

Readopt with amendment Ins 301, effective 2-5-18 (Document #12423) to read as follows:

PART Ins 301 LIFE INSURANCE SOLICITATION

Statutory Authority: RSA 400-A:15, I

Ins 301.01 Purpose.

(a) The purpose of this part is to require insurers to deliver to purchasers of life insurance, information that will improve the buyer's ability to select the most appropriate plan of life insurance for the buyer's needs and improve the buyer's understanding of the basic features of the policy that has been purchased or is under consideration.

(b) This part does not prohibit the use of additional material that is not a violation of this part or any other New Hampshire statute or rule.

Ins 301.02 Scope.

(a) Except as hereafter exempted, this part shall apply to any solicitation, negotiation, or procurement of life insurance occurring within this state. This part shall apply to any issuer of life insurance contracts including fraternal benefit societies.

(b) This part shall not apply to:

- (1) Individual and group annuity contracts;
- (2) Credit life insurance;
- (3) Group life insurance, except for disclosures relating to preneed funeral contracts or prearrangements; these disclosure requirements shall extend to the issuance or delivery of certificates as well as to the master policy; or
- (4) Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. Section 1001 et seq. as amended.

Ins 301.03 Definitions. For the purposes of this part, the following definitions shall apply:

(a) "Buyer's Guide" means the National Association of Insurance Commissioner's approved Life Insurance Buyer's Guide, available as referenced in Appendix B;

(b) "Current scale of nonguaranteed elements" means a formula or other mechanism that produces values for an illustration as if there is no change in the basis of those values after the time of illustration;

(c) "Generic name" means a short title which is descriptive of the premium and benefit patterns of a policy or a rider;

(d) "Nonguaranteed elements" means the premiums, credited interest rates, including any bonus, benefits, values, non-interest based credits, charges, or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation;

(e) "Policy data" means a display or schedule of numerical values, both guaranteed and nonguaranteed for each policy year, or a series of designated policy years, of the following information:

- (1) Illustrated annual, other periodic, and terminal dividend;

- (2) Premiums;
- (3) Death benefits;
- (4) Cash surrender values; and
- (5) Endowment benefits;

(f) "Policy summary" means a written statement describing the elements of the policy, including, but not limited to:

- (1) A prominently placed title as follows: "STATEMENT OF POLICY COST AND BENEFIT INFORMATION";
- (2) The name and address of the insurance producer or, if no producer is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary;
- (3) The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written;
- (4) The generic name of the basic policy and each rider;
- (5) The following amounts, where applicable, for the first 5 policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including at least one age from 60 through 65 and policy maturity:
 - a. The annual premium for the basic policy;
 - b. The annual premium for each optional rider;
 - c. The amount payable upon death at the beginning of the policy year regardless of the cause of death, other than suicide or other specifically enumerated exclusions, that is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately;
 - d. The total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider; and
 - e. Any endowment amounts payable under the policy that are not included under cash surrender values above;
- (6) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is adjustable, the policy summary shall also indicate that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and the applicable law; and
- (7) The date on which the policy summary is prepared.

(g) "Preneed funeral contract or prearrangement" means an agreement by or for an individual before that individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

Ins 301.04 Duties of Insurers.

- (a) Requirements applicable generally shall be as follows:

- (1) The insurer shall provide a Buyer's Guide to all prospective purchasers prior to accepting the applicant's initial premium or premium deposit. Except, if the policy for which application is made contains an unconditional refund provision of at least 10 days, the Buyer's Guide may be delivered with the policy or prior to delivery of the policy; and
 - (2) The insurer shall provide:
 - a. A policy summary to prospective purchasers where the insurer has identified the policy form as one that will not be marketed with an illustration;
 - b. That the policy summary shall show guarantees only;
 - c. That the policy summary shall consist of a separate document with all required information set out in a manner that does not minimize or render any portion of the summary obscure;
 - d. That any amounts that remain level for 2 or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in Ins 301.03(f)(5) shall be listed in total, not on a per thousand or per unit basis; and
 - e. If more than one insured is covered under one policy or rider:
 1. Death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class;
 2. Zero amounts shall be displayed as a blank space; and
 3. Delivery of the policy summary shall be consistent with the time for delivery of the Buyer's Guide as specified in (a)(1) above;
- (b) Requirements applicable to existing policies:
- (1) Upon request by the policy owner, the insurer shall furnish either policy data or an in force illustration as follows:
 - a. For policies issued prior to the 2017 effective date of Ins 309, the insurer shall furnish policy data or, at its option, an in force illustration meeting the requirements of Ins 309;
 - b. For policies issued after the 2017 effective date of Ins 309 that were declared not to be used with an illustration, the insurer shall furnish policy data, limited to guaranteed values, if it has chosen not to furnish an in force illustration meeting the requirements of this rule;
 - c. If the policy was issued after the 2017 effective date of Ins 309 and declared to be used with an illustration, an in force illustration shall be provided;
 - d. Unless otherwise requested, the policy data shall be provided for 20 consecutive years beginning with the previous policy anniversary. The statement of policy data shall include nonguaranteed elements according to the current scale, the amount of outstanding policy loans, and the current policy loan interest rate. Policy values shown shall be based on the current application of nonguaranteed elements in effect at the time of the request. The insurer shall not charge a fee for the preparation of the statement;
 - (2) If a life insurance company changes its method of determining scales of nonguaranteed elements on existing policies, it shall, no later than when the first payment is made on the new

basis, advise each affected policy owner residing in this state of this change and of its implication on affected policies. This requirement shall not apply to policies for which the amount payable upon death under the basic policy as of the date when advice would otherwise be required does not exceed \$5,000; and

(3) If the insurer makes a material revision in the terms and conditions under which it will limit its right to change any nonguaranteed factor, it shall, no later than the first policy anniversary following the revision, advise each affected policy owner residing in this state.

Ins 301.05 Preneed Funeral Contracts or Prearrangements Funded in Whole or in Part by Life Insurance. The following information shall be adequately disclosed at the time an application is made, prior to accepting the applicant's initial premium or deposit, for a preneed funeral contract or prearrangement that is funded or to be funded by a life insurance policy:

- (a) The fact that a life insurance policy is involved or being used to fund a prearrangement;
- (b) The nature of the relationship among the soliciting producer or producers, the provider of the funeral or cemetery merchandise or services, the administrator, and any other person;
- (c) The relationship of the life insurance policy to the funding of the prearrangement, and the nature and existence of any guarantees relating to the prearrangement;
- (d) The impact on the prearrangement:
 - (1) Of any changes in the life insurance policy, including but not limited to changes in the assignment, beneficiary designation, or use of the proceeds;
 - (2) Of any penalties to be incurred by the policyholder as a result of failure to make premium payments; and
 - (3) Of any penalties to be incurred or monies to be received as a result of cancellation or surrender of the life insurance policy.
- (e) A list of the merchandise and services which are applied or contracted for in the prearrangement and all relevant information concerning the price of the funeral services, including an indication that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need;
- (f) All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy and the amount actually needed to fund the prearrangement;
- (g) Any penalties or restrictions, including but not limited to geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services, or the prearrangement guarantee;
- (h) If so, the fact that a sales commission or other form of compensation is being paid and the identity of the individuals or entities to whom it is paid; and
- (i) Additional disclosure requirements:
 - (1) An insurer issuing a small face amount policy, where over the term of the policy the cumulative policy premiums paid may exceed the face amount of the policy, shall clearly and prominently disclose, on or before policy delivery, the length of time until the cumulative policy premiums paid may exceed the face amount of the policy;

- (2) The insurer shall clearly and prominently disclose, on or before policy delivery, available premium payment plans;
- (3) Cumulative premiums shall include premiums paid for riders except, the face amount shall not include the benefit attributable to the riders;
- (4) Each policy subject to the disclosure requirements of this section shall contain a provision that allows the policyholder to cancel the policy within 10 days following the delivery of the policy with full premium refund to the consumer and with no charge or penalty. The free-look period shall be clearly and prominently disclosed to the consumer; and
- (5) If the policy uses graded benefits, they shall be disclosed to the applicant prior to entry into the contract. The policy shall also provide that graded death benefits life insurance policies shall pay the policy face value after 2 years of premium payments.

Ins 301.06 Solicitation of Life Insurance General Rules.

(a) Each insurer shall maintain at its home office or principal office a complete file containing one copy of each document authorized and used by the insurer pursuant to this part. The file shall contain one copy of each authorized form for a period of 5 years following the date of its last authorized use unless otherwise provided by Ins 301. Insurers must also comply with RSA 400-B:4 and Ins 2602.

(b) A producer shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that they are acting as a life insurance producer and inform the prospective purchaser of the full name of the insurance company which the producer is representing to the buyer. In sales situations in which a producer is not involved, the insurer shall identify its full name.

(c) An insurance producer shall not use terms such as “financial planner”, “investment advisor”, “financial consultant”, or “financial counseling” in such a way as to imply that they are primarily engaged in an advisory business in which compensation is unrelated to sales, unless that is actually the case and the producer otherwise complies with RSA 402-J:3 and RSA 405:44-a. This provision is not intended to:

- (1) Preclude persons who hold some form of formally recognized financial planning or consultant designation from using this designation even when they are only selling insurance;
- (2) Preclude persons who are members of a recognized trade or professional association having such terms as part of its name from citing membership, providing that a person citing membership, if authorized only to sell insurance products, shall disclose that fact; or
- (3) Permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation, or servicing of policies.

(d) Any reference to nonguaranteed elements shall include a statement that the item is not guaranteed and is based on the company's current scale of nonguaranteed elements using the appropriate special term such as "current dividend" or "current rate" scale. If a nonguaranteed element would be reduced by the existence of a policy loan, a statement to that effect shall be included in any reference to nonguaranteed elements. A presentation or depiction of a policy issued after the effective date of 2017 Ins 309 that includes nonguaranteed elements over a period of years shall be governed by Ins 301. Solicitations pertaining to nonguaranteed elements shall also comply with Ins 2602.05(o).

Ins 301.07 Suitability of Recommendation or Sale. Reasonable inquiry shall be made by insurers and producers to determine the suitability of any recommendations or sales, and all replacement of life insurance policies shall comply with Ins 302.

Ins 301.08 Failure to Comply. Failure of an insurer to provide or deliver a Buyer's Guide, an in force illustration, a policy summary, and policy data as provided in Ins 301.04 shall constitute an omission which misrepresents the benefits, advantages, conditions, or terms of an insurance policy and be subject to the penalties contained in RSA 400-A:15 and RSA 417:10.

Ins 301.09 Electronic Sales.

(a) Electronic sales of life insurance as described in RSA 420-Q shall be subject to the identical disclosure and record keeping requirements as non-electronic sales.

Ins 301.10 Waiver or Suspension of Rules.

(a) The commissioner, upon the commissioner's own initiative or upon request by an insurer, shall waive any requirement of this chapter if such waiver does not contradict the objective or intent of the rule and:

- (1) Applying the rule provision would cause confusion or would be misleading to consumers;
 - (2) The rule provision is in whole or in part inapplicable to the given circumstances;
 - (3) There are specific circumstances unique to the situation such that strict compliance with the rule would be onerous without promoting the objective or intent of the rule provision; or
 - (4) Any other similar extenuating circumstances exist such that application of an alternative standard or procedure better promotes the objective or intent of the rule provision.
- (b) No requirement prescribed by statute shall be waived unless expressly authorized by law.
- (c) Any person or entity seeking a waiver shall make a request in writing to the commissioner.
- (d) A request for a waiver shall specify the basis for the waiver and proposed alternative, if any.
- (e) Waivers that are granted shall be in effect for the period of time requested and approved by the commissioner.

APPENDIX A

Rule	Specific State Statute the Rule Implements
Ins 301.01	RSA 400-A:15, I; RSA 417:1; RSA 417:3; RSA 417:4, I and III
Ins 301.02	RSA 400-A:15, I; RSA 417:1, RSA 417:2; RSA 417:3; RSA 417:4, I and III; RSA 418:18, VI; RSA 418:21, III; 29 U.S.C. Section 101 et seq
Ins 301.03	RSA 400-A:15, I
Ins 301.04	RSA 400-A:15, I; RSA 417:4, I and III
Ins 301.05	RSA 400-A:15, I; RSA 417:4, I and III
Ins 301.06	RSA 400-A:15, I; RSA 400-B:4; RSA 402-J:3; RSA 405:17-b; RSA 405:44-a; RSA 417:4, I
Ins 301.07	RSA 400-A:15, I; RSA 417:4, I
Ins 301.08	RSA 400-A:15, I; RSA 417:4, I; RSA 417:10
Ins 301.09	RSA 408:1; RSA 408:12; RSA 294-E; RSA 420-Q:2
Ins 301.10	RSA 400-A:15, I

APPENDIX B – INCORPORATION BY REFERENCE

Rule	Title of Material	Publisher; Cost; and How to Obtain
Ins 301.03	Life Insurance Buyer's Guide © 2018 developed by the National Association of Insurance Commissioners	Published by the NAIC. Available at no cost at: https://content.naic.org/sites/default/files/publication-lig-lp-consumer-life.pdf