

11 NCAC 12 .0612 DUTIES OF REPLACING INSURERS THAT USE PRODUCERS

(a) Where a replacement is involved in a transaction, the replacing insurer shall:

- (1) Verify that the required forms are received and are in compliance with the rules in this section.
- (2) Notify any other existing insurer that may be affected by the proposed replacement within five business days of receipt of a completed application indicating replacement or when the replacement is identified if not indicated on the application, and mail a copy of the available illustration or policy summary for the proposed policy or available disclosure document for the proposed contract within five business days of a request from an existing insurer;
- (3) Be able to produce copies of the notification regarding replacement required in 11 NCAC 12 .0605(b), indexed by producer, for at least five years or until the next regular examination by the insurance department of a company's state of domicile, whichever is later; and
- (4) Provide to the policy or contract owner notice of the right to return the policy or contract within 30 days of the delivery of the contract and receive an unconditional full refund of all premiums or considerations paid on it, including any policy fees or charges; or, in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations, or imposed under such policy or contract; such notice may be included in the notice required by 11 NCAC 12 .0611.

(b) In transactions where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control, the replacing insurer shall allow credit for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide periods up to the face amount of the existing policy or contract. With regard to financed purchases, the credit may be limited to the amount the face amount of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.

(c) If an insurer prohibits the use of sales material other than that approved by the company, as an alternative to the requirements made of an insurer pursuant to 11 NCAC 12 .0605(e), the insurer may:

- (1) Require with each application a statement signed by the producer that:
 - (A) Represents that the producer used only company-approved sales material; and
 - (B) States that copies of all sales material were left with the applicant in accordance with 11 NCAC 12 .0605(d); and
- (2) Within 10 days of the issuance of the policy or contract:
 - (A) Notify the applicant by sending a letter or by verbal communication with the applicant by a person whose duties are separate from the marketing area of the insurer, that the producer has represented that copies of all sales material have been left with the applicant in accordance with 11 NCAC 12 .0605(d);
 - (B) Provide the applicant with a toll free number to contact the company; and
 - (C) Stress the importance of retaining copies of the sales material for future reference.

(d) An insurer shall retain and be able to produce a copy of the letter or other verification referenced in Part (c)(2)(A) of this Rule in the policy or contract file for at least five years after the termination or expiration of the policy or contract.

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;

Eff. August 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.