

**RULES  
OF  
THE TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE  
DIVISION OF INSURANCE**

**CHAPTER 0780—1—24  
REPLACEMENT OF LIFE INSURANCE POLICIES**

**TABLE OF CONTENTS**

0780—1—24—.01 Purpose	0780—1—24—.07 Duties of Insurers that Use Agents
0780—1—24—.02 Definition of Replacement Sales	0780—1—24—.08 Duties of Insurers with Respect to Direct Response
0780—1—24—.03 Other Definitions	0780—1—24—.09 Penalties
0780—1—24—.04 Exemptions	0780—1—24—.10 Severability
0780—1—24—.05 Duties of Agents	0780—1—24—.11 Effective Date
0780—1—24—.06 Duties of All Insurers	0780—1—24—.12 Exhibit A

**0780—1—24—.01 PURPOSE.** The purpose of this rule is:

- (1) To regulate the activities of insurers and agents with respect to the replacement of existing life insurance.
- (2) To protect the interests of life insurance purchasers by establishing minimum standards of conduct to be observed in replacement transactions by:
  - (a) Assuring that purchasers receive information with which a decision can be made in his or her own best interest;
  - (b) Reducing the opportunity for misrepresentation and incomplete disclosures; and
  - (c) Establishing penalties for failure to comply with requirements of this rule.

**Authority:** T.C.A. §§56—1—701, 56—2—301, 56—6—127 and 56—8—104. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed August 30, 1982; effective October 1, 1982. Repeal and new rule filed May 17, 1985; effective September 1, 1985.

**0780—1—24—.02 DEFINITION OF REPLACEMENT.** “Replacement Transaction” means any transaction in which new life insurance is to be purchased, and it is known or should be known to the proposing agent or to the proposing insurer if there is no agent, that by reason of such transaction, existing life insurance has been or is to be:

- (1) Lapsed, forfeited, surrendered, or otherwise terminated;
- (2) Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;
- (3) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
- (4) Reissued with any reduction in cash value; or
- (5) Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding twenty-five percent (25%) of the loan value set forth in the policy.

(Rule 0780—1—24—.02, continued)

- (6) The replacement transaction also includes conservation by the existing insurer or its agent.

**Authority:** T.C.A. §§56—1—701, 56—2—301, 56—6—127 and 56—8—104. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed August 30, 1982; effective October 1, 1982. Repeal and new rule filed May 17, 1985; effective September 1, 1985.

**0780—1—24—.03 OTHER DEFINITIONS.**

- (1) “Conservation” means any attempt by the existing insurer or its agent to dissuade a policyowner from the replacement of existing life insurance. Conservation does not include routine administrative procedures such as late payment reminders, late payment offers or reinstatement offers.
- (2) “Direct-Response Sales” means any sale of life insurance where the insurer does not utilize an agent in the sale or delivery of the policy.
- (3) “Existing Insurer” means the insurance company whose policy is or will be changed or terminated in such a manner as described within the definition of “replacement”.
- (4) “Existing Life Insurance” means any life insurance in force, including life insurance under a binding or conditional receipt or a life insurance policy that is within an unconditional refund period.
- (5) “Replacing Insurer” means the insurance company that issues or proposes to issue a new policy or contract which is a replacement or existing life insurance.
- (6) “Registered Contract” means variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account, or any other contracts issued by life insurance companies which are registered with the Federal Securities and Exchange Commission.

**Authority:** T.C.A. §§56—1—701, 56—2—301, 56—6—127 and 56—8—104. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed August 30, 1982; effective October 1, 1982. Repeal and new rule filed May 17, 1985; effective September 1, 1985.

**0780—1—24—.04 EXEMPTIONS.** Unless otherwise specifically included, this rule shall not apply to transactions involving:

- (1) Credit life insurance;
- (2) Group life insurance;
- (3) An application to the existing insurer that issued the existing life insurance and a contractual change or a conversion privilege is being exercised;
- (4) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;
- (5) Transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control; provided, however, agents proposing replacement shall comply with the requirements of §0780—1—24—.05(1); and
- (6) Registered Contracts shall be exempt from the requirements of §§0780—1—24—.07(2)(b) and 0780—1—24—.07(2)(c) requiring provision of Policy Summary or ledger statement information; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required in lieu thereof.

Unless exempted by (1) through (6), above, this rule shall apply in any replacement transaction involving annuities, except for those provisions which require the completion of a Policy Summary or ledger statement as set forth in the Life Insurance Solicitation Rule.

**Authority:** T.C.A. §§56—1—701, 56—2—301, 56—6—127 and 56—8—104. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed August 30, 1982; effective October 1, 1982. Repeal and new rule filed May 17, 1985; effective September 1, 1985.

**0780—1—24—.05 DUTIES OF AGENTS.**

- (1) Each agent who initiates the application shall submit to the insurer to which an application for life insurance is presented, with or as part of each application:
  - (a) A statement signed by the applicant as to whether or not replacement of existing life insurance is involved in the transaction; and
  - (b) A signed statement as to whether or not the agent knows replacement is or may be involved in the transaction.
- (2) Where a replacement is involved, the agent shall:
  - (a) Present to the applicant, not later than at the time of taking the application, a “Notice Regarding Replacement” in the form as described in Exhibit A, or other substantially similar form approved by the Commissioner. The Notice shall be signed by both applicant and the agent and left with the applicant. Obtain with or as part of each application a list of all existing life insurance to be replaced and properly identified by name of insurer, the insured and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.
  - (b) Leave with the applicant the original or a copy of written or printed communications used for presentation to the applicant.
  - (c) Submit to the replacing insurer with the application a copy of the Replacement Notice provided pursuant to §0780—1—24—.05(2)(a).
- (3) Each agent who uses written or printed communications in a conservation shall leave with the applicant the original or a copy of such materials used.
- (4) In the case of an agent who has been licensed by the Tennessee Department of Commerce and Insurance for less than one hundred twenty (120) days, an application for an insurance policy which will replace an existing policy shall not be taken until ten (10) days after such agent has mailed to the replacing insurer by certified or registered mail, notice of the intention to replace existing insurance, the name(s) of existing insurer(s) and the policy numbers of the policies to be replaced.

**Authority:** T.C.A. §§56—1—701, 56—2—301, 56—6—127 and 56—8—104. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed August 30, 1982; effective October 1, 1982. Repeal and new rule filed May 17, 1985; effective September 1, 1985.

**0780—1—24—.06 DUTIES OF ALL INSURERS.** Each insurer shall:

- (1) Inform its field representatives or other personnel responsible for compliance with this rule of the requirements of this rule.

(Rule 0780—1—24—.06, continued)

- (2) Require with or as a part of each completed application for life insurance a statement signed by the applicant as to whether or not such proposed insurance will replace existing life insurance.

**Authority:** *T.C.A. §§56—1—701, 56—2—301, 56—6—127 and 56—8—104. Administrative History: Original rule certified June 10, 1974. Repeal and new rule filed August 30, 1982; effective October 1, 1982. Repeal and new rule filed May 17, 1985; effective September 1, 1985.*

**0780—1—24—.07 DUTIES OF INSURERS THAT USE AGENTS.** Each insurer that uses an agent in a life insurance sale shall:

- (1) Require with or as part of each completed application for life insurance, a statement signed by the agent as to whether or not he or she knows replacement is or may be involved in the transaction.
- (2) Where a replacement is involved:
  - (a) Require from the agent with the application for life insurance (i) a list of all of the applicant's existing life insurance to be replaced and (ii) a copy of the Replacement Notice provided the applicant pursuant to §0780—1—24—.05 (2) (a). Such existing life insurance shall be identified by name of insurer, insured and contract number. If a number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.
  - (b) Send by certified or registered mail to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained pursuant to §0780—1—24—.07 (2)(a) and a Policy Summary or ledger statement containing Policy Data on the proposed life insurance as required by the Life Insurance Solicitation Rule. Cost indices and equivalent level annual dividend figures need not be included in the Policy Summary or ledger statement. This written communication shall be made within five (5) working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner.
  - (c) Each existing insurer or such insurer's agent that undertakes a conservation shall, within twenty days from the date the written communication plus the materials required in §0780—1—24—.07 (2)(a) and §0780—1—24—.07 (2)(b) is received by the existing insurer, furnish the policy-owner with a Policy Summary for the existing life insurance or ledger statement containing Policy Data on the existing policy. Such Policy Summary or ledger statement shall be completed in accordance with the provisions of Life Insurance Solicitation Rule, except that information relating to premiums, cash values, death benefits and dividends, if any, shall be computed from the current policy year of the existing life insurance. The Policy Summary or ledger statement shall include the amount of any outstanding indebtedness, the sum of any dividend accumulations or additions, and may include any other information that is not in violation of the rule or statute. Cost indices and equivalent level annual dividend figures need not be included. The replacing insurer may request the existing insurer to furnish it with a copy of the Summaries or ledger statement, which shall be within five working days of the receipt of the request.
  - (d) In the case of an agent who has been licensed by the Tennessee Department of Commerce and Insurance for less than one hundred twenty (120) days, immediately forward to the existing insurer by certified or registered mail a copy of the notification required by §0780—1—24—.05(4).
- (3) The replacing insurer shall maintain evidence of the "Notice Regarding Replacement", the Policy Summary and any ledger statements used, and a replacement register, cross indexed, by replacing agent and existing insurer to be replaced. The existing insurer shall maintain evidence of Policy Summaries or ledger statements used in any conservation. Evidence that all requirements were met shall be maintained for at least five years or until the conclusion of the next succeeding regular examination by the Insurance Department of its state of domicile, whichever is earlier.

(Rule 0780—1—24—.07, continued)

- (4) The replacing insurer shall provide in its policy or in a separate written notice which is delivered with the policy that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised within a period of twenty days commencing from the date of delivery of the policy.

**Authority:** T.C.A. §§56—1—701, 56—2—301, 56—6—127 and 56—8—104. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed August 30, 1982; effective October 1, 1982. Repeal and new rule filed May 17, 1985; effective September 1, 1985.

#### 0780—1—24—.08 DUTIES OF INSURERS WITH RESPECT OF DIRECT RESPONSE SALES.

- (1) If in the solicitation of a direct response sale, the insurer did not propose the replacement, and a replacement is involved, the insurer shall send to the applicant with the policy a Replacement Notice as described in Exhibit A or other substantially similar form approved by the Commissioner. In such instances the insurer may delete the last sentence and the references to signatures from Exhibit A without having to obtain approval of the form from the Commissioner.
- (2) If the insurer proposed the replacement it shall:
  - (a) Provide to applicants or prospective applicants with or as a part of the application a Replacement Notice as described in Exhibit A or other substantially similar form approved by the Commissioner.
  - (b) Request from the applicant with or as part of the application, a list of all existing life insurance to be replaced and properly identified by name of insurer and insured.
  - (c) Comply with the requirements of §0780—1—24—.07 (2)(b), if the applicant furnishes the names of the existing insurers, and the requirements of §0780—1—24—.07(3), except that it need not maintain a replacement register.

**Authority:** T.C.A. §§56—1—701, 56—2—301, 56—6—127 and 56—8—104. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed August 30, 1982; effective October 1, 1982. Repeal and new rule filed May 17, 1985; effective September 1, 1985.

#### 0780—1—24—.09 PENALTIES.

- (1) A violation of this rule shall occur if an agent or insurer, during a replacement transaction, uses a substantially inaccurate presentation or comparison of a contract's premiums and benefits or dividends and values, if any. Any insurer, agent, representative, officer or employee of such insurer failing to comply with the requirements of this rule shall be subject to such penalties as may be appropriate under the Insurance Laws.
- (2) Patterns of action by policyowners who purchase replacing policies from the same agent, after indicating on applications that replacement is not involved, shall be deemed prima facie evidence of the agent's knowledge that replacement was intended in connection with the sale of those policies, and such patterns of action shall be deemed prima facie evidence of the agent's intent to violate this rule.
- (3) This rule does not prohibit the use of additional material other than that which is required that is not in violation of this rule or any other statute or rule.

**Authority:** T.C.A. §§56—1—701, 56—2—301, 56—6—127 and 56—8—104. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed August 30, 1982; effective October 1, 1982. Repeal and new rule filed May 17, 1985; effective September 1, 1985.

#### 0780—1—24—.10 SEVERABILITY.

(Rule 0780—1—24—.10, continued)

If any section or portion of a section of this rule, or the applicability thereof to any person or circumstance, if held invalid by a court, the remainder of this rule or the applicability of such provision to other persons, shall not be affected thereby.

**Authority:** T.C.A. §§56—1—701, 56—2—301, 56—6—127 and 56—8—104. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed August 30, 1982; effective October 1, 1982. Repeal and new rule filed May 17, 1985; effective September 1, 1985.

**0780—1—24—.11 EFFECTIVE DATE.**

This rule shall become effective on September 1, 1985.

**Authority:** T.C.A. §§56—1—701, 56—2—301, 56—6—127 and 56—8—104. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed August 30, 1982; effective October 1, 1982. Repeal and new rule filed May 17, 1985; effective September 1, 1985.

**0780—1—24—.12**

**EXHIBIT A.**

(NAME, ADDRESS AND TELEPHONE NUMBER OF THE INSURANCE COMPANY)  
NOTICE REGARDING REPLACEMENT  
REPLACING YOUR LIFE INSURANCE POLICY

Are you thinking about buying a new life insurance policy 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 benefits.

Make sure you understand the facts. You should ask the company or agent that sold you your existing policy to give you information about it. You are urged not to take action to terminate, assign or alter your existing life insurance coverage until you have been issued the new policy, examined it and have found it acceptable.

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

IF YOU SHOULD FAIL TO QUALIFY FOR THE LIFE INSURANCE FOR WHICH YOU HAVE APPLIED, YOU MAY FIND YOURSELF UNABLE TO PURCHASE OTHER LIFE INSURANCE OR ABLE TO PURCHASE IT ONLY AT SUBSTANTIALLY HIGHER RATES.

We are required by law to notify your existing company that you may be replacing their policy.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Agent's Signature

**Authority:** T.C.A. §§56—1—701, 56—2—301, 56—6—127 and 56—8—104. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed August 30, 1982; effective October 1, 1982. Repeal and new rule filed May 17, 1985; effective September 1, 1985.