

CHAPTER 4
ACTUARIAL SERVICES

Authority

N.J.S.A. 17:1C-6e.

Source and Effective Date

R.2001 d.7, effective November 30, 2000.
See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

Executive Order No. 66(1978) Expiration Date

Chapter 4, Actuarial Services, expires on November 30, 2005.

Chapter Historical Note

Chapter 4, Actuarial Services, was adopted and became effective prior to September 1, 1969.

Subchapter 2, Replacement of Life Insurance Policy, was adopted as R.1972 d.21, effective April 1, 1972.

Subchapter 7, Procedure for the Regulation of Consent to Higher Rate Filings, was adopted as R.1973 d.82, effective April 15, 1973. See: 4 N.J.R. 220(a), 5 N.J.R. 113(b).

Subchapter 8, Charitable Annuities, was adopted as R.1974 d.258, effective September 20, 1974. See: 6 N.J.R. 315(a), 6 N.J.R. 399(c).

Subchapter 11, Life Insurance Solicitation, was adopted as R.1976 d.329, effective October 18, 1976. See: 8 N.J.R. 336(a), 8 N.J.R. 517(a).

Subchapter 13, Group Student Health Insurance, was adopted as R.1977 d.309, effective August 22, 1977. See: 9 N.J.R. 343(c), 9 N.J.R. 438(d).

Subchapter 14, Home Health Care Insurance Coverage, was adopted as R.1977 d.476, effective December 15, 1977. See: 9 N.J.R. 479(f), 10 N.J.R. 16(d).

Subchapter 15, Alcoholism Benefits, was adopted as R.1978 d.165, effective May 22, 1978. See: 10 N.J.R. 162(a), 10 N.J.R. 257(a).

Subchapter 20, Blindness; Partial Blindness or other Physical or Mental Impairments; Unfair Discrimination, was adopted as R.1979 d.434, effective December 6, 1979. See: 11 N.J.R. 384(a), 11 N.J.R. 627(f).

Subchapter 16, Minimum Standards for Individual Health Insurance, Subchapter 17, Health Insurance Solicitation, and Subchapter 18, Individual Health Insurance Rate Filings, were adopted as new rules by R.1980 d.176, effective April 21, 1980. See: 11 N.J.R. 348(a), 12 N.J.R. 342(c).

Pursuant to Executive Order No. 66(1978), Subchapter 16, Minimum Standards for Individual Health Insurance, Subchapter 17, Health Insurance Solicitation, and Subchapter 18, Individual Health Insurance Rate Filings, were readopted as R.1980 d.343, effective August 5, 1980. See: 12 N.J.R. 420(c), 12 N.J.R. 538(b).

Subchapter 21, Limited Death Benefits Forms, was adopted as R.1980 d.265, effective June 18, 1980. See: 12 N.J.R. 279(b), 12 N.J.R. 423(c).

Subchapter 2, Replacement of Life Insurance Policy, was repealed and Subchapter 2, Replacement of Life Insurance Policy, was adopted as new rules by R.1982 d.16, effective February 1, 1982, operative June 1, 1982. See: 13 N.J.R. 18(e), 14 N.J.R. 158(d).

Pursuant to Executive Order No. 66(1978), Subchapter 15, Alcoholism Benefits, expired on May 22, 1983.

Subchapter 22, Individual Life Insurance: Use of Gender Blended Mortality Tables, was adopted as R.1984 d.478, effective November 5, 1984. See: 16 N.J.R. 1452(a), 16 N.J.R. 3040(a).

Pursuant to Executive Order No. 66(1978), Subchapter 6, Reserve Standards for Individual Health Insurance Policies, was readopted as R.1984 d.512, effective November 5, 1984. See: 16 N.J.R. 2225(a), 16 N.J.R. 3039(a).

Subchapter 23, Medicare Supplement Policies and Contracts, was adopted as R.1985 d.70, effective February 19, 1985, operative June 19, 1985. See: 16 N.J.R. 2945(a), 17 N.J.R. 460(a).

Pursuant to Executive Order No. 66(1978), Subchapter 20, Blindness; Partial Blindness or Other Physical or Mental Impairments; Unfair Discrimination, was readopted as R.1985 d.161, effective April 1, 1985. See: 17 N.J.R. 168(a), 17 N.J.R. 820(a).

Pursuant to Executive Order No. 66(1978), Subchapter 16, Minimum Standards for Individual Health Insurance, Subchapter 17, Health Insurance Solicitation, and Subchapter 18, Individual Health Insurance Rate Filings were readopted as R.1985 d.221, effective April 15, 1985. See: 17 N.J.R. 554(a), 17 N.J.R. 1129(a).

Subchapter 21 was readopted as R.1985 d.325, effective June 3, 1985. See: 17 N.J.R. 891(a), 17 N.J.R. 1660(a).

Subchapter 24, Smoker and Nonsmoker Mortality Tables, was adopted as R.1985 d.617, effective December 2, 1985. See: 17 N.J.R. 2348(a), 17 N.J.R. 2907(a).

Subchapter 26, Annuity Mortality Tables, was adopted as R.1985 d.616, effective December 2, 1985. See: 17 N.J.R. 2349(a), 17 N.J.R. 290(a).

Subchapter 15, Alcoholism Benefits, was adopted as R.1986 d.228, effective June 16, 1986. See: 18 N.J.R. 607(a), 18 N.J.R. 1302(a).

Subchapter 19, Optional Coverage for Pregnancy and Childbirth Benefits, was adopted as R.1988 d.455, effective September 19, 1988. See: 20 N.J.R. 43(a), 20 N.J.R. 2377(c).

Subchapter 28, Group Coordination of Benefits, was adopted as new rules by R.1988 d.499, effective October 17, 1988. See: 20 N.J.R. 1773(b), 20 N.J.R. 2581(a).

Subchapter 29, Homeowners Comparison Survey, was adopted as R.1989 d.50, effective January 17, 1989. See: 20 N.J.R. 2181(a), 21 N.J.R. 164(a).

Subchapter 31, Term Life Insurance Comparison Survey, was adopted as R.1989 d.122, effective February 21, 1989. See: 20 N.J.R. 2990(a), 21 N.J.R. 566(a).

Subchapter 32, Health Service Corporation Notice of Increased Rates, was adopted as R.1989 d.522, effective October 2, 1989. See: 21 N.J.R. 973(b), 21 N.J.R. 3173(c).

Subchapter 33, Excess Interest Reserve Adjustment, was adopted as R.1989 d.523, effective October 2, 1989. See: 21 N.J.R. 1308(a), 21 N.J.R. 3175(c).

Subchapter 34, Long-Term Care Insurance, was adopted as R.1989 d.571, effective November 6, 1989. See: 21 N.J.R. 1964(a), 21 N.J.R. 3465(a).

Subchapter 25, Medicare Supplement Interim Standards, was adopted as R.1990 d.214, effective April 16, 1990. See: 22 N.J.R. 320(a), 22 N.J.R. 1266(b).

Pursuant to Executive Order No. 66(1978), Chapter 4 was readopted as R.1991 d.3, effective November 30, 1990, Subchapter 1, Contracts on a Variable Basis, was repealed by R.1991 d.3, effective January 7, 1991. See: 22 N.J.R. 1689(a), 23 N.J.R. 111(a).

Subchapter 35, Annual Medicare Supplement Policy Survey, was adopted as R.1991 d.122, effective March 4, 1991. See: 22 N.J.R. 1226(b), 23 N.J.R. 698(a).

Petition for Rulemaking. See: 23 N.J.R. 2546(c), 23 N.J.R. 3827(a).

Subchapter 25, Medicare Supplement Interim Standards, was repealed by R.1993 d.26, effective January 4, 1993. See: 24 N.J.R. 12(a), 25 N.J.R. 141(a).

Subchapter 37, Selective Contracting Arrangements of Insurers, was adopted as R.1994 d.45, effective January 18, 1994. See: 25 N.J.R. 4554(b), 26 N.J.R. 381(a).

Subchapter 9, Personal Lines Insurance: Prospective Loss Costs Filing Procedures, was adopted as R.1995 d.406, effective August 7, 1995. See: 27 N.J.R. 1356(b), 27 N.J.R. 2931(a).

Subchapter 30, Accelerated Death Benefits, was adopted as R.1995 d.521, effective September 18, 1995. See: 27 N.J.R. 2046(a), 27 N.J.R. 3613(c).

Subchapter 40, Life/Health/Annuity Forms, was adopted as R.1995 d.569, effective November 6, 1995. See: 27 N.J.R. 2857(a), 27 N.J.R. 2867(a), 27 N.J.R. 4317(a).

Administrative correction. See: 27 N.J.R. 4728(a).

Pursuant to Executive Order No. 66(1978), Chapter 4, Actuarial Services, was readopted as R.1996 d.4, effective November 30, 1995, and Subchapter 5, Amendment to Instructions to Life and Accident and Health Annual Statement Blank, Subchapter 10, Expense Experience, Subchapter 32, Health Service Corporation Notice of Increased Rates, Subchapter 35, Annual Medicare Supplement Policy Survey, and Exhibits A and B of the Appendix to Subchapters 16 and 23 were repealed by R.1996 d.4, effective January 2, 1996. See: 27 N.J.R. 3557(a), 28 N.J.R. 165(a).

Subchapter 47, Actuarial Requirements for Flexible-Factor Policy Forms, was adopted as new rules by R.1996 d.83, effective February 5, 1996. See: 27 N.J.R. 3750(a), 28 N.J.R. 1215(a).

Subchapter 44, Standards for Contracts on a Variable Basis, was adopted as new rules by R.1996 d.149, effective March 18, 1996. See: 27 N.J.R. 3743(a), 28 N.J.R. 1546(a).

Subchapter 45, Periodic Reports, was adopted as new rules by R.1996 d.150, effective March 18, 1996. See: 27 N.J.R. 3744(a), 28 N.J.R. 1548(a).

Subchapter 43, Individual Annuity Contract Form Standards, was adopted as new rules by R.1996 d.181, effective April 1, 1996. See: 27 N.J.R. 3740(a), 28 N.J.R. 1885(a).

Subchapter 48, Unfair Discrimination, was adopted as new rules by R.1996 d.182, effective April 1, 1996. See: 27 N.J.R. 3756(a), 28 N.J.R. 1887(a).

Subchapter 23A, Medicare Supplement—Under 50 Coverage, and Subchapter 23B, Medicare Supplement—Age 50 through 64 Coverage were adopted as new rules by R.1996 d.195, effective April 15, 1996. See: 27 N.J.R. 3719(a), 28 N.J.R. 1987(a).

Subchapter 42, Group Life, Group Health and Blanket Insurance: General Standards for Contract Provisions, was adopted as new rules by R.1996 d.196, effective April 15, 1996. See: 27 N.J.R. 3735(a), 28 N.J.R. 2003(a).

Subchapter 41, Standards for Individual Life Insurance Policy Forms, was adopted as new rules by R.1996 d.197, effective April 15, 1996. See: 27 N.J.R. 3727(a), 28 N.J.R. 1992(a).

Subchapter 25, Funeral Insurance Policies, was adopted as new rules by R.1996 d.328, effective July 15, 1996. See: 288 N.J.R. 1656(a), 28 N.J.R. 3671(a).

Subchapter 49, Mandated Diabetes Benefits, was adopted as new rules by R.1997 d.86, effective February 18, 1997. See: 28 N.J.R. 4340(a), 29 N.J.R. 562(a).

Subchapter 46, Synthetic Guaranteed Investment Contract Forms, was adopted as new rules by R.1997 d.332, effective August 4, 1997. See: 29 N.J.R. 1472(a), 29 N.J.R. 3452(b).

Subchapter 50, Reimbursement of Inmate Health Care Costs, was adopted as new rules by R.1997 d.513, effective December 1, 1997. See: 29 N.J.R. 2232(a), 29 N.J.R. 5066(a).

Subchapter 52, Life Insurance Illustrations, was adopted as new rules by R.1998 d.338, effective July 6, 1998. See: 30 N.J.R. 47(a), 30 N.J.R. 2495(a).

Subchapter 32, Valuation of Life Insurance Policies, was adopted as new rules by R.1999 d.442, effective December 20, 1999 (operative January 1, 2000, except as provided in N.J.A.C. 11:4-32.6). See: 31 N.J.R. 2845(a), 31 N.J.R. 4268(c).

Pursuant to Executive Order No. 66(1978), Chapter 4, Actuarial Services, was readopted as R.2001 d.7, effective November 30, 2000. See: Source and Effective Date.

Subchapter 54, Benefit Standards for Infertility Coverage, was adopted as new rules by R.2003 d.160, effective April 21, 2003. See: 34 N.J.R. 2521(a), 35 N.J.R. 1692(b).

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Authority

N.J.S.A. 17:1-8.1; 17:1-15e; and 17B:32B-1 et seq.

Source and Effective Date

R.2001 d.122, effective April 2, 2001.
See: 32 N.J.R. 3907(a), 33 N.J.R. 1109(a).

2. Within 10 days of the issuance of the policy or contract:

i. Notify the applicant, either in writing or verbally 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 N.J.A.C. 11:4-2.3(c);

ii. Provide the applicant with a toll free telephone number to enable the applicant to contact company personnel involved in the compliance function if such is not the case; and

iii. Notify the applicant either in writing or verbally that it is important to retain copies of the sales material for future reference.

(h) The insurer shall be able to produce a copy of the writing or other verification of compliance with (g)2 above in the policy file for at least five years after the termination or expiration of the policy or contract.

Repeal and New Rule, R.2004 d.414, effective November 1, 2004 (operative January 30, 2005).

See: 36 N.J.R. 2147(a), 36 N.J.R. 4930(a).

Section was "Duties of replacing insurers".

11:4-2.6 Duties of the existing insurer

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

1. Retain and be able to produce all replacement notifications received, indexed by replacing insurer, for at least five years after replacement or until the conclusion of the next regular examination conducted by the Department, whichever is later;

2. Notify the policy or contract owner in writing within five business days of receipt of a notice referred to in (a)1 above that the policy or contract owner has the right to receive information regarding the existing policy or contract values, including, if available, an in force illustration, or a policy summary if an in force illustration cannot be produced. The insurer shall send the information within five business days of receipt of the request from the policy or contract owner; and

3. Upon receipt of a request to borrow, surrender or withdraw any policy values, send a notice advising the policy owner of the effect that the release of policy values will have on the non-guaranteed elements, face amount or surrender value of the policy from which the values are released. The notice shall be sent separately from the check if the check is sent to anyone other than the policy owner. In the case of consecutive automatic premium loans, the insurer is only required to send the notice at the time of the first loan.

Repeal and New Rule, R.2004 d.414, effective November 1, 2004 (operative January 30, 2005).

See: 36 N.J.R. 2147(a), 36 N.J.R. 4930(a).

Section was "Duties of insurers with respect to direct-response sales".

11:4-2.7 Duties of insurers with respect to direct response solicitations

(a) In the case of an application that is initiated as a result of a direct response solicitation, the insurer shall require, with or as part of each completed application for a policy or contract, a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue or change an existing policy or contract. If the applicant indicates a replacement, discontinuance or change is not intended, or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, a notice regarding replacement as described in subchapter Appendix B, incorporated herein by reference, or other substantially similar form approved by the Commissioner.

(b) If the insurer has proposed the replacement, or if the applicant indicates a replacement is intended, and the insurer continues with the replacement, the insurer shall:

1. Provide to applicants or prospective applicants with the policy or contract a notice as described in subchapter Appendix C, incorporated herein by reference, or other substantially similar form approved by the Commissioner. In these instances the insurer may delete the references to the producer, including the producer's signature, without having to obtain approval of the form from the Commissioner. The insurer's obligation to obtain the applicant's signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the notice referred to in this paragraph. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed notice referred to in this section; and

2. Comply with the requirements of N.J.A.C. 11:4-2.4(a)2, if the applicant furnishes the names of the existing insurers, and the requirements of N.J.A.C. 11:4-2.4(a)3, (a)4 and (b).

Repeal and New Rule, R.2004 d.414, effective November 1, 2004 (operative January 30, 2005).

See: 36 N.J.R. 2147(a), 36 N.J.R. 4930(a).

Section was "Duties of the existing insurer".

11:4-2.8 Violations and penalties

(a) Any failure to comply with the requirements of this subchapter shall be considered a violation of N.J.S.A. 17B:30-6. Such violations include, but are not limited to:

1. Any deceptive or misleading information set forth in sales material;

2. Failing to ask the applicant when completing the application pertinent questions regarding the possibility of financing or replacement as required by this subchapter;

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 have the right to replace policies or contracts after indicating in, or as a part of an application 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 this subchapter.

(c) Where it is determined that the requirements of this subchapter have not been met, the replacing insurer shall provide to the policy or contract owner an in force illustration, if available, or policy summary for the replacement policy, or available disclosure document for the replacement

contract, and the notice regarding replacements in Appendix A or C.

(d) Any violation of this subchapter shall subject the violator to penalties that may include the revocation or suspension of a producer's license or a company's certificate of authority, 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. In addition, where the Commissioner has determined that the violation was material to the sale, the insurer or producer may be required to make restitution to the insured, restore policy or contract values, and pay interest at the current rate set forth in the New Jersey Court Rules, R. 4:42-11, including any amount refunded in cash.

Repeal and New Rule, R.2004 d.414, effective November 1, 2004 (operative January 30, 2005).
See: 36 N.J.R. 2147(a), 36 N.J.R. 4930(a).
Section was "Penalties".

11:4-2.9 Separability

If any provisions of this subchapter shall be held invalid, the remainder of the subchapter shall not be affected thereby.

**APPENDIX A
IMPORTANT NOTICE
REPLACEMENT OF LIFE INSURANCE OR ANNUITIES
This document must be signed by the applicant and producer, if there is one,
and a copy given to the applicant.**

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on an existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of an existing policy or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interests. You will pay acquisition costs and there may be surrender costs deducted from your existing policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacement before you make your purchase decision and ask that you answer the following questions and consider the questions on the back of this form.

- 1. Are you considering discontinuing making premium payments, surrendering, forfeiting, to the insurer, or otherwise terminating your existing policy or contract? _____YES _____NO
- 2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? _____YES _____NO

Please list each existing policy or contract that you contemplate replacing (include the name of the insurer, the insured or annuitant, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

	INSURER NAME	CONTRACT OR POLICY #	INSURED OR ANNUITANT	REPLACED (R) OR FINANCING (F)
1.				
2.				
3.				

Make sure that you know the facts. Contact your existing company or its producer for information about the old policy or contract. (You may request that an in force illustration, policy summary or available disclosure documents be sent to you by the existing insurer.) Ask for and retain all sales material used by the producer in the sales presentation. Be sure that you are making an informed decision.

The existing policy or contract is being replaced because _____

I certify that the responses herein are, to the best of my knowledge, accurate:

Applicant's Signature and Printed Name _____
Date

Producer's Signature and Printed Name _____
Date

I do not want this notice read aloud to me. _____ (Applicants must initial only if they do not want the notice read aloud.)

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or producer that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your producer to determine whether replacement or financing your purchase makes sense:

- PREMIUMS:**
 - Are they affordable?
 - Could they change?
 - You're older. Are premiums higher for the proposed new policy?
 - How long will you have to pay premiums on the new policy? On the old policy?
- POLICY VALUES:**
 - New policies usually take longer to build cash values and to pay dividends.
 - Acquisition costs for the old policy may have been paid; you will incur acquisition costs for the new one.
 - What surrender charges do the policies have?
 - What expense and sales charges will you pay on the new policy?
 - Does the new policy provide more insurance coverage?
- INSURABILITY:**
 - If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.
 - You may need a medical exam for a new policy.
 - Claims on most new policies for up to the first two years can be denied based on inaccurate statements.
 - Suicide limitations may begin anew on the new coverage.
- IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:**
 - How are premiums for both policies being paid?
 - How will the premiums on your existing policy be affected?
 - Will a loan be deducted from death benefits?
 - What values from the old policy are being used to pay premiums?
- IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:**
 - Will you pay surrender charges on your old contract?
 - What are the interest rate guarantees for the new contract?
 - Have you compared the contract charges or other policy expenses?
- OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:**
 - What are the tax consequences of buying the new policy?
 - Is this a tax-free exchange? (See your tax advisor.)

Is there a benefit from favorable “grandfathered” treatment of the old policy under the Federal tax code?
 Will the existing insurer be willing to modify the old policy?
 How does the quality and financial stability of the new company compare with your existing company?

Repeal and New Rule, R.2005 d.414, effective November 1, 2004
 (operative date January 30, 2005).
 See: 36 N.J.R. 4937(a), 36 N.J.R. 4930(a).

**APPENDIX B
 NOTICE REGARDING REPLACEMENT:
 REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY**

Are you thinking about buying a new life insurance policy or annuity and discontinuing or changing an existing one? If you are, your decision could be a good one—or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed policy’s or contract’s benefits.

Make sure you understand the facts. You should ask the company or agent that sold you your existing policy or contract to give you information about it.

Hear both sides before you decide. This way you can be sure that you are making a decision that is in your best interest.

Repeal and New Rule, R.2004 d.414, effective November 1, 2004
 (operative January 30, 2005).
 See: 36 N.J.R. 2147(a), 36 N.J.R. 4930(a).

**IMPORTANT NOTICE:
 REPLACEMENT OF LIFE INSURANCE OR ANNUITIES**

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interest. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? _____YES _____NO
2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? _____YES _____NO

Please list each existing policy or contract that you contemplate replacing (include the name of the insurer, the insured or annuitant and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY #	INSURED OR ANNUITANT	REPLACED (R) OR FINANCING (F)
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1.

2.

3.

Make sure that you know the facts. Contact your existing company or its producer for information about the old policy or contract. You may request an in force illustration, policy summary or available disclosure documents be sent to you by the existing insurer. Ask for and retain all sales material used by the producer in the sales presentation. Be sure that you are making an informed decision.

I certify that the responses herein are, to the best of my knowledge, accurate:

Applicant's Signature and Printed Name

Date

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or producer that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your producer to determine whether replacement or financing your purchase makes sense:

PREMIUMS: Are they affordable?
 Could they change?
 You're older. Are premiums higher for the proposed new policy?
 How long will you have to pay premiums on the new policy? On the old policy?

POLICY VALUES: New policies usually take longer to build cash values and to pay dividends.
 Acquisition costs for the old policy may have been paid. You will incur costs for the new one.
 What surrender charges do the policies have?
 What expense and sales charges will you pay on the new policy?
 Does the new policy provide more insurance coverage?

INSURABILITY: If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.
 You may need a medical exam for a new policy.
 Claims on most new policies for up to the first two years can be denied based on inaccurate statements.
 Suicide limitations may begin anew on the new coverage.

IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:
 How are premiums for both policies being paid?
 How will the premiums on your existing policy be affected?
 Will a loan be deducted from death benefits?
 What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:
 Will you pay surrender charges on your old contract?
 What are the interest rate guarantees for the new contract?
 Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:
 What are the tax consequences of buying the new policy?
 Is this a tax-free exchange? (See your tax advisor.)
 Is there a benefit from favorable "grandfathered" treatment of the old policy under the Federal tax code?
 Will the existing insurer be willing to modify the old policy?
 How does the quality and financial stability of the new company compare with your existing company?

Repeal and New Rule, by R.2004 d.414, effective November 1, 2004
 (operative January 30, 2005).

See: 36 N.J.R. 2147(a), 36 N.J.R. 4930(a).

**SUBCHAPTER 3. COUPON POLICIES AND
POLICIES CONTAINING GUARANTEED
ANNUAL ENDOWMENT BENEFITS**

11:4-3.1 Payments

Payment of guaranteed annual endowment benefits in a policy shall not be made contingent on the payment of a premium falling due at the time such benefit would otherwise be payable or credited to the insured.

11:4-3.2 Gross premium shown

The gross premium for the guaranteed annual endowments shall be shown prominently and separately in the policy as distinct from the regular insurance gross premium.

11:4-3.3 Gross premium regarding additional insurance

The gross premium for any additional insurance effective after the first policy year, other than return of premiums, shall also be shown prominently and separately in the policy.

11:4-3.4 Coupons

Annual coupons for the guaranteed annual endowments shall not be included as a part of policies containing guaranteed annual endowments.

6. Coverages applied for, including limits, amounts of insurance, deductibles, and so forth;

7. Exposure identification class, territory, description and use of automobile, and so forth;

8. Premiums:

i. The premium developed by the rating system approved for the company for the coverages applied for, identified as "Normal Premium";

ii. The additional premium to be charged in consideration of the additional hazard, identified as "Additional Premium";

iii. The total of the two amounts identified as "Premium Payable".

9. Underwriting information in support of the additional premium under (a)8ii above. In the case of automobile insurance, liability and physical damage, a copy of the abstract of driving record from the Division of Motor Vehicles shall be submitted. Such abstract is not required if the coverage applied for is excess coverage over the coverages and limits available under any residual market mechanism providing automobile insurance pursuant to statute. In the case of fire insurance, an inspection report, based upon an inspection performed by a qualified person, shall be submitted.

10. Each application shall be signed by the insured and it shall contain the following statement:

"I consent to the premium shown as 'Premium Payable' on this application which is higher than would normally apply because of the greater hazard involved."

11. The application form shall contain the following statement signed by the producer of record (broker or agent) or by an officer of the company providing the coverage:

"Under penalty of N.J.S.A. 17:29A-16 and N.J.S.A. 17:29A-22, I declare that this application was fully completed as shown, before signed by the applicant."

Amended by R.1991 d.3, effective January 7, 1991.
See: 22 N.J.R. 1689(a), 23 N.J.R. 111(a).

In (b): deleted "New Jersey Automobile Insurance Plan" and added text regarding "any residual market mechanism."

Amended by R.1996 d.4, effective January 2, 1996.

See: 27 N.J.R. 3557(a), 28 N.J.R. 165(a).

Amended by R.2001 d.7, effective January 2, 2001.

See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

11:4-7.2 Premium charges

(a) Premium charges in excess of those produced by the rating system approved for the submitting company shall be reasonable and adequate and not unfairly discriminatory, and shall be proportionate to the additional hazard, subject to the following provisions on business for which coverage is available under any residual market mechanism created by statute:

1. Insurance available from these plans shall be rated in accordance with the rating systems approved for these facilities and the procedures applicable to such business shall be followed, if written under the Consent to Higher Rate provision. Any surcharges to be applied to such business must be documented by any required inspection report.

2. An insured qualifying for coverage under these plans shall not be offered coverage at lower limits, lower amounts or otherwise reduced coverage except at a proportionate reduction in the otherwise applicable premium.

3. If an insured eligible for insurance from these plans requests limits or amounts of insurance higher than available thereunder, the excess portion may be written at rates higher than produced by the company's rating system, subject to the standards set forth above.

Amended by R.1991 d.3, effective January 7, 1991.

See: 22 N.J.R. 1689(a), 23 N.J.R. 111(a).

In (a): deleted "New Jersey Automobile Insurance Plan" and added text regarding "any residual market mechanism..."

In (a)1: deleted text defining documentation by motor vehicle reports for automobile insurance and reference to cases of fire and crime insurance.

Amended by R.1996 d.4, effective January 2, 1996.

See: 27 N.J.R. 3557(a), 28 N.J.R. 165(a).

11:4-7.3 Approval of applications

(a) Applications complying with the above rules will be approved by the Commissioner of the Department of Banking and Insurance on a current basis and the submitting carrier can expect to be notified promptly of such action.

(b) Applications that fail to comply with any of the above requirements or do not meet the requirement of being reasonable and adequate and not unfairly discriminatory will be disapproved. Notification of such disapproval will be sent by the Commissioner to the company, the producer of record and the insured.

(c) The company and the insured shall have the same legal remedies as are available in the case of disapproval of any rate filing.

(d) If a filing is disapproved, the policy with respect to which the filing had been made may be cancelled by the company on the basis of the premium that is applicable under the rating system approved for the company (normal premium), but such cancellations must be on a *pro rata* basis. However, if a disapproval is sustained upon an appeal by the insured, cancellation shall be *pro rata* on the basis of the "premium payable" as defined above.

(e) If the company wishes to continue the policy in force after the "consent to rate" filing has been disapproved, it may do so by charging the normal premium as of the policy's inception date.

(f) Nothing in this regulation shall prevent a company from filing a rate that produces a premium lower than that

produced by the approved rating system, including the rating systems applicable under any residual market mechanism created by statute.

Amended by R.1991 d.3, effective January 7, 1991.
See: 22 N.J.R. 1689(a), 23 N.J.R. 111(a).

In (f): deleted text regarding "New Jersey Automobile Insurance Plan" and added reference to "... any residual market ... but not limited to."

Amended by R.1996 d.4, effective January 2, 1996.
See: 27 N.J.R. 3557(a), 28 N.J.R. 165(a).
Amended by R.2001 d.7, effective January 2, 2001.
See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

SUBCHAPTER 8. CHARITABLE ANNUITIES

11:4-8.1 Purpose

(a) N.J.S.A. 17B:17-13.1 provides that qualified organizations as defined therein may enter into annuity agreements under conditions which are different from those which are applicable to organizations which are deemed to be insurers. This subchapter protects the interest of individual holders of annuities and their beneficiaries by requiring:

1. The use of forms which clearly set forth the conditions of the agreement being entered into;
2. The maintenance of segregated assets in such form and such amount as will protect the interest of the annuitants; and
3. The submission to the Commissioner, by the issuers of charitable annuities, of periodic reports which will enable the Commissioner to determine that the requirements of law and of this subchapter are being met.

(b) Charitable annuities are different from other annuities in that a significant part of the consideration paid for the annuity represents a gift to the issuing organization. In order to assure that such a gift results, this subchapter specifies maximum rates of income to annuitants for charitable annuities.

Amended by R.1985 d.94, effective March 4, 1985.
See: 16 N.J.R. 3172(a), 17 N.J.R. 598(b).
Deleted text in subsection (a).

11:4-8.2 Forms of agreement

An applicant for a special permit shall submit, with his application to the Commissioner, a copy of each form of agreement which it proposes to issue to annuitants. If a holder of a special permit proposes to institute a new form of agreement with annuitants, the form shall first be submitted to the Commissioner for his approval before it is put into use.

11:4-8.3 Annuity rates

(a) The original consideration for periodic payments payable to the holder of a charitable annuity may not be less than the net single premium, computed according to interest and mortality assumptions permitted by N.J.S.A. 17B:19-1 et seq. for guaranteed periodic payments, plus a life insurance net single premium, computed according to the same assumptions for an amount of death benefit equal to one-half of such original consideration. For this purpose the original consideration shall include the gross amount paid by the annuitant to the special permit holder in order to provide the annuity payments and the residue.

(b) An applicant for a special permit shall submit, with its application to the Commissioner, a schedule of its annuity rates and a demonstration that the rates meet the requirements of (a) above for each form of annuity that it proposes to issue.

(c) A special permit holder which adopts rates for a proposed new form of annuity or which proposes to change the rates on its existing annuities shall submit such rates and a demonstration that the rates meet the requirements of (a) above to the Commissioner for his approval before they become effective.

(d) The Commissioner shall waive the requirement for a demonstration from the special permit holder that the rates meet the requirements of (a) above if the special permit holder uses the rates of the American Council on Gift Annuities and these rates meet the requirements of (a) above.

Amended by R.1985 d.94, effective March 4, 1985.
See: 16 N.J.R. 3172(a), 17 N.J.R. 598(b).
Added (a)1.
Amended by R.2001 d.7, effective January 2, 2001.
See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).
Rewrote the section.

11:4-8.4 Surplus and reserves

(a) Each special permit holder shall have and maintain segregated assets at least equal to the sum of:

1. The reserves on its outstanding agreements calculated in accordance with the provisions of N.J.S.A. 17B:19; and
2. A surplus equal to \$100,000 or to ten per cent of the amount in paragraph 1 above, whichever is greater.

(b) In determining the reserves of any special permit holder, a deduction shall be made for all or any portion of an annuity risk which is lawfully reinsured by an authorized insurer, but such reinsurance shall not relieve a special permit holder from the requirement that the surplus shall be at least \$100,000.

(c) The Commissioner may consider that each corporation or association in a group of two or more corporations and/or associations which has met all other requirements of this section has met the requirements as to the amount of segregated annuity fund assets, provided:

1. The segregated assets of each such organization shall equal at least 110 per cent of the sum of the reserves on its outstanding agreements calculated in accordance with the provisions of N.J.S.A. 17B:19;

2. The combined segregated assets of all such organizations, when considered as a unit, meet the requirements of this section concerning the amount of segregated assets;

3. The organizations enter into an agreement by which each organization pledges the full amount of its segregated annuity assets as liable for the payment of each annuity and all annuities issued under the agreement by each organization and all organizations in the group;

4. Such agreement shall be determined by the Commissioner to protect the public at least to the same extent as though all annuities were issued by a single organization;

5. No change may be made in such agreement and no organization may be added to or released from such agreement without the prior approval of the Commissioner; and

6. The Commissioner may require that, in addition to any other reports that he shall normally require from permit holders, the group of organizations file annually a consolidated report in order to demonstrate that the requirements of this section are met on a consolidated basis.

(d) Each member organization within the group will be subject to all requirements of the law and of this subchapter other than the requirement of \$100,000 minimum surplus; this minimum must be satisfied by the group, however.

Amended by R.1985 d.94, effective March 4, 1985.
See: 16 N.J.R. 3172(a), 17 N.J.R. 598(b).
Added "N.J.S.A. 17B-19".

11:4-8.5 Compliance with investment requirements

The segregated assets held by a special permit holder shall be invested in the same manner and subject to the same restrictions as provided in N.J.S.A. 17B:20 for domestic insurers, unless more restrictive provisions are contained in applicable statutes regulating any such special permit holder.

Amended by R.1985 d.94, effective March 4, 1985.
See: 16 N.J.R. 3172(a), 17 N.J.R. 598(b).
Added "N.J.S.A. 17B-20". Deleted text "However, prior to ... chapter 19 of the code."

11:4-8.6 Annual report

(a) As of December 31 of the calendar year in which a special permit is issued, and as of December 31 of each succeeding calendar year, the holder of a special permit shall submit a report to the Commissioner. Such report shall be submitted to the Commissioner within 120 days following the end of the calendar year to which the report applies. The annual report shall be in such form as the Commissioner shall prescribe within three months prior to the end of each preceding calendar year. Subject to approval by the Commissioner, a special permit holder may file its annual report on a fiscal year basis.

(b) Each special permit holder shall submit, as part of the annual report, a statement by a qualified actuary setting forth his or her opinion as to the adequacy of reserves. A qualified actuary for the purpose of this subsection means a member in good standing of the American Academy of Actuaries, or a person who has otherwise demonstrated his or her actuarial competence to the satisfaction of the Commissioner. The Commissioner shall waive the requirement for the actuarial opinion if a special permit holder demonstrates to the satisfaction of the Commissioner that it has the appropriate software and technical expertise to calculate the required reserves, and that waiving this requirement would not be hazardous to the operations of the segregated account.

(c) Each special permit holder shall submit a copy of the workpapers used to calculate the required reserves.

(d) Each special permit holder shall respond on a timely basis to any inquiry of the Commissioner, or his designee, regarding the annual report.

(e) Each special permit holder shall submit, with the annual report of the segregated account required in (a) above, a copy of its audited annual report for the entire operations of the special permit holder.

Amended by R.1985 d.94, effective March 4, 1985.
See: 16 N.J.R. 3172(a), 17 N.J.R. 598(b).
Added (b)-(d).
Amended by R.2001 d.7, effective January 2, 2001.
See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).
In (a), added the last sentence; rewrote (b) and (c); and added (e).

11:4-8.7 Special permit

Anything in this subchapter to the contrary notwithstanding, no organization referred to by N.J.S.A. 17B:17-13.1 may enter into annuity agreements with donors until it has satisfied the Commissioner of Insurance that it satisfies all of the requisite provisions of the law and has received from the Commissioner a special permit authorizing it to do such business.

Amended by R.1985 d.94, effective March 18, 1985.
See: 16 N.J.R. 3172(a), 17 N.J.R. 598(b).
Added "N.J.S.A. 17B:17-13.1."

11:4-8.8 Separability of provisions

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the provisions or applications of this subchapter which can be given effect without the invalid provision or application, and for this purpose the provisions of the subchapter are separable.

Amended by R.1985 d.94, effective March 18, 1985.

See: 16 N.J.R. 3172(a), 17 N.J.R. 598(b).

Deleted "regulation" and substituted "subchapter".

11:4-8.9 Penalties

Failure to comply with the provisions of this subchapter will subject any special permit holder to the penalties provided by N.J.S.A. 17B:17-13.1d and any other penalties available to the Commissioner.

Amended by R.1985 d.94, effective March 18, 1985.

See: 16 N.J.R. 3172(a), 17 N.J.R. 598(b).

Deleted "Effective date" rule and substituted "Penalties".

Amended by R.2001 d.7, effective January 2, 2001.

See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

**SUBCHAPTER 9. PERSONAL LINES INSURANCE:
PROSPECTIVE LOSS COSTS FILING
PROCEDURES**

11:4-9.1 Purpose and scope

(a) This subchapter establishes data requirements and filing procedures for participating insurers in rating organizations to adopt or modify a rating organization's approved prospective loss costs.

(b) This subchapter applies to all rating organizations which file prospective loss costs and all insurer filings which adopt or modify a rating organization's prospective loss cost filing for personal lines property/liability insurance made pursuant to N.J.S.A. 17:29A-1 et seq. This does not apply to private passenger automobile insurance rate filings for which the use of rating organizations are specifically prohibited by N.J.S.A. 17:33B-31.

(c) All filings made pursuant to this subchapter shall be made in accordance with N.J.S.A. 17:29A-1 et seq., N.J.A.C. 11:1-2 and 11:1-32.

11:4-9.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Commissioner" means the Commissioner of the New Jersey Department of Banking and Insurance.

"Department" means the New Jersey Department of Banking and Insurance.

"Expenses" means that portion of a rate attributable to commissions and brokerage, other acquisition expenses, general expenses, taxes, licenses, and fees.

"Loss costs multiplier" means the adjustment reflecting expenses, profit loading and any modifications that the insurer uses on the loss costs to produce final rates.

"Minimum premium" means the smallest amount of premium for which an insurer will issue coverage under a given policy.

"Prospective loss costs" means that portion of a rate that does not include provisions for expenses (other than loss adjustment expenses) or profit, and are based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

"Rate" means the unit charge by which the measure of exposure or the amount of insurance specified in a policy of insurance or covered thereunder is multiplied to determine the premium. The unit charge may be expressed as a single number or as a prospective loss cost and an adjustment to account for the treatment of expenses, profit and variations in loss experience.

"Rating organization" means every person or persons, corporation, partnership, company, society, or association engaged in the business of ratemaking for two or more insurers.

"Supplementary rate information" means any manual or plan of rates, statistical plan, classification, rating schedule, rating rule and any other rule used by an insurer in making rates. This includes policy-writing rules, rating plans, territory codes and descriptions, and rules which include factors or relativities such as increased limits factors, classification relativities or similar factors used to determine the rate in effect or to be in effect.

Amended by R.2001 d.7, effective January 2, 2001.

See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

11:4-9.3 Prospective loss cost filing requirements for rating organizations

(a) A rating organization that desires to file prospective loss costs with the Commissioner shall develop a filing containing advisory prospective loss costs and supporting actuarial and statistical data.

(b) Rating organizations that file advisory prospective loss cost filings with the Commissioner shall:

1. Submit a filing that contains the advisory prospective loss costs and the underlying loss data and other supporting actuarial information for any calculations or assumptions underlying those loss costs. Filings of prospective loss costs shall be filed and become effective in accordance with N.J.S.A. 17:29A-1 et seq. and N.J.A.C. 11:1-2; and

2. No longer develop or file minimum premiums with the filing of prospective loss costs.

(c) A rating organization shall provide the Department with printed manuals of prospective loss costs, as well as rules and other supplementary rating information filed and approved pursuant to N.J.S.A. 17:29A-1 et seq., and may provide this information to its member/subscriber insurers upon request.

(d) Rating organizations shall continue to develop and file rules, relativities and other supplementary rate information on behalf of their member/subscriber insurers.

Amended by R.2001 d.7, effective January 2, 2001.
See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).
Rewrote (c).

11:4-9.4 Prospective loss costs filing requirements for insurers

(a) In order for an insurer to incorporate a rating organization's approved prospective loss costs to establish its own rates, an insurer shall:

1. Be a participating insurer in the rating organization; and

2. File its loss costs multiplier using the Filing Adoption Form (as set forth in Appendix A to this subchapter and incorporated herein by reference). An insurer's loss costs multiplier shall be filed and become effective in accordance with N.J.S.A. 17:29A-1 et seq. and N.J.A.C. 11:1-2. An insurer's final rates shall be a combination of the approved prospective loss costs and the approved loss costs multiplier.