current illustrated dividend which can be applied toward payment of the gross premium.

2.3. "Conservation" means any attempt by the existing insurer or its agent to continue existing life insurance in force when the existing insurer has received a Comparative Information Form as required by ~~Section 5.1, Subsection, (C) Subdivision (4) Subsection 5.2, Subdivision d~~ of this ~~regulation rule~~ from a replacing insurer. A conservation effort does not include such routine administrative procedures ~~like as~~ late payment reminders, late payment offers or reinstatement offers.

2.4. "Direct-Response Sales" means any sale of life insurance where the insurer does not utilize an agent in the sale or delivery of the policy.

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2.5. "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."

2.6. "Existing Life Insurance" means any life insurance in force including life insurance under a binding or conditional receipt or a life insurance policy that is within an unconditional refund period, but excluding life insurance obtained through the exercise of a dividend option.

2.7. "Generic Name" means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

2.8. "Replacing Insurer" means the insurance company, including the same insurer or an insurer in the same group of affiliated insurers, that issues a new policy which is a replacement of existing life insurance.

2.9. "Sales Proposal" means individualized, written sales aids of all kinds, excluding Comparative Information Forms and Policy Summaries, which are used by an insurer, agent or broker in comparing existing life insurance to proposed life insurance in order to recommend the replacement or conservation of existing life insurance. Sales aids of a generally descriptive nature, which are maintained in the insurer's advertising compliance file, shall not be considered a sales proposal within the meaning of this definition.

§ 114-8-3. Exemptions.

3.1. ~~Exemptions.~~ Unless otherwise specifically included, this ~~regulation~~ rule shall not apply to:

~~(a)~~ a. Annuities;

~~(b)~~ b. Individual credit life insurance;

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~~(e)~~ c. Group life insurance, group credit life insurance, and life insurance policies issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums: Provided, That as to any plan described in this subdivision, full and complete disclosure of all material facts shall be given to the administrator of any plan to be replaced;

~~(d)~~ d. Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account;

~~(e)~~ e. An application to the existing insurer that issued the existing life insurance where a contractual change or conversion privilege or a privilege of policy change granted by the insurer is being exercised;

~~(f)~~ f. Existing life insurance that is a nonconvertible term life insurance policy which will expire in five (5) years or less and cannot be renewed; or

~~(g)~~ g. Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company.

§ 114-8-4. Duties of agents.

~~4.1. Duties of agents.~~

~~(a)~~ 4.1. Each agent shall submit to the replacing insurer with or as part of each application for life insurance:

~~(1)~~ a. A statement signed by the applicant as to whether or not such insurance will replace existing life insurance; and

~~(2)~~ b. A signed statement as to whether or not the agent knows replacement is or may be involved in the transaction.

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~~(b)~~ 4.2. Where a replacement is involved, the agent shall:

(1) a. Present to the applicant, not later than at the time of taking the application, ~~the appropriate a~~ "Notice Regarding Replacement of Life Insurance," ~~or other substantially similar form approved by the Commissioner.~~ A "Notice Regarding Replacement of Life Insurance," attached and incorporated herein as Appendix A, is to be used where the existing and proposed policies are written by different companies. A "Notice Regarding Replacement of Life Insurance," attached and incorporated herein as Appendix B, is to be used where the existing and proposed policies are written by the same company. Substantially similar forms may be used upon approval by the commissioner. The appropriate notice must be signed by and left with applicant.

(2) b. Present to the applicant, not later than at the time of taking the application, a Comparative Information Form in a form substantially as described in Appendix D and incorporated herein ~~(substantially equivalent forms may be used with the prior approval of the Commissioner)~~. If more than one existing life insurance policy is to be replaced, a separate Comparative Information Form is to be provided for each such policy or separate information is to be provided in the Comparative Information Form for each such policy, and a summary of all the separate policy information to the extent possible must be included. The agent must include in the Comparative Information Form all of the information required to be in that form, except that information concerning the existing life insurance policy that cannot be obtained from that policy itself. The Comparative Information Form must be signed by the agent and the applicant and a copy left with the applicant.

(3) c. Leave with the applicant the original or a copy of all sales proposals used for presentation to the applicant.

(4) d. Submit to the replacing insurer with the application, a copy of the appropriate "Notice Regarding Replacement of Life Insurance" signed by the applicant, a copy of

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the Comparative Information Form signed by the agent and the applicant, and a copy of all sales proposals used for presentation to the applicant.

~~(c)~~ 4.3. Each agent who uses a sales proposals when conserving existing life insurance shall:

~~(1)~~ a. Leave with the applicant the original or a copy of all sales proposals used in the conservation effort; and

~~(2)~~ b. Submit to the existing insurer a copy of all sales proposals used in the conservation effort.

§ 114-8-5. Duties of replacing insurers.

5.1. ~~Duties of replacing insurers.~~ Each replacing insurer shall:

~~(a)~~ a. Inform its field representatives of the requirements of this regulation rule.

~~(b)~~ b. Require with or as part of each completed application for life insurance:

~~(1)~~ 1. A statement signed by the applicant as to whether or not such insurance will replace existing life insurance; and

~~(2)~~ 2. A statement signed by the agent as to whether or not he or she knows replacement is or may be involved in the transaction.

~~(c)~~ 5.2. Where a replacement is involved, each replacing insurer shall:

~~(1)~~ a. Require from the agent with the application for life insurance a copy of the appropriate "Notice Regarding Replacement of Life Insurance" signed by the applicant, a copy of the Comparative Information Form signed by the agent and the

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applicant, and a copy of all sales proposals used for presentation to the applicant.

~~(2)~~ b. Verify the substantial accuracy of information concerning the proposed policy furnished to the applicant in the Comparative Information Form. If the information concerning that policy is not substantially accurate, the replacing insurer must obtain a Comparative Information Form signed by the agent and the applicant which includes substantially accurate information before it can begin to process the application for the proposed policy.

~~(3)~~ c. Unless otherwise modified by the provisions of Subdivision ~~(e)~~, Paragraph ~~(5) or (6)~~, e or f of this subsection ~~of this regulation~~, furnish to the applicant a policy summary in accordance with the provisions of the Life Insurance Solicitation Regulation legislative rule pertaining to Disclosure and Deceptive Practices in the Advertisement, Solicitation and Sale of Life Insurance, 114CSR11.

~~(4)~~ d. Send to the existing insurer a verified Comparative Information Form as required by Subdivision ~~(e)~~, Paragraph ~~(1) or (2)~~, a or b of this subsection, within three (3) working days of the date the application and a substantially accurate Comparative Information Form are received at its home or regional office, or the date its policy is issued, whichever is sooner.

~~(5)~~ e. Delay, if it is not also the existing insurer, the issue of its policy for ~~twenty (20)~~ thirty (30) days after it sends the existing insurer a copy of the Policy Summary, unless it provides in its "Notice Regarding Replacement of Life Insurance" and in either its policy or in a separate written notice that 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)~~ thirty (30) days commencing from the date of delivery of the policy, and it sends the Policy Summary required by this section to the existing insurer within three (3) working days of

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the date its policy is issued, in which event the replacing insurer may issue its policy immediately.

~~(6)~~ f. Provide, if it is also the existing insurer, the policy owner a ~~P~~policy ~~S~~summary for the new policy prepared in accordance with Subdivision ~~(C)~~, Paragraph ~~(3)~~ g, of this subsection, prior to accepting the applicant's initial premium or premium deposit, unless the replacing insurer provides in its "Notice Regarding Replacement of Life Insurance" and in either its policy or in a separate written notice that is delivered with the policy that the applicant has the right to an unconditional refund of all premiums paid, which right may be exercised within a period of ~~twenty (20)~~ thirty (30) days commencing from the date of delivery of the policy, in which event, the replacing insurer must furnish the ~~P~~policy ~~S~~summary at or prior to delivery of the policy.

~~(7)~~ g. Maintain copies of the "Notice Regarding Replacement of Life Insurance," the verified Comparative Information Form, the ~~P~~policy ~~S~~summary, and all sales proposals used, and a replacement register, cross indexed, by replacing agent and existing insurer to be replaced, for at least three (3) years or until the conclusion of the next succeeding regular examination by the insurance department of its state or domicile, whichever is later.

§ 114-8-6. Duties of insurers with respect to direct-response sales.

6.1. ~~Duties of insurers w~~With respect to direct-response sales, ~~Each insurer shall:~~

~~(a)~~ a. Inform its responsible personnel of the requirements of this ~~regulation rule~~.

~~(b)~~ b. Require with or as part of each completed application for life insurance a statement signed by the applicant as to whether or not such insurance will replace existing life insurance.

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~~(c)~~ c. Where no replacement is proposed by an insurer in the solicitation of a direct-response sale and a replacement is involved at the time the policy is mailed to the applicant, include a "Notice Regarding Replacement of Life Insurance" in a form substantially as described in Appendix C and incorporated herein.

~~(d)~~ d. Where a replacement is proposed by an insurer in the solicitation of a direct-response sale and a replacement is involved:

~~(1)~~ 1. Request from the applicant with or as part of the application a list of all existing life insurance to be replaced. Such existing insurance shall be identified by name of insurer.

~~(2)~~ 2. If the applicant furnishes the names of the existing insurers, then the replacing direct-response insurer shall mail the applicant a "Notice Regarding Replacement of Life Insurance," in a form substantially as described in ~~Exhibit~~ Appendix C, within three (3) working days after receipt of the application and shall comply with all of the provisions of ~~Subdivisions (c), Paragraph (3), (5), (6) and (7) c, e, f and g,~~ of Subsection ~~5.1~~ 5.2, of this ~~regulation rule,~~ except that it need not meet the requirements of this ~~regulation rule~~ concerning Comparative Information Forms and need not maintain a replacement register required by ~~Subdivision (c), Paragraph (7), g~~ of Subsection ~~5.1~~ 5.2, of this ~~regulation rule.~~

~~(3)~~ 3. If the applicant does not furnish the names of the existing insurers, then the replacing direct-response insurer shall at the time the policy is mailed to the applicant, include a "Notice Regarding Replacement of Life Insurance."

§ 114-8-7. Duties of the existing insurer.

7.1. ~~Duties of the existing insurer.~~—Each existing insurer shall inform its responsible personnel of the requirements of this ~~regulation rule.~~ Each existing insurer, or

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such insurer's agent, that undertakes a conservation effort shall:

~~(a)~~ a. Within ~~twenty (20)~~ thirty (30) days from the date of the Comparative Information Form required by Subdivision ~~(c), Paragraph (4), d~~ of Subsection ~~5.1~~ 5.2 of this ~~regulation rule~~, is received, either furnish the policy owner with the Comparative Information Form received from the replacing insurer and include in it all of the information concerning the existing life insurance that was not completed and correct any information that was inaccurately completed by the replacing agent or furnish the policy owner with a ~~P~~Policy ~~S~~Summary for the existing life insurance. Such ~~P~~Policy ~~S~~Summary shall be completed in accordance with the provisions of the ~~Life Insurance Solicitation Regulation legislative rule pertaining to Disclosure and Deceptive Practices in the Advertisement, Solicitation and Sale of Life Insurance, 114CSR11~~, 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 ~~P~~Policy ~~S~~Summary shall include the amount of any outstanding policy indebtedness, the sum of any dividend accumulations or additions and may include any other information that is not in violation of any ~~regulation rule~~ or statute. Life insurance cost index and equivalent level annual dividend figures need not be included in the ~~P~~Policy ~~S~~Summary. If index figures are included in the ~~P~~Policy ~~S~~Summary, the policy owner must receive written notification at the time the ~~P~~Policy ~~S~~Summary is delivered that such figures should only be used for comparing the relative costs of similar policies.

~~(b)~~ b. Furnish the replacing insurer with a copy of the fully completed Comparative Information Form or the ~~P~~Policy ~~S~~Summary for the existing life insurance within three (3) working days of the date that the fully completed Comparative Information Form or the ~~P~~Policy ~~S~~Summary is sent by the existing insurer to either its agent or directly to the policy owner.

~~(c)~~ c. Maintain a file containing the following:

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~~(1)~~ 1. Comparative Information Forms required by Subdivision ~~(c)~~, Paragraph ~~(4)~~, d of Subsection ~~5.1~~ 5.2 of this ~~regulation rule~~ and Policy Summaries required by Subdivision ~~(c)~~, Paragraph ~~(5)~~ e, of Subsection ~~5.1~~ 5.2 of this ~~regulation rule~~, received from replacing insurers; and

~~(2)~~ 2. Copies of fully completed Comparative Information Forms or Policy Summaries prepared pursuant to Subdivision ~~(a)~~ a, Subsection 7.1 of this ~~regulation rule~~ and all sales proposals used to conserve the existing life insurance.

3. This material shall be indexed by replacing insurer and held for three (3) years or until the conclusion of the next regular examination conducted by the Insurance Department of its domicile, whichever is later.

§ 114-8-8. Violations.

~~8.1. Penalties.~~

~~(a)~~ 8.1. Any insurer, agent, representative, officer or employee of such insurer failing to comply with the requirements of this ~~regulation rule~~ shall be subject to such penalties as may be appropriate under the insurance laws of West Virginia.

~~(b)~~ 8.2. This ~~regulation rule~~ does not prohibit the use of additional material other than that which is required that is not in violation of this ~~regulation rule~~ or any other West Virginia statute or ~~regulation rule~~.

~~(c)~~ 8.3. Policyowners have the right to replace existing life insurance after indicating in or as part of the applications for life insurance that such is not their intention; however, patterns of such action by policyowners who purchase the replacing policies from the same agent shall be deemed prima facie evidence of the agent's knowledge that replacement was intended in connection with the sale of those policies and such

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patterns of action shall be deemed prima facie evidence of the agent's intent to violate this regulation rule.

~~§ 114-8-9. Separability.~~

~~9.1. Partial invalidity. If any provision of this regulation rule shall be held invalid, the remainder of the regulation rule shall not be affected thereby.~~

EXHIBIT APPENDIX A

(To be used where the existing and proposed policies are written by different companies.)
(Name, address and telephone number of the insurance company)

IMPORTANT NOTICE REGARDING REPLACEMENT OF LIFE INSURANCE

Our agent is recommending to you that you purchase a life insurance policy from us. In connection with this purchase, you have indicated, either as a result of his recommendation or at your own initiative, that you may terminate or change your existing policy issued by another insurance company or that you may obtain a loan from that company against your policy to pay premiums on the proposed policy. Any of these actions is a replacement of life insurance. This notice must be given to you, along with a Comparative Information form which includes form including preliminary information comparing the proposed policy with your existing policy to be replaced. Please read this notice and the Comparative Information Form carefully.

Whether it is to your advantage to replace your existing insurance coverage, only you can decide. It is in your best interest, however, to have adequate information before a decision to replace your present coverage becomes final so that you may understand the essential features of the proposed policy and of your existing insurance coverage.

To this end, we are required to give you a ~~P~~policy ~~S~~summary including complete information on the proposed policy ~~no later than when that~~ at the time the proposed policy is delivered to you. In addition, we are required to notify the insurance company that issued your existing policy. That company may then furnish you with additional information concerning your existing policy. You may want to ~~contract~~ contact that company or its agent for further information and advice or discuss your purchase with other advisors. The information you receive will be of value to you in reaching a final decision.

If either the proposed policy or the existing insurance you intend to replace is a participating policy, you should be aware that dividends may materially reduce the cost of insurance and are an important factor to consider. Dividends, however, are not guaranteed.

You should also recognize that a policy which has been in existence for a period of time may have certain advantages to you over a new policy. If the policy coverages are basically similar, the premiums for a new policy may be higher because rates increase as your age increases. ~~Under your existing policy, the period of time during which the issuing company~~

~~could contest the policy because of a material misstatement or omission on your application, or deny coverage for death caused by suicide, may have expired or may expire earlier than it will under the proposed policy. Your existing policy may have options which are not available under the proposed policy. Your existing policy may have options which are not available under the policy being proposed to you or may not come into effect under the proposed policy until a later time during your life. Also, your proposed policy's cash value and dividends, if any, may grow slower initially because the company will incur the cost of issuing your new policy. On the other hand, the proposed policy may offer advantages which are more important to you.~~

You should also be aware that the new life insurance issued by the replacing insurer will not be contestable in the event of the insured's death to any greater extent than the existing life insurance would have been contestable by the existing insurer had the replacement not taken place. However, the replacing insurer may, within two years from the date of issue, contest because of material misstatement or omission on your application, or for death caused by suicide, that amount of insurance, if any, written and issued in excess of the amount of the existing life insurance.

If you are considering borrowing against your existing policy to pay the premiums on the proposed policy, you should understand that in the event of your death, the amount of any unpaid loan, including unpaid interest, will be deducted from the benefits of your existing policy thereby reducing your total insurance coverage.

After we have received your application and notified the other insurance company you will have ~~twenty~~ thirty days from the date the proposed policy is delivered to you to cancel the policy issued on your application and receive back all payments you made to us.

CAUTION

If, after studying ~~to the~~ the information made available to you, you decide to replace the existing life insurance with our life insurance policy, you are urged not to take action to terminate or alter your existing life insurance coverage until after you have been issued the new policy, examined it and ~~have~~ found it to be acceptable to you. If you should terminate or otherwise materially alter your existing coverage and fail to qualify for the life insurance for which you have applied, you may find yourself unable to purchase other life insurance or able to purchase it only at substantially higher rates.

I have received and read a copy of this Replacement Notice.

(Signed) _____ Date _____

EXHIBIT APPENDIX B

(To be used where the existing and proposed policies are written by the same company.)

(Name, address and telephone number of the insurance company)

IMPORTANT NOTICE REGARDING REPLACEMENT OF LIFE INSURANCE

Our agent is recommending to you that you purchase a life insurance policy from us. In connection with this purchase, you have indicated either as a result of his recommendation or at your own initiative, that you may terminate or change your existing policy issued by our company or that you may obtain a loan from our company against your existing policy to pay premiums on the proposed policy. Any of these actions is a replacement of life insurance. This notice must be given to you, along with a Comparative Information Form which includes preliminary information comparing the proposed policy with your existing policy to be replaced. Please read this notice and the Comparative Information Form carefully.

Whether it is to your advantage to replace your existing insurance coverage, only you can decide. It is in your best interest, however, to have adequate information before a decision to replace your present coverage becomes final so that you may understand the essential features of the proposed policy and of your existing insurance coverage.

To this end, we are required to give you a ~~P~~policy ~~S~~summary including complete information on the proposed policy ~~no later than when the~~ at the time the proposed policy is delivered to you. In addition, we will, at your request, furnish you additional information concerning your existing policy. You may want to discuss your purchase with other advisors. The information you receive will be of value to you in reaching a final decision.

If either the proposed or the existing insurance you intend to replace is a participating policy you should be aware that dividends may materially reduce the cost of insurance and are an important factor to consider. Dividends, however, are not guaranteed.

You should also recognize that a policy which has been in existence for a period of time may have certain advantages to you over a new policy. If the policy coverages are basically similar, the premiums for a new policy may be higher because rates increase as your age increases. Your existing policy may have options which are not available under the policy being proposed to you or may not come into effect under the proposed policy until a later time during your life. Also, your proposed policy's cash value and dividends, if any, may grow slower initially because the company will incur the cost of issuing your new policy. On the other hand, the proposed policy may offer advantages which are more important to you.

~~Under your existing policy, the period of time during which our company could contest the policy because of material misstatement or omission on your application, or deny coverage for death caused by suicide, may have expired or may expire earlier than it will under the proposed policy. Your existing policy may have options which are not available under the policy being proposed to you or may not come into effect under the proposed policy until a later time during your life. Also, your proposed policy's cash values and dividends, if any, may grow slower initially because the company will incur the cost of issuing your new policy. On the other hand, the proposed policy may offer advantages which are more important to you.~~

You should also be aware that the new life insurance issued by the replacing insurer will not be contestable in the event of the insured's death to any greater extent than the existing life insurance would have been contestable by the existing insurer had the replacement not taken place. However, the replacing insurer may, within two years from the date of issue, contest because of material misstatement or omission on your application, or for death caused by suicide, that amount of insurance, if any, written and issued in excess of the amount of the existing life insurance.

If you are considering borrowing against your existing policy to pay the premiums on the proposed policy, you should understand that in the event of your death, the amount of any unpaid loan, including unpaid interest, will be deducted from the benefits of your existing policy thereby reducing your total insurance coverage.

After we have issued your policy, you will have ~~twenty~~ thirty days from the date the new policy is delivered to you to cancel the policy issued on your application and receive back all payments you made to us.

CAUTION

If, after studying the information made available to you, you ~~do~~ decide to replace the existing life insurance with our company with a new life insurance policy issued by our company, you are urged not to take action to terminate or alter your existing life insurance coverage until after you have been issued the new policy, examined it and found it acceptable to you. If you should terminate or otherwise materially alter your existing coverage and fail to qualify for the life insurance for which you have applied, you may find yourself unable to purchase other life insurance or able to purchase it ~~only~~ only at substantially higher rates.

I have received and read a copy of this Replacement Notice.

(Signed) _____ Date _____

EXHIBIT APPENDIX C

(Name, address and telephone number
of the insurance company)

IMPORTANT NOTICE REGARDING REPLACEMENT OF LIFE INSURANCE

You have indicated that you intend to replace an existing life insurance policy or policies in connection with the purchase of our life insurance policy. As a result, we are required to send you this notice. Please read it carefully.

Whether it is to your advantage to replace your existing insurance coverage, only you can decide. It is in your best interest, however, to have adequate information before a decision to replace your present coverage becomes final so that you may understand the essential features of the proposed policy and your existing insurance coverage.

You may want to contact your existing life insurance company or its agent for additional information and advice or discuss your purchase with other advisors. The information you receive should be of value to you in reaching a final decision.

If either the proposed policy or the existing insurance you intend to replace is a participating policy, you should be aware that dividends may materially reduce the cost of insurance and are an important factor to consider. Dividends, however, are not guaranteed.

You should recognize that a policy which has been in existence for a period of time may have certain advantages to you over a new policy. If the policy coverages are basically similar, the premiums for a new policy may be higher because rates increase as your age increases. ~~Under your existing policy, the period of time during which the issuing company could deny coverage for death caused by suicide, within two years from the date of issue of the policy, may have expired or may expire earlier than it will under the proposed policy.~~ Your existing policy may have options which are not available under the policy being proposed to you or may not come into effect under the proposed policy until a later time during your life. Also, your proposed policy's cash values and dividends, if any, may grow slower initially because the company will incur the cost of issuing your new policy. On the other hand, the proposed policy may offer advantages which are more important to you.

You should also be aware that the new life insurance issued by the replacing insurer will not be contestable in the event of the insured's death to any greater extent than the existing life insurance would have been contestable by the existing insurer had the replacement not taken place. However, the replacing insurer may, within two years from the date of issue, contest because of material misstatement or omission on your application, or for death caused by suicide, that amount of insurance, if any, written and issued in excess of the amount of the existing life insurance.

If you are considering borrowing against your existing policy to pay the premiums on the proposed policy, you should understand that in the event of your death, the amount of any unpaid loan, including unpaid interest, will be deducted from the benefits of your existing policy thereby reducing your total insurance coverage.

You are urged not to take action to terminate or alter your existing life insurance coverage until you have been issued the new policy, examined it and have found it acceptable to you.

AGENT'S STATEMENT

1. The primary reasons for my recommending the proposed replacement of existing life insurance by new life insurance are:*

2. My recommendations as to the existing insurance is that it be:

Not Changed Lapsed Surrendered Reduced Paid-U Extended Term

Other (Explain) _____

Borrowed Upon (Explain and state the amount to be borrowed) _____

3. The existing life insurance does not meet the insured/buyer's needs for insurance because:*

*Specific reasons must be given. For example, if you believe the existing life insurance cannot meet the insured/buyer's needs, you must specify why you think it does not.

INSTRUCTIONAL NOTES FOR AGENT

- 1. Existing life insurance must be identified by name of insurer and the policy number. In the event that a policy number has not been assigned by the existing insurer, alternative identification information such as an application or receipt number must be shown.
2. If the premium for the basic policy or any rider or benefit changes, indicate the changes; attach schedules, if necessary.
3. If the death benefit for the basic policy or any rider or benefit changes, indicate the changes; attach schedules, if necessary.
4. If the premium for benefits is not separable from the premium for the basic policy, insert "Included" in Basic Policy Premium.
5. If more than one existing life insurance policy is to be replaced, a separate Comparative Information Form is to be provided for each policy, or separate information is to be provided in one Comparative Information Form for each such policy, and a summary of all the separate policy information must also be included to the extent possible.

AGENT'S CERTIFICATION

I hereby certify that prior to taking an application for a policy, I have provided the applicant with the Notice Regarding Replacement of Life Insurance and that the information in this Comparative Information Form is true and correct to the best of my knowledge and belief.

(Signature of Agent)

(Date)

I have received and read a copy of this Comparative Information Form.

(Signature of Applicant)

(Date)



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

CECIL UNDERWOOD
Governor

February 18, 1997

HANLEY C. CLARK
Insurance Commissioner

HAND DELIVERED

Ms. Judy Cooper, Director
Administrative Law Division
Office of Secretary of State
State Capitol
Charleston, WV 25305

Dear Ms. Cooper:

Enclosed please find for filing one (1) copy of the following:

- (1) Notice of Rule Modification of a Proposed Rule;
- (2) Consent of Tax and Revenue Cabinet Secretary to Proposed Rule; and
- (3) The modified proposed rule entitled "Replacement of Life Insurance."
(Series 8)

Please contact me if further information is required.

Sincerely,

A handwritten signature in cursive script that reads "Donna Quesenberry".

Donna Quesenberry
Associate Counsel

DQ/kb

Enclosures



FILED

FEB 19 9 31 AM '97

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

State Capitol - Room MB-49
Charleston, West Virginia 25305
(304) 347-4840

Senator: Mike Ross, Co-Chairman
Delegate: Mark Hunt, Co-Chairman
Counsel: Debra A. Graham

February 11, 1997

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Audrey R. Ross, Admin. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. B. Keith Huffman
Office of the Insurance Commissioner
Legal Division
P. O. Box 50540
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: *Replacement of Life Insurance*

114-8

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency _____
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____

Senate Bill No. 187

1 (By Senator(s) Ross, Anderson, Macnaughtan,
2 Boley and Buckalew)

3 [Introduced March 3, 1997; referred to the
4 Committee on Banking and Insurance; and then to
5 the Committee on the Judiciary.]
6
7
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9

10 A. BILL to amend and reenact section three, article seven,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the insurance commissioner to
14 promulgate a legislative rule relating to the
15 replacement of life insurance.

16 *Be it enacted by the Legislature of West Virginia:*

17 That section three, article seven, chapter sixty-four
18 of the code of West Virginia, one thousand nine hundred
19 thirty-one, as amended, be amended and reenacted, to read
20 as follows:

21 ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE

22 TO PROMULGATE LEGISLATIVE RULES.

23 §64-7-3. Insurance commissioner.

1 (a) The legislative ~~rules~~ rule filed in the state
2 register on the twenty-seventh day of July, one thousand
3 nine hundred ninety-five, authorized under the authority of
4 section nine, article seven, chapter thirty-three of this
5 code, modified by the insurance commissioner to meet the
6 objections of the legislative rule-making review committee
7 and refiled in the state register on the twenty-seventh
8 day of November, one thousand nine hundred ninety-five,
9 relating to the insurance commissioner (actuarial opinion
10 and memorandum rule, 114 CSR 41), ~~are~~ is authorized.

11 (b) The legislative ~~rules~~ rule filed in the state
12 register on the twenty-seventh day of July, one thousand
13 nine hundred ninety-five, authorized under the authority of
14 section ten, article two, chapter thirty-three of this
15 code, modified by the insurance commissioner to meet the
16 objections of the legislative rule-making review committee
17 and refiled in the state register on the twenty-seventh day
18 of November, one thousand nine hundred ninety-five,
19 relating to the insurance commissioner (examiners'
20 compensation, qualifications and classification, 114 CSR
21 15), ~~are~~ is authorized.

22 (c) The legislative ~~rules~~ rule filed in the state
23 register on the twenty-eighth day of July, one thousand

1 nine hundred ninety-five, authorized under the authority of
2 section eleven, article twelve, chapter thirty-three of
3 this code, modified by the insurance commissioner to meet
4 the objections of the legislative rule-making review
5 committee and refiled in the state register on the
6 twenty-seventh day of November, one thousand nine hundred
7 ninety-five, relating to the insurance commissioner (excess
8 line brokers, 114 CSR 20), ~~are~~ is authorized.

9 (d) The legislative ~~rules~~ rule filed in the state
10 register on the twenty-eighth day of July, one thousand
11 nine hundred ninety-five, authorized under the authority of
12 section ten, article two, chapter thirty-three of this
13 code, modified by the insurance commissioner to meet the
14 objections of the legislative rule-making review committee
15 and refiled in the state register on the twenty-seventh day
16 of November, one thousand nine hundred ninety-five,
17 relating to the insurance commissioner (continuing
18 education for insurance agents, 114 CSR 42), ~~are~~ is
19 authorized.

20 (e) The legislative ~~rules~~ rule filed in the state
21 register on the twenty-eighth day of July, one thousand
22 nine hundred ninety-five, authorized under the authority of
23 section nine, article seven, chapter thirty-three of this

1 code, modified by the insurance commissioner to meet the
2 objections of the legislative rule-making review committee
3 and refiled in the state register on the twenty-seventh
4 day of November, one thousand nine hundred ninety-five,
5 relating to the insurance commissioner (recognizing
6 mortality tables for use in determining reserve liability
7 for annuities, 114 CSR 45), ~~are~~ is authorized.

8 (f) The legislative ~~rules~~ rule filed in the state
9 register on the twenty-eighth day of July, one thousand
10 nine hundred ninety-five, authorized under the authority of
11 section thirty-one-c, article six, chapter thirty-three of
12 this code, modified by the insurance commissioner to meet
13 the objections of the legislative rule-making review
14 committee and refiled in the state register on the
15 twenty-seventh day of November, one thousand nine hundred
16 ninety-five, relating to the insurance commissioner
17 (substandard risk motor vehicle insurance notice
18 requirements, 114 CSR 37), ~~are~~ is authorized.

19 (g) The legislative ~~rules~~ rule filed in the state
20 register on the twenty-eighth day of July, one thousand
21 nine hundred ninety-five, authorized under the authority of
22 section nine, article seven, chapter thirty-three of this
23 code, modified by the insurance commissioner to meet the

1 objections of the legislative rule-making review committee
2 and refiled in the state register on the twenty-seventh
3 day of November, one thousand nine hundred ninety-five,
4 relating to the insurance commissioner (minimum reserve
5 standards for individual and group health insurance
6 contracts, 114 CSR 44), ~~are~~ is authorized.

7 (h) The legislative ~~rules~~ rule filed in the state
8 register on the thirty-first day of July, one thousand nine
9 hundred ninety-five, authorized under the authority of
10 section twenty, article twenty-five-a, chapter thirty-
11 three of this code, modified by the insurance commissioner
12 to meet the objections of the legislative rule-making
13 review committee and refiled in the state register on the
14 twenty-seventh day of November, one thousand nine hundred
15 ninety-five, relating to the insurance commissioner (filing
16 procedures for health maintenance organizations, 114 CSR
17 46), ~~are~~ is authorized.

18 (i) The legislative ~~rules~~ rule filed in the state
19 register on the thirty-first day of July, one thousand nine
20 hundred ninety-five, authorized under the authority of
21 section twenty, article twenty-five-a, chapter thirty-three
22 of this code, modified by the insurance commissioner to
23 meet the objections of the legislative rule-making review

1 committee and refiled in the state register on the twenty-
2 seventh day of November, one thousand nine hundred
3 ninety-five, relating to the insurance commissioner (health
4 maintenance organizations, 114 CSR 43), ~~are~~ is authorized.

5 (j) The legislative rule filed in the state register
6 on the twenty-ninth day of August, one thousand nine
7 hundred ninety-six, authorized under the authority of
8 section ten, article two, chapter thirty-three, of this
9 code, modified by the insurance commissioner to meet the
10 objections of the legislative rule-making review committee
11 and refiled in the state register on the eighteenth day of
12 February, one thousand nine hundred ninety-seven, relating
13 to the insurance commissioner (replacement of life
14 insurance, 114 CSR 8), is authorized.

15

16 NOTE: The purpose of this bill is to authorize the
17 Insurance Commissioner to promulgate a legislative rule
18 relating to the Replacement of Life Insurance.

19

20 Strike-throughs indicate language that would be
21 stricken from the present law, and underscoring indicates
22 new language that would be added.

135

1 Bill-Ins, Replacement

(By Delegate(s) Douglas, Hunt, Compton,
Faircloth, Linch and Riggs)

2

3

[Introduced March 3, 1997; referred to the
Committee on Banking and Insurance then the
Judiciary.]

4

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8

9

10 A BILL to amend and reenact section three, article seven,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
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15 replacement of life insurance.

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114-8

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