

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

INSURANCE

REPLACEMENT OF LIFE INSURANCE POLICIES

(By authority conferred on the commissioner of insurance by sections 210 and 4424(6) of Act No. 218 of the Public Acts of 1956, as amended, being SS500.210 and 500.4424(6) of the Michigan Compiled Laws)

REPLACEMENT OF LIFE INSURANCE POLICIES

R 500.601 Definitions.

Rule 601. As used in these rules:

(a) "Conservation" means any attempt by the existing insurer or its agent to continue existing life insurance in force when the existing insurer has received the information statement as required by R 500.604 from a replacing insurer. A conservation effort does not include routine administrative procedures such as late payment reminders, late payment offers, or reinstatement offers.

(b) "Life insurance" does not mean fixed or variable annuity contracts.

(c) "Replacement of life insurance" means any transaction in which life insurance is to be purchased and in which, as part of the transaction, with respect to existing life insurance, any of the following has occurred or will occur:

(i) Lapse, forfeiture, surrender, or termination.

(ii) Conversion to reduced paid-up insurance, continuation as extended term insurance, or a reduction in value by the use of nonforfeiture benefits or other policy values.

(iii) Amendment to effect a reduction in either benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid.

(iv) Reissuance with any reduction in cash value.

(v) Pledging as collateral or subjecting 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% of the loan value set forth in the policy.

(d) "Sales proposal" means an individualized, written sales aid of any kind, excluding the information statement, which is used by an insurer or agent 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.

History: 1979 AC; 1984 AACs.

R 500.602 Duties of agents.

Rule 602. (1) A life insurance agent shall obtain, with, or as a part of, each application for life insurance, a statement signed by the applicant as to whether the insurance for which application is made will replace existing life insurance.

(2) A life insurance agent shall submit to the insurer, in connection with each application for life insurance, a statement as to whether, to the best of his or her knowledge, replacement is involved in the transaction.

(3) If replacement is involved in a transaction, the life insurance agent shall do all of the following:

(a) Obtain, with, or as a part of, each application, a list of all existing life insurance policies proposed to be replaced.

(b) Present to the applicant, not later than at the time of taking the application, a completed information statement signed by the agent and a notice to applicants regarding replacement of life insurance, in such forms as are prescribed by the commissioner, and leave the forms with the applicant for his or her records.

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

(d) Have the applicant acknowledge receipt of the completed information statement and the notice to applicant regarding replacement of life insurance.

(e) Submit with the application to the insurer a copy of any sales proposal used, the completed information statement, and the name of each insurer which issued any life insurance proposed to be replaced.

(4) Each agent who uses a sales proposal when conserving existing life insurance shall do both of the following:

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

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

History: 1979 AC; 1984 AACS.

R 500.603 Duties of insurers.

Rule 603. (1) A life insurer shall inform its field representatives of the requirements of this rule and R 500.601, R 500.602, and R 500.604 to R 500.606.

(2) A life insurer shall require, with, or as a part of, each application for life insurance, a statement signed by the applicant as to whether the insurance for which application is made will replace existing life insurance.

(3) A life insurer shall require, in connection with each application for life insurance, a statement signed by the agent as to whether, to the best of his or her knowledge, replacement is involved in the transaction.

History: 1979 AC; 1984 AACS.

R 500.604 Duties where replacement involved; notice; filing.

Rule 604. If a replacement is involved in a transaction, the life insurer shall do all of the following:

(a) Require, with, or as part of each application, a list prepared by the agent representing, to the best of his or her knowledge, all of the existing life insurance policies proposed to be replaced.

- (b) Obtain all of the following:
 - (i) A copy of any sales proposal used.
 - (ii) The completed information statement.
 - (iii) Proof of receipt by the applicant of the information statement and the notice to applicants regarding replacement of life insurance.
 - (iv) The name of each insurer which issued any life insurance being replaced.
- (c) Within 3 business days following the receipt of the application in the home or regional office of the replacing insurer, or on the day the life insurer issues the proposed policy, whichever is sooner, notify the existing insurer and furnish a copy of any sales proposal used and a copy of the completed information statement.
- (d) Examine any proposal used and the completed information statement and ascertain that the information statement meets the requirements of this rule, R 500.601 to R 500.603, R 500.605, and R 500.606.
- (e) Verify the substantial accuracy of information concerning the proposed policy furnished to the applicant.
- (f) Maintain in the life insurer's home office, for not less than 3 years or until the conclusion of the next succeeding regular examination by the insurance regulatory authority of the life insurer's state of domicile, whichever is later, all of the following:
 - (i) Copies of any proposal used.
 - (ii) The completed information statement.
 - (iii) Proof of receipt by the applicant of the information statement and the notice to applicants regarding replacement of life insurance.
 - (iv) The applicant's signed statement with respect to replacement.

History: 1979 AC; 1984 AACS.

R 500.605 Exceptions.

Rule 605. (1) R 500.602, R 500.603, and R 500.604 do not apply to transactions in which the application for the new life insurance is made to the same insurer that issued the existing life insurance or to an affiliate of the existing insurer.

(2) R 500.602, R 500.603, and R 500.604 do not apply to transactions in which the new life insurance is to be provided under any of the following plans, if full and complete disclosure of all material facts is made to the administrator of any plan to be replaced:

- (a) A group term life insurance policy.
- (b) Policies covering employees of an employer, debtors of a creditor, or members of an association or other eligible organization, which policies are distributed on a mass merchandising basis and which do not involve direct contact between the covered person and the agent.
- (c) Life insurance policies issued in connection with a pension, profit sharing, or other benefit plan qualifying for tax-deductibility of premiums.

(3) R 500.602, R 500.603, and R 500.604 do not apply to transactions in which the existing life insurance is a nonconvertible term policy which cannot be renewed and which would expire within 5 years after the initiation of the transaction.

History: 1979 AC; 1984 AACS.

R 500.606 Penalties.

Rule 606. An agent who fails to comply with R 500.601, R 500.602, and R 500.605 is rebuttably presumed to have given cause for revocation or suspension of his or her license or for imposition of a civil penalty for each such failure within the meaning of sections 1242 and 1244 of Act No. 218 of the Public Acts of 1956, as amended, being SS500.1242 and 500.1244 of the Michigan Compiled Laws.

History: 1979 AC; 1984 AACS.

DISCRETIONARY GROUP LIFE INSURANCE AND GROUP LIFE INSURANCE**R 500.611 Discretionary group life insurance; procedures.**

Rule 1. (1) A group life insurance policy shall not be issued under section 4424 of Act No. 218 of the Public Acts of 1956, as amended, being S500.4424 of the Michigan Compiled Laws, until the commissioner has issued a certificate of authority to purchase discretionary group life insurance to the applicant group and has given written notice of issuance of the certificate of authority to the insurer which is to provide the group life insurance.

(2) Application for a certificate of authority shall be made to the commissioner on forms prescribed by the commissioner by the person who is to serve as policyholder for the proposed discretionary group. If a trustee is to serve as policyholder, he or she shall submit with the application written evidence of his or her authority to act as trustee. If the applicant group is party to or results from a trust agreement or a bargaining agreement, a copy of the agreement shall be submitted with the application. If the applicant group has a constitution or bylaws, or both, a certified copy of each such document shall be submitted with the application.

(3) If the commissioner determines, based upon representations made in the application and in the documents accompanying it, that granting permission to the group to purchase group life insurance would be consonant with the dictates of public policy as expressed in section 4424 of Act No. 218 of the Public Acts of 1956, as amended, being S500.4424 of the Michigan Compiled Laws, he or she shall issue a preliminary certificate of eligibility, which certificate indicates that the group is qualified to negotiate with insurers for group life insurance coverage.

(4) The policies, certificates, and schedule of rates which an insurer proposes to use in providing insurance coverage for a group holding a certificate of eligibility shall be submitted to the commissioner by the insurer. If the commissioner determines, after review of the materials submitted, that the proposed plan of insurance meets the requirements of Act No. 218 of the Public Acts of 1956, as amended, being S500.100 et seq. of the Michigan Compiled Laws, he or she shall issue a certificate of authority to the group and shall notify the insurer in writing that the certificate has been issued.

(5) A group holding a certificate of authority shall not make any material change in the composition or size of the group and shall not make any material change in the benefits provided by the plan of insurance approved by the commissioner, until the commissioner has approved the changes in writing. If a change is made without the prior written approval of the commissioner, the certificate of authority may be terminated.

(6) An insurer providing coverage for a group holding a certificate of authority shall file any change in its schedule of rates for that coverage with the commissioner not later than 30 days after the effective date of the change. An insurer shall not issue any group life insurance policy for

which the premium rate exceeds that determined by the schedule of such group as then on file with the commissioner.

(7) The commissioner may require that each discretionary group holding a certificate of authority file a report with the commissioner at the conclusion of each policy year, on a form prescribed by the commissioner.

History: 1979 AC; 1981 AACS.

R 500.612 Grounds of eligibility.

Rule 612. (1) The commissioner shall not issue a certificate of eligibility to a group having no logical reason for existence except to fraction or partition a risk.

(3) The commissioner shall not issue a certificate of eligibility if the insurance is not to be available to all members of the group who are not excluded under the provisions of the insurer's acceptability criteria for the group.

History: 1979 AC; 1997 AACS.

R 500.615 Group term life insurance; contributions of certificate holders.

Rule 615. Whenever the insurance code of 1956 or a rule issued pursuant thereto requires that premiums on group term life insurance be paid jointly by the certificate holder and some other person, the contract of insurance shall limit the contributions of the certificate holders so that the contributions do not exceed 75% of the total premium for the coverage, and do not exceed the amounts specified in the following schedule:

Maximum Contribution to Life Premium from Certificate Holder Rate at Which Per Thousand of Life Insurance Policy is Written Monthly Weekly

Standard 60 cents 14 cents Standard plus \$1.00 70 cents 16 cents Standard plus \$2.00 75 cents 17 cents Standard plus \$3.00 or more 80 cents 18 cents

History: 1979 AC.

R 500.616 Rescinded.

History: 1982 AACS; 2017 AACS.

VARIABLE CONTRACTS

R 500.621 Contracts on a variable basis; authorization.

Rule 621. A contract on a variable basis authorized by section 925 of the insurance code of 1956 shall not be delivered or issued for delivery in this state unless the insurer is acting under a certificate of authority which specifically provides for issuance of contracts on a variable basis,

and the insurer has filed with the commissioner, within 30 days after adoption, the latest resolution of its board of directors governing the separate account which is to be used in connection with the contract on a variable basis.

History: 1979 AC.

R 500.622 Certificates of authority; applications.

Rule 622. Application for a certificate of authority which specifically provides for issuance of contracts on a variable basis shall be made to the commissioner in writing and shall be accompanied by all of the following:

(a) A certified copy of the resolution of the insurer's board of directors establishing the separate account.

(b) A written general description of the kinds of variable contracts the insurer intends to issue.

(c) A written general description of the program the insurer intends to use to market the contracts.

History: 1979 AC.

R 500.623 Certificates of authority; issuance.

Rule 623. (1) The commissioner shall not issue a certificate of authority which specifically provides for issuance of contracts on a variable basis to an insurer unless all of the following are true:

(a) The insurer possesses capital and surplus, if a stock insurer, or surplus, if a mutual insurer, of at least \$1,500,000.00.

(b) The insurer, if an alien insurer, has established a separate trust account for contracts on a variable basis under a trust indenture approved by the commissioner.

(c) The commissioner is satisfied that the insurer's condition or method of operation in connection with the issuance of contracts on a variable basis will not render its operation hazardous to its policyholders or the public.

(2) In determining whether to issue a certificate of authority which specifically provides for issuance of contracts on a variable basis, the commissioner will consider, among other relevant matters, the history and financial condition of the insurer; the character, responsibility and fitness of the officers, directors and employees of the insurer and any affiliation by common management or ownership of the insurer with an insurer authorized to transact life insurance in this state.

History: 1979 AC.

R 500.624 Separate accounts.

Rule 624. (1) An insurer issuing contracts on a variable basis shall not use the same separate account for both annuity contracts on a variable basis and contracts of life insurance on a variable basis.

(2) An insurer issuing contracts on a variable basis shall maintain in each separate account assets having a value equal to the reserves and other reasonable liabilities and obligations with respect to the account. If the securities and exchange commission requires that an account have a minimum balance before solicitation is permitted, the insurer may participate in the separate account in order

to comply with the requirement but the initial value of the amount so invested shall not exceed by more than 25% the amount required by the securities and exchange commission, and the insurer shall redeem the units so purchased within 6 months after the account acquires other assets sufficient to satisfy the requirements of the securities and exchange commission. Any surplus or deficit which occurs in a separate account because of mortality experience guaranteed by the insurer shall be adjusted at least annually at the end of each calendar year by withdrawals from or additions to the separate account so that the assets of the account equal the liabilities.

(3) A separate account shall not be charged with liabilities arising out of other separate accounts or out of other business of the insurer unless the liabilities have a specific and determinable relation to or dependence upon the separate account.

(4) Assets allocated to a separate account shall be valued at their market value on the date of valuation. Where possible, market values of common stocks shall be established by quotations of securities exchanges located in the United States or Canada or by credible over-the-counter market quotations. Where such quotations are not available, the assets shall be valued in accordance with reasonable rules applicable to the separate account or if there are no reasonable rules to be applicable, in accordance with reasonable valuation procedures prescribed by the commissioner.

History: 1979 AC.

R 500.625 Separate account committees.

Rule 625. Any provisions of the insurance code of 1956 or of rules promulgated pursuant thereto which concern conflicts of interest of officers or directors of insurers are equally applicable to members of any separate account's committee, board or other similar body. An officer, director or trustee of an insurer or any member of the board of managers, board of trustees, or board of directors of a separate account shall not receive, either directly or indirectly, any commission or other forms of emolument which is related to the purchase or disposal of assets of the insurer or of any of its separate accounts.

History: 1979 AC.

R 500.626 Insurance law applicable.

Rule 626. Provisions of the insurance code of 1956 which apply to contracts of life insurance or to annuity contracts also apply to similar contracts on a variable basis but computation of reserves and cash values and other nonforfeiture benefits shall be in accordance with actuarial procedures that recognize the variable nature of the contract. Section 4070 of the insurance code of 1956 does not apply to contracts for annuities on a variable basis.

History: 1979 AC.

R 500.627 Approvals required.

Rule 627. A contract on a variable basis shall not be delivered or issued for delivery in this state and an application for such a contract or a group certificate in connection with any such contract shall not be delivered or issued for delivery in this state, unless it has been approved by the commissioner pursuant to section 2236 of the insurance code of 1956.

History: 1979 AC.

R 500.628 Contracts and certificates; contents.

Rule 628. A contract on a variable basis shall not be delivered or issued for delivery in this state and a group certificate in connection with any such contract shall not be delivered or issued for delivery in this state, unless:

(a) It contains a statement of the essential procedures to be followed by the insurer in determining the dollar amount of variable benefits or other contractual payments or values under the contract.

(b) It contains on its first page, in a prominent position, a clear statement that the benefits or other contractual payments of values are on a variable basis and will decrease or increase to reflect investment experience.

History: 1979 AC.

R 500.629 Variable annuity; contract requirements.

Rule 629. (1) A contract for an annuity on a variable basis shall not be delivered in this state unless it stipulates the investment increment factors to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder. An individual contract for an annuity on a variable basis shall not be delivered or issued for delivery in this state, unless all of the following provisions are complied with:

(a) It contains a provision specifying the options available in the event of default in a periodic stipulated payment, which options may include an option to surrender the contract for a cash value as determined by the contract and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash.

(b) It stipulates the expense and mortality components used in determining the factor which is used in calculating the first annuity payment. Expense may exclude some or all taxes as may be provided by the contract.

(c) The annual net investment increment assumption does not exceed 5%, except with the approval of the commissioner.

(d) The mortality factor is determined from an annuity mortality table authorized by section 835 of the insurance code of 1956, as amended, being S500.835 of the Michigan Compiled Laws, or any modification of the table approved by the commissioner, or any other table so approved.

(2) The insurer shall disclose, in writing, before or at the time of delivery of the policy, the actual or maximum charges to be applied each year against variable annuity contracts for investment management expenses, including internal costs attributable to the investment management of assets of the separate account.

History: 1954 ACS 67, Eff. Mar. 26, 1971; 1954 ACS 98, Eff. Dec. 23, 1978; 1979 AC; 1988 AACS.

R 500.631 Advertising and illustrations.

Rule 631. (1) Except as exempted in writing by the commissioner, an insurer which delivers or issues for delivery contracts on a variable basis shall file with the commissioner at least 30 days

prior to use copies of advertising, illustrations and other printed materials to be used in connection with the sale of individual contracts on a variable basis in this state.

(2) Advertising, illustrations, and other disseminations of information concerning contracts on a variable basis are subject to the provisions of sections 2005 and 2007 of the insurance code of 1956. An illustration of benefits under a contract on a variable basis violates those provisions if it includes projections of past investment experience into the future or attempted predictions of future investment experience. However, those provisions do not prohibit the use of hypothetical assumed rates of interest to illustrate possible levels of benefits.

(3) Advertising, illustrations, and other disseminations of information concerning group variable annuity contracts on a variable basis satisfy the provisions of sections 2005 and 2007 of the insurance code of 1956 if they are subject to review by the securities and exchange commission of the United States government or by the national association of securities dealers and the review has not resulted in disapproval.

History: 1954 ACS 67, Eff. Mar. 26, 1971; 1954 ACS 98, Eff. Dec. 23, 1978; 1979 AC.

R 500.632 Statements.

Rule 632. (1) An insurer shall mail to each of its holders of an annuity contract on a variable basis, at least once in each contract year after the first at his last address known to the insurer, a statement reporting the investments held in the separate annuity account (S), in a form acceptable to the commissioner.

(2) An insurer shall mail to each of its holders of an annuity contract on a variable basis under which payments have not yet begun, at least once in each contract year after the first at his last address known to the insurer, a statement reporting the number of accumulation units credited to the contract and the dollar value of a unit or a statement reporting the value of the contract holder's account, as of a date not more than 4 months prior to the date of mailing.

(3) Annually an insurer issuing contracts on a variable basis shall submit to the commissioner a statement of the business of its separate accounts in the form prescribed by the commissioner.

History: 1979 AC.

R 500.633 Licensing of agents.

Rule 633. (1) A person shall not act as an agent in the solicitations or sale of contracts on a variable basis unless he is a licensed agent of a life insurer whose certificate of authority specifically provides for the issuance of contracts on a variable basis and unless his life insurance agent's license has been extended to permit him to solicit and sell variable contracts. A licensed agent of a life insurer may solicit and sell contracts on a variable basis without extension of his life insurance agent's license if the contract is based on an account which is excluded from the definition of investment company by section 3(c)11 of the investment company act of 1940.

(2) A licensed agent of a life insurer whose certificate of authority specifically provides for the issuance of contracts on a variable basis may apply for extension of his license to permit the solicitation and sale of variable contracts by a letter request directed to the commissioner through the home office of the life insurer. Letter requests may be for 1 or more of the life insurer's licensed agents.

(3) The licensing procedures prescribed by R 500.633 to R 500.636 shall not apply to the solicitation or sale of life insurance contracts on a variable basis as defined by R 500.841.

History: 1979 AC.

R 500.634 Examinations for agents.

Rule 634. (1) The commissioner shall schedule an examination and notify the agent of the date, time and place of the examination. The examination fee may be submitted with the letter request or may be paid at the time of examination.

(2) The examination has 2 parts. Part 1 deals with securities in general. Part 2 deals with the history, purpose, regulation and sale of variable contracts. An examinee shall achieve a grade of at least 70% in each part in order to pass the examination. Certain sales supervisory and home office employees shall achieve a grade of at least 80% in part 1.

History: 1979 AC.

R 500.635 Waiver of examination; alternatives; nonresidents.

Rule 635. (1) The commissioner shall waive part 1 of the examination for any agent who applies for extension of his license if the letter request from the insurer is accompanied by evidence that the agent has passed an acceptable alternative examination, that the agent currently is registered with the securities and exchange commission as a broker-dealer or that the agent currently is associated with a broker-dealer and has met the qualification requirements for such association. The following examinations are acceptable alternative examinations:

- (a) Any state securities sales examination accepted by the securities and exchange commission.
- (b) The national association of securities dealers' examination for principals, or its examination for qualification as a registered representative.
- (c) The various securities examinations required by the New York stock exchange, the American stock exchange, the Pacific stock exchange, or any other registered national securities exchange.
- (d) The securities and exchange commission test given pursuant to section 15(b)(8) of the securities and exchange act of 1934.
- (e) The examination recommended for the testing of variable contract agents by the national association of insurance commissioners, when adopted by the insurance department of any state or territory of the United States and approved for use by such department by the securities and exchange commission.

(2) The commissioner shall waive the examination for a licensed nonresident agent if the insurance regulatory authority in the state in which the agent resides certifies to the commissioner that the agent is licensed to solicit and sell contracts on a variable basis in that state.

History: 1979 AC.

R 500.636 Rewriting and passing examinations; termination of agents' authority.

Rule 636. (1) An agent who fails to pass part 1 of the examination may rewrite it after a waiting period in accordance with securities and exchange commission requirements but the waiting period

shall be not less than 20 days. An agent who fails to pass part 2 of the examination may rewrite it after a waiting period of not less than 20 days.

(2) When an agent successfully completes the examination, the commissioner shall notify the sponsoring insurer and instruct the insurer to return the agent's license to be amended. Amending a license consists of adding the designation including variable contracts to the license and making the appropriate notations on the agent's control card in the commissioner's files. There is no additional charge to the sponsoring insurer for amending a license.

(3) If an insurer terminates the authority of an agent to solicit and sell contracts on a variable basis but maintains the agent's authority to act as a life insurance agent for the company, the insurer shall notify the commissioner immediately and return the license to the commissioner for deletion of the including variable contracts designation.

History: 1979 AC.

R 500.637 Waivers of compliance with rules.

Rule 637. (1) If the statutes or rules of the place of domicile of an insurer prevent compliance with part of these rules, the insurer may advise the commissioner in writing. If the insurer demonstrates that the statute or rules of the place of domicile provide protection to the policyholders and the public which is substantially equal to that provided by these rules, the commissioner may waive compliance with these rules to the extent necessary to remove the conflict.

(2) If an insurer domiciled in this state or an alien insurer entered in this state is prohibited from transacting a variable contract business in another jurisdiction because a conflict exists between these rules and the rules or laws or both of that jurisdiction, the insurer may advise the commissioner in writing. The commissioner may waive compliance with these rules to the extent necessary to remove the conflict if he determines that the waiver will not substantially reduce the protection to the policyholders and the public provided by these rules.

History: 1979 AC.

R 500.641 Suspension or modification of filing requirements; standards.

Rule 641. Before issuing a written order suspending or modifying the requirement of filing as to any kind of insurance, subdivision, or combination thereof, or as to classes of risks, the commissioner shall take into account all of the following:

- (a) The magnitude of the coverages and premiums involved.
- (b) Whether the policies involved are of a unique or unusual character.
- (c) Whether the risk is such that immediate coverage is necessary.
- (d) The information available to, or the knowledge of, the parties negotiating the coverage as pertains to the risk involved and the rates for such coverage.
- (e) Whether such filing requirement is necessary or desirable for the protection of the public.

History: 1981 AACS.