

11 NCAC 12 .0609 VIOLATIONS AND PENALTIES

(a) Any failure to comply with the rules in this Section shall be considered a violation of G.S. 58-63-15(1). Violations include:

- (1) Any deceptive or misleading information set forth in sales material;
- (2) Failing to ask the applicant in completing the application the pertinent questions regarding the possibility of financing or replacement;
- (3) The intentional incorrect recording of an answer;
- (4) Advising an applicant to respond negatively to any question regarding replacement in order to prevent notice to the existing insurer; or
- (5) Advising a policy or contract owner to write directly to the company in such a way as to attempt to obscure the identity of the replacing producer or company.

(b) Policy and contract owners may replace existing life insurance policies or annuity contracts after indicating in or as a part of applications for new coverage that replacement is not their intention; however, patterns of such action by policy or contract owners of the same producer shall be deemed prima facie evidence of the producer's knowledge that replacement was intended in connection with the identified transactions, and these patterns of action shall be deemed prima facie evidence of the producer's intent to violate the rules in this Section.

(c) Where it is determined that the requirements of the rules in this Section have not been met, the replacing insurer shall provide to the policy owner:

- (1) Either:
 - (A) An in force illustration if available; or
 - (B) A policy summary for the replacement policy; or
 - (C) An available disclosure document for the replacement contract; and
- (2) The appropriate notice regarding replacements as required in 11 NCAC 12 .0611.

(d) Violations of the rules in this Section shall subject the violators to penalties that may include the revocation or suspension of a producer's or company's license, monetary fines and the forfeiture of any commissions or compensation paid to a producer as a result of the transaction in connection with which the violations occurred.

History Note: Authority G.S. 58-2-40; 58-3-100; 58-3-115; 58-33-45; 58-33-75; 58-58-1; 58-58-40; 58-63-65; Eff. October 1, 1985;
Amended Eff. August 1, 2004; October 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.