

11 NCAC 04 .0318 LIFE INSURANCE SALES: FINANCING FIRST YEAR PREMIUM

(a) The Commissioner shall consider an unfair trade practice the failure by an insurance company to adhere to the following procedures concerning the sale of life insurance contracts for which the first year's premium or any portion thereof is financed through a device suggested by the insurer or its agent with the insurance policy itself being assigned as security:

- (1) **Minimum Down-Payment Required.** A minimum down-payment of twenty five dollars (\$25.00) in cash or by valid and currently collectible check of the applicant is required for the insurance. Under no circumstances shall a company or an agent directly or indirectly either furnish this down-payment or waive this requirement.
- (2) **Financing Device to be Explained in Policy Application.** The furnishing of a promissory note in connection with financing part of the first year's premium must be explained in the policy application. The explanation must be clear and complete and shall specify the principal sum of the note or notes, the interest payable, the due date, the amount payable on that due date, the interest rate and the annual percentage rate.
- (3) **Execution of Promissory Note.** All blank spaces in a promissory note form or an assignment of an insurance policy form subsequently executed by the insured must be filled in by the handwriting of the insured except blank spaces relating to the policy number to be issued, and the signatures of witnesses and co-makers. No agent or anyone acting under his or her direction or control other than the insured shall write in such spaces.
- (4) **Promissory Note May be Sold Only With Recourse.** If a promissory note is taken to finance part of the first year's premium, the note may be sold or otherwise transferred by the payee with recourse only, and this fact must appear in bold print on the face of the note.
- (5) **Note to be Retained Until Policy Acceptance is Executed.** Any promissory note given by the applicant in connection with an application for a policy shall not be sold or otherwise transferred by the agent or company, nor any commissions on the sale paid to the agent until 15 days after a properly executed policy acceptance form has been received in the home office of the insurance company issuing the policy.
- (6) **Copy of Note to be Furnished Applicant.** A copy of the note executed by the applicant must be attached to the policy when delivered.
- (7) **Policy Acceptance to be Executed on Delivery of the Policy; Contract Rescission.** Upon delivery of the policy, a policy acceptance form must be executed that recites the following:
 - (a) The policy has been issued as represented;
 - (b) The applicant acknowledges and understands the provisions and obligations of the debt he has incurred in connection with applying for the policy and the terms are set forth in the record;
 - (c) The applicant understands that he or she may cancel the policy and his or her promissory note and his or her down-payment will be returned if he or she refuses to accept delivery of the policy and sign the acceptance form, and the applicant understands that at any time within 10 days after the execution of the policy acceptance form he or she shall be allowed to rescind the agreement, and the promissory note, together with the total amount of his or her down-payment, shall be returned to the applicant;
 - (d) The applicant further understands that the rescission or rejection must be communicated to the company by mail and return of the policy within the 10 day period; and
 - (e) The applicant acknowledges that the obligations of the debt cannot be altered by a cancellation of the policy at his or her request unless properly cancelled within 10 days, in writing, mailed to the company at the address specified. The policy acceptance form shall contain a number designation corresponding to the policy issued and shall not be made available to the agent until the application is received in the home office. The provisions of Sub-items (7)(c) and (d) of this Item shall be printed in bold type upon the face of the policy.
- (8) **Insured to be Notified of Assignment.** The insurer, the note purchaser, assignee or company shall notify the note maker (insured) and all co-makers regarding the purchase, transfer or assignment of the note, after such transfer, inviting any questions relative to the note or the policy that is used as collateral security for the note.

- (9) Requests for Cancellation to be Handled Promptly. The company and its agents shall give prompt and complete cooperation to the insured and the Department when requests to cancel the policy and premium financing arrangements are received.
 - (10) Special Rule in Event Applicant is Under Eighteen Years of Age. If the applicant is a minor and executes a promissory note for the payment of part or all of the first year's premium, the note must be witnessed by at least one of the applicant's parents or guardian.
 - (11) Disclosure of Extended Obligations. The agent shall clearly disclose to the insured that the cancellation of the note may reduce the cash surrender value of the policy in direct proportion to the amount of the promissory note. The agent shall not use terms such as "bonus payment", "free insurance", or any other term that induces the applicant to believe that the promissory note will be paid by monies other than his or her policy cash values. Terms leading the applicant to believe that he is receiving free insurance by deferring the premium payment for the first year shall not be employed.
 - (12) Cash Values. Cash values shown at the presentation shall be based on the policy offered. The cash values shown at the time of presentation shall be a specimen of the policy being offered and not for a larger policy.
 - (13) Cancellation of Existing Insurance. The disturbing of any permanent insurance, including the partial or total replacement of any provisions of an existing policy for the purpose of placing additional insurance, or "twisting" as defined in G.S. 58-3-115, will be cause for investigation and review by the Department of Insurance.
 - (14) Licensed Agents. Only licensed agents are eligible to sell life insurance. No person other than a licensed agent shall participate in or receive commission or any other valuable consideration in connection with the solicitation, negotiation, procurement, or making of life insurance contracts in this State.
 - (15) Agent Identification. An agent or field representative who is licensed by this State as a life insurance agent shall not represent, refer to, or hold himself or herself out to the public under any special title that would obscure the fact that he is a licensed agent of the company. Identification as an agent or representative of a special division may be permitted providing such a division actually exists and the agency relationship is disclosed.
- (b) This Rule shall not apply to life insurance policies financed in conformity with G.S. 58, Article 35.

*History Note: Authority G.S. 58-2-40; 58-3-115; 58-63-40;
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