



(State of New Jersey.
② DEPARTMENT OF INSURANCE.

201 E. State St.

TRENTON 08625

January 28, 1972

TO: All Life Insurance Agent Associations in New Jersey; and
All Life Insurers, including Fraternal Benefit Societies, Licensed
by the New Jersey Department of Insurance

SUBJECT: Replacement of Life Insurance Policies.

Attached is the Department's Regulation on replacement of
life insurance policies.

This Regulation is temporarily designated as Department of
Insurance Regulation No. 1-72 and a permanent designation will be
assigned in the near future in accordance with the New Jersey Adminis-
trative Code.

Many people cooperated in the drafting of this Regulation
and it is sincerely hoped that all concerned will cooperate with the
Department toward making the Regulation serve its intended purpose.

The Regulation shall become effective on April 1, 1972.

ROBERT L. CLIFFORD
COMMISSIONER
DEPARTMENT OF INSURANCE

NJ/KAS
I6/16
1972a

c.2

STATE OF NEW JERSEY

DEPARTMENT OF INSURANCE

REGULATION NO. 1-72

REPLACEMENT OF LIFE INSURANCE POLICIES

Promulgated January 28, 1972

Effective April 1, 1972

Pursuant to the authority contained in N.J.S.A. 17:1C-6(e), the following is adopted as an official Regulation of the Department of Insurance.

Section 1 - Purpose

Recognizing that it is generally not to the advantage of a policy owner to replace existing life insurance, the interest of New Jersey citizens must be safeguarded by: (a) making available to all contemplating replacement of existing life insurance full and complete disclosure of material facts upon which they may make decisions in their own best interests; (b) reducing the opportunity for misrepresentation and incomplete comparison; and (c) precluding unfair methods of competition and unfair business practices in the sale of life insurance. The disclosure requirements of this Regulation are primarily for the protection of the individual policy owner and his beneficiaries. However, replacements are also harmful to the insuring public at large, for: (1) any unamortized initial expenses on life insurance being replaced must ultimately be paid for by policy owners of the insurer which issued the original policy; (2) when the replacement reduces cash or loan values of existing life insurance, then the original insurer and its policy owners are constructively deprived of a corresponding opportunity to invest such amounts in high grade new investments at prevailing terms; and (3) the resultant deterioration of morale of the great majority of insurance agents who do not propose replacements has a bad effect on public confidence.

of the tabular cash value, or one thousand dollars if less, is to be released on one or more of the existing policies; or

- (5) Assigned as collateral for a loan or subjected to substantial borrowing of the loan values whether in a single loan or under a schedule or series of borrowing over a period of time. "Substantial borrowing" includes all transactions wherein an amount in excess of 50% of the tabular cash value is to be borrowed on one or more existing policies.

Section 3 - Exemptions

A. This Regulation shall not apply when:

- (1) The application for the new life insurance is made under a contractual conversion or change right or customary privilege provided by the same insurer which issued the existing policy; or
- (2) The new life insurance is provided under:
- (i) a group insurance policy; or
 - (ii) policies covering employees of an employer, debtors of a creditor, or members of an association, which are distributed on a mass merchandising basis and administered by group type methods; or
 - (iii) policies issued in connection with a pension, profit sharing or other benefit plan qualifying for tax deductibility of premiums; provided, however, that as to any plan described in this subsection, full and complete disclosure of all material facts shall be given to the administrator, trustee or employer of any plan to be replaced; or
- (3) The existing life insurance is a non-convertible term policy with five years or less to expiry and which cannot be renewed.

B. The requirements of this Regulation shall apply in any replacement transaction which involves annuity contracts or contracts issued on a variable

- (1) Obtain with or as a part of each application and submit to the insurer not later than with the application, a complete list, dated and signed by the applicant and the agent, of all existing policies which are proposed to be replaced, including the name of the insurer which issued each such policy;
- (2) Present to and leave with the applicant for his records, not later than at the time of taking the application, a completed "Disclosure Statement" dated and signed by the agent and a "Notice to Applicants Regarding Replacement of Life Insurance", as described herein, together with copies of any sales material, whether prepared by the insurer or the agent or any other party, including any mutual fund prospectus or comparable material, utilized in effecting the sale of the new policy, all such additional material to be referred to and identified in the "Disclosure Statement";
- (3) Obtain from the applicant his signed and dated acknowledgment of receipt of the "Disclosure Statement", of the "Notice to Applicants Regarding Replacement of Life Insurance" and of any additional sales material described in Section 4 B (2) above; and
- (4) Submit to the insurer, not later than with the application, proof of receipt by the applicant of all items described or referred to in Section 4 B (3) above, together with a copy of the completed "Disclosure Statement", copies of any individually prepared sales materials and either copies of or clear identifications of all other sales materials, e.g., insurer prepared illustration(s), mutual fund prospectus, etc., utilized in effecting the sale.

- (5) Examine the "Disclosure Statement" and sales materials used, being satisfied that they meet the standards of objective disclosure of material facts as required by this Regulation; and
- (6) Maintain copies on the premises of its home office or regional home office, of the "Disclosure Statement" and sales materials used, (or identification of such if insurer prepared or pre-printed) and any other documents necessary to comply with this Regulation, all stamped or recorded to show the date received in its home office or regional home office, for a period of at least three years, or until the conclusion of the next succeeding regular examination by the Insurance Department of its state of domicile, whichever is later.

C. Any insurer which receives notice that its existing policy may be replaced shall maintain on the premises of its home office or regional home office, copies of any such notification, all stamped or recorded to show the date received, indexed by the name of the insurer notifying them of such replacement, for a period of at least three years, or until the conclusion of the next succeeding regular examination conducted by the Insurance Department of its state of domicile, whichever is later.

Section 6 - Contents of "Disclosure Statement" and "Notice to Applicants
Regarding Replacement of Life Insurance"

The forms set forth in the following Exhibits A and B are the minimum required for disclosure. Where the "Disclosure Statement" is not entirely appropriate for the policy being replaced or the policy being sold, the replacing agent and the replacing insurer must assume responsibility for submitting an additional statement fulfilling the purpose of this Regulation with respect to full disclosure of all material facts affecting the policy to be replaced. The omission of certain items as to one policy because of inapplicability does not permit the omission of such items as to any other policy, if applicable to it.

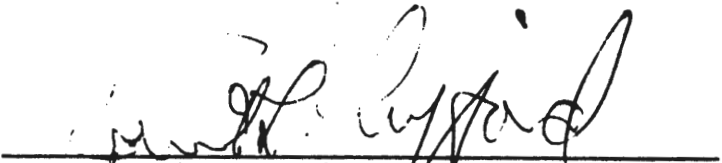
or circumstances shall be held invalid, the remainder of the Regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 9 - Repealer

This Regulation repeals and supersedes Department of Banking and Insurance Regulation No. I 1961A-1 dated September 12, 1961, effective December 1, 1961.

Section 10 - Effective Date

This Regulation shall become effective on April 1, 1972.



Robert L. Clifford
Commissioner of Insurance

Dated: January 28, 1972

EXHIBIT A

DISCLOSURE STATEMENT

THE INSURANCE DEPARTMENT OF THE STATE OF NEW JERSEY REQUIRES THAT EVERY APPLICANT CONSIDERING REPLACING A LIFE INSURANCE POLICY BE GIVEN A COPY OF THIS NOTICE. YOU ARE ADVISED TO READ IT CAREFULLY.

Name of Applicant _____

Address _____
Street City State Zip Code

Name of Insured if other than Applicant _____

Date of Birth of Insured _____

NOTE: If more than one existing life insurance policy is to be affected by a transaction included within the definition of a replacement contained in the Regulation, (I) the Existing Life Insurance column of a separate signed Disclosure Statement form must be completed for each such policy providing the information required by the form with respect to existing policies, and (II) a separate signed Disclosure Statement form must be completed for the proposed policy. The latter form must summarize, to the extent possible, the information concerning the existing policies set forth on the separate forms, and must include the information required in Sections 2 through 6 of the Disclosure Statement.

Section 1. COMPARATIVE INFORMATION

<u>Item</u>	<u>Existing Life Insurance</u>	<u>Proposed Life Insurance</u>
Policy Number	_____	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Insurance Company (Insurer)	_____	_____
Amount of Basic Insurance:		
Currently	\$ _____	\$ _____
10 Years Hence	\$ _____	\$ _____
20 Years Hence	\$ _____	\$ _____
At Age 65	\$ _____	\$ _____
Basic Plan of Insurance	_____	_____
Amount of Term Rider(s)		
Currently	\$ _____	\$ _____
10 Years Hence	\$ _____	\$ _____
20 Years Hence	\$ _____	\$ _____
At Age 65	\$ _____	\$ _____
Issue Age	_____	_____
Paid Up Additions to Date	\$ _____	
Date of Issue	_____	

<u>Premium For:</u>	<u>Yearly Premium</u>	<u>Yr. Prem. Payable to</u>	<u>Year Coverage Ceases</u>	<u>Yearly Premium</u>	<u>Yr. Prem. Payable to</u>	<u>Year Coverage Ceases</u>
Basic Policy	\$ _____	_____	_____	\$ _____	_____	_____
*Accidental Death Benefit	_____	_____	_____	_____	_____	_____
*Waiver of Premium Benefit	_____	_____	_____	_____	_____	_____
*Disability Income Benefit	_____	_____	_____	_____	_____	_____
Family Income or Increased Protection Rider	_____	_____	_____	_____	_____	_____
Option to Purchase Additional Insurance	_____	_____	_____	_____	_____	_____
Other Benefits (Explain)	_____					
Total Current Premium	\$ _____					
Frequency of Premium Payment	_____					

Remarks (Cross reference to separate page if necessary)

*If Premium for Benefits is not separable from basic policy premium, insert "Included in Basic Policy Premium".

Does it appear that the premium for the proposed policy will be charged on a rating basis less favorable than that of the existing policy? Yes () or No ()

<u>Tabular Cash Values:</u>	<u>Existing Life Insurance</u>	<u>Proposed Life Insurance</u>
At Present	\$ _____	\$ _____
1 Year Hence	\$ _____	\$ _____
5 Years Hence	\$ _____	\$ _____
10 Years Hence	\$ _____	\$ _____
At Age ____ (Highest age shown in Cash Value Table of Existing Policy)	\$ _____	\$ _____
Cash Value of any existing Dividend Additions or Accumulations (if available from applicant - otherwise enter "Unknown" or Show Amount as "Estimated")	\$ _____	\$ _____
Amount of Loan Now Outstanding, if any	\$ _____	
Amount of Annual Loan Interest	\$ _____	
Annual Policy Loan Interest Rate	_____% In Advance () Or End of Year ()	_____% In Advance () Or End of Year ()
Date Contestable Period Expires	_____	_____
Date Suicide Clause Expires	_____	_____

<u>Dividends**</u>	<u>Existing Life Insurance</u>	<u>Proposed Life Insurance</u>
Is Policy Participating?	<u>Yes or No</u>	<u>Yes or No</u>
Annual Dividend Current (Last Policy Anniversary)	\$ _____	\$ _____
Future (current scale):		
1 Year Thereafter	\$ _____	\$ _____
2 Years Thereafter	\$ _____	\$ _____
5 Years Thereafter	\$ _____	\$ _____
10 Years Thereafter	\$ _____	\$ _____
Total Next 10 Years	\$ _____	\$ _____

**Dividends are based on the 19__ dividend scale. The dividends shown are not to be construed as guarantees or estimates of dividends to be paid in the future. Dividends depend on mortality experience, investment earnings and other factors, and are determined each year in the sole discretion of the Insurer's board of directors.

Only the current and next future dividend need to be shown for an existing policy whose face amount (including term riders) is \$5,000 or less; provided that the nearest two dividends must be shown in all such cases.

The Agent is responsible for furnishing required dividend information. It is recommended that he obtain this for the policy being replaced from the Insurer issuing the original insurance. As an alternative, however, he may show dividends on closest comparable policy, amount, age and duration from current statistical manuals (interpolating where necessary), provided the premium rate for such closest comparable policy is the same as or differs only inconsequentially from the premium rate for the policy to be replaced. It is to be recognized that dividend information under this alternative method, with respect to existing insurance, is not likely to be as accurate as dividend information obtained directly from the Insurer issuing the original insurance.

Source of Dividend information used: _____

Section 2. ADVANTAGES OF CONTINUING THE EXISTING LIFE INSURANCE: (Cross reference to separate page if necessary)

Section 3. ADVANTAGES OF THE PROPOSED REPLACEMENT OF THE EXISTING LIFE INSURANCE: (Cross reference to separate page if necessary)

Section 4. ADDITIONAL INFORMATION:

(A) The Existing Life Insurance Cannot Fulfill Your Intended Objectives for the Following Reason(s): (Cross reference to separate page if necessary)

(B) Under the Proposal, the Existing Life Insurance Policy Will Be Treated as Follows: (Cross reference to separate page if necessary)

Section 5. THE PRIMARY REASON FOR THE PROPOSED REPLACEMENT OF THE EXISTING LIFE INSURANCE BY NEW INSURANCE IS AS FOLLOWS: (Cross reference to separate page if necessary)

Section 6. LIST OTHER SALES MATERIALS

(A) Illustrations Prepared by Agent (Describe and Mark Exhibits A, B, etc.)

(B) Insurer Prepared Illustration(s) - (Identify)

(C) Other, e.g., Mutual Fund Prospectus, etc. - (Identify)

Date

Signature of Agent

Address

I hereby acknowledge that I received the above "Disclosure Statement", the "Notice to Applicants Regarding Replacement of Life Insurance" and the additional sales materials, if any, listed above in Section 6 before I signed the application for the proposed new insurance.

Date

Signature of Applicant

EXHIBIT B

NOTICE TO APPLICANTS REGARDING REPLACEMENT OF LIFE INSURANCE

THIS NOTICE IS FOR YOUR BENEFIT AND IS REQUIRED BY REGULATION.

1. If you are urged to purchase life insurance and to surrender, lapse or in any other way change the status of existing life insurance, the agent is required to give you this Notice and a written, signed Disclosure Statement. This Statement must set forth the pertinent facts of the proposal and the advantages and disadvantages to you of making the change.
2. It is to your advantage to receive the advice of the present Insurer regarding the proposed replacement or change of existing policies. The Insurer to whom you are applying for the new policy is required by regulation to advise the home office of the Insurer or Insurers which sold the existing policy or policies of the proposed replacement.
3. As a general rule, it is not to your advantage to drop or change existing life insurance in favor of new life insurance, whether issued by the same or a different Insurer. Some of the reasons for this are as follows:
 - (a) The amount of the annual premium under an existing policy may be lower than that called for by a new policy having the same or similar benefits. Any replacement of the same type of policy will normally be at a higher premium rate based upon the insured's then attained age, or, possibly, (in addition) because of an increased physical or occupational hazard.
 - (b) Since the initial costs of life insurance policies are charged against the cash value increases in the earlier policy years, the replacement of an old policy by a new one results in the policy holder sustaining the burden of these costs twice.
 - (c) The incontestable and suicide clauses begin anew in a new policy. This could result in a claim under a new policy being denied by the Insurer which would have been paid under the policy which was replaced.
 - (d) Existing policies often have more favorable provisions than new policies in such areas as settlement options and disability benefits.
 - (e) In addition to any cash value, an existing policy may have a reserve value which may be of some benefit.
 - (f) The present Insurer can often make a desired change, on terms which would be more favorable than if you replaced existing insurance with new insurance.
4. For the same reasons, it is generally not advantageous to change an existing policy to reduced paid-up or extended term insurance, or to borrow against its loan value beyond your expected ability or intention to repay in order to obtain funds for premiums on a new policy.

5. There may be a situation when a replacement is advantageous. However, for your protection, you should receive the comments of the present Insurer before arriving at a decision in this important financial matter.
6. If, in the negotiation to replace existing insurance, it is suggested by an agent or employeè of the present Insurer that the existing insurance not be replaced, you are entitled to request in writing and receive directly from the person making the suggestion a written statement setting forth all the pertinent facts bearing on the advantages of the suggestion.

END.