

ARTICLE 45-04 LIFE INSURANCE

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CHAPTER 45-04-01 LIFE INSURANCE SOLICITATION

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45-04-01-01. Purpose.

1. The purpose of this chapter is to require insurers to deliver to purchasers of life insurance, information which will improve the buyer's ability to select the most appropriate plan of life insurance for the buyer's needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration, and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance.
2. This chapter does not prohibit the use of additional material which is not in violation of this chapter or any other (state) statute or regulation.

History: Effective January 1, 1980.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-01-08, 26.1-33-02

45-04-01-02. Scope.

1. Except as hereafter exempted, this chapter shall apply to any solicitation, negotiation, or procurement of life insurance occurring within this state. This chapter shall apply to any issuer of life insurance contracts including fraternal benefit societies.
2. Unless otherwise specifically included, this chapter shall not apply to:
 - a. Annuities.
 - b. Credit life insurance.
 - c. Group life insurance.
 - d. 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.
 - e. Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

History: Effective January 1, 1980.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-01-08, 26.1-33-02

45-04-01-03. Definitions.

For the purposes of this chapter, the following definitions shall apply:

1. "Buyer's guide" means the current version of the national association of insurance commissioners life insurance buyer's guide or language approved by the insurance commissioner.
2. "Cash dividend" means the current illustrated dividend which can be applied toward payment of the gross premium.
3. "Equivalent level annual dividend" is calculated by applying the following steps:
 - a. Accumulate the annual cash dividends at five percent interest compounded annually to the end of the tenth and twentieth policy years.
 - b. Divide each accumulation in subdivision a by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in subdivision a over the respective periods stipulated in subdivision a. If the period is ten years, the factor is 13.207, and if the period is twenty years, the factor is 34.719.
 - c. Divide the results of subdivision b by the number of thousands of the equivalent level death benefit to arrive at the equivalent level annual dividend.
4. "Equivalent level death benefit" of a policy or term life insurance rider is an amount calculated as follows:
 - a. Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for ten and twenty years at five percent interest compounded annually to the end of the tenth and twentieth policy years respectively.

- b. Divide each accumulation of subdivision a by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subdivision a over the respective periods stipulated in subdivision a. If the period is ten years, the factor is 13.207, and if the period is twenty years, the factor is 34.719.
5. "Generic name" means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.
6. "Life insurance cost indexes" are calculated as follows:
 - a. "Life insurance net payment cost index" is calculated in the same manner as the comparable life insurance cost index except that the cash surrender value and any terminal dividend are set at zero.
 - b. "Life insurance surrender cost index" is calculated by applying the following steps:
 - (1) Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.
 - (2) For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual cash dividends at five percent interest compounded annually to the end of the period selected and add this sum to the amount determined in paragraph 1.
 - (3) Divide the result of paragraph 2. (Paragraph 1 for guaranteed-cost policies) by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in paragraph 2. (Paragraph 1 for guaranteed-cost policies) over the respective periods stipulated in paragraph 1. If the period is ten years, the factor is 13.207, and if the period is twenty years, the factor is 34.719.
 - (4) Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at five percent interest compounded annually to the end of the period stipulated in paragraph 1 and dividing the result by the respective factors stated in paragraph 3. (This amount is the annual premium payable for a level premium plan.)
 - (5) Subtract the result of paragraph 3 from paragraph 4.
 - (6) Divide the result of paragraph 5 by the number of thousands of the equivalent level death benefit to arrive at the life insurance surrender cost index.
7. "Policy summary" means a basic illustration as defined in chapter 45-04-01.1 for policy forms for which the company chooses to illustrate under chapter 45-04-01.1, otherwise it means a written statement using elements guaranteed in the policy only describing the elements of the policy including:
 - a. A prominently placed title as follows: "STATEMENT OF POLICY COST AND BENEFIT INFORMATION".
 - b. The name and address of the insurance agent, or if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary.
 - c. 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.

- d. The generic name of the basic policy and each rider.
- e. The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including, but not necessarily limited to, the years for which life insurance cost indexes are displayed and at least one age from sixty through sixty-five or maturity, whichever is earlier:
 - (1) The annual premium for the basic policy.
 - (2) The annual premium for each optional rider.
 - (3) The guaranteed 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, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.
 - (4) The total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.
 - (5) The cash dividends payable at the end of the year with value shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the twentieth policy year.)
 - (6) The guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.
- f. 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 variable, the policy summary includes the maximum annual percentage rate.
- g. Life insurance cost indexes for ten and twenty years but in no case beyond the premium paying period. Separate indexes are displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than twelve months and guaranteed insurability benefits nor for the basic policies or optional riders covering more than one life.
- h. The equivalent level annual dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which life insurance cost indexes are displayed.
- i. A policy summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed in addition to a statement in close proximity to the equivalent level annual dividend as follows: "An explanation of the intended use of the Equivalent Level Annual Dividend is included in the Life Insurance Buyer's Guide."
- j. A statement in close proximity to the life insurance costs indexes as follows: "An explanation of the intended use of these indexes is provided in the Life Insurance Buyer's Guide."
- k. The date on which the policy summary is prepared.

The policy summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as to not minimize or render any portion thereof obscure. Any amounts which remain level for two 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 subdivision e shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

History: Effective January 1, 1980; amended effective January 1, 1997.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-01-08, 26.1-33-02

45-04-01-04. Disclosure requirements.

1. The insurer shall provide, to all prospective purchasers, a buyer's guide and a policy summary prior to accepting the applicant's initial premium or premium deposit, unless the policy for which application is made contains an unconditional refund provision of at least ten days or unless the policy summary contains such an unconditional refund offer, in which event the buyer's guide and policy summary must be delivered with the policy or prior to delivery of the policy.
2. The insurer shall provide a buyer's guide and a policy summary to any prospective purchaser upon request.
3. In the case of policies whose equivalent level death benefit does not exceed five thousand dollars, the requirement for providing a policy summary will be satisfied by delivery of a written statement containing the information described in subdivisions b, c, d, paragraphs 1, 2, and 3 of subdivision e, and subdivisions f, g, h, j, and k, all of subsection 7 of section 45-04-01-03.

History: Effective January 1, 1980.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-01-08, 26.1-33-02

45-04-01-05. General rules.

1. Each insurer shall maintain at its home office or principal office a complete file containing one copy of each document authorized by the insurer for use pursuant to this chapter. The file shall contain one copy of each authorized form for a period of three years following the date of its last authorized use.
2. An agent shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that the agent is acting as a life insurance agent and inform the prospective purchaser of the full name of the insurance company which the agent is representing to the buyer. In sales situations in which an agent is not involved, the insurer shall identify its full name.
3. Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance agent is generally engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case.
4. Any reference to policy dividends must include a statement that dividends are not guaranteed.
5. A system or presentation which does not recognize the time-value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life

insurance policies. Such a system may be used for the purpose of demonstrating a cash-flow pattern of a policy if such presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.

6. A presentation of benefits shall not display guaranteed and nonguaranteed benefits as a single sum unless they are shown separately in close proximity thereto.
7. A statement regarding the use of life insurance cost indexes shall include an explanation to the effect that the indexes are useful only for the comparison of the relative costs of two or more similar policies.
8. A life insurance cost index which reflects dividends or an equivalent level annual dividend shall be accompanied by a statement that it is based on the company's current dividend scale and is not guaranteed.
9. For the purposes of this chapter, the annual premium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

History: Effective January 1, 1980.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-01-08, 26.1-33-02

45-04-01-06. Failure to comply.

Failure of an insurer to provide or deliver a buyer's guide, or a policy summary as provided in section 45-04-01-04 shall constitute an omission which misrepresents the benefits, advantages, conditions, or terms of an insurance policy.

History: Effective January 1, 1980.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-01-08, 26.1-33-02

45-04-01-07. Effective date.

This chapter shall apply to all solicitations of life insurance which commence on or after January 1, 1980. Amendments to subsections 1 and 7 of section 45-04-01-03 and the appendix are effective January 1, 1997.

History: Effective January 1, 1980; amended effective January 1, 1997.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-01-08, 26.1-33-02