WEST VIRGINIA CODE: §33-11-5A

§33-11-5a. Replacement of life insurance.

(a) As used in this section:

(1) "Replacement" means any transaction in which new life insurance is to be purchased and by reason of such transaction existing life insurance has been or is to be:

(A) Lapsed, forfeited, surrendered or otherwise terminated;

(B) 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;

(C) 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;

(D) Reissued with any reduction in cash value; or

(E) 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;

(2) "Existing insurer" means the insurance company whose existing life insurance policy is or will be terminated or otherwise affected in a replacement transaction;

(3) "Replacing insurer" means the insurance company, including the same insurer or an insurer in the same group of affiliated insurers, that issues new life insurance in a replacement transaction; and

(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, but excluding life insurance obtained through the exercise of a dividend option.

(b) No replacing insurer shall issue any life insurance in a replacement transaction to replace existing life insurance unless the replacing insurer shall agree in writing with the insured that:

(1) The new life insurance issued by the replacing insurer will not be contestable by it in the event of such insured's death to any greater extent than the existing life insurance would have been contestable by the existing insurer had such replacement not taken place provided, however, that this paragraph shall not apply to that amount of insurance written and issued which exceeds the amount of the existing life insurance; and

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(2) The new life insurance issued by the replacing insurer may be voluntarily surrendered by the insured at any time within thirty (30) days after its delivery to the insured in exchange for a full refund of premiums paid by the replacing insurer to the insured.

(c) Unless otherwise specifically included, subsection (b) of this section shall not apply to:

(1) Annuities;

(2) Individual credit life insurance;

(3) Group life insurance, group credit life insurance and life insurance 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 of any plan to be replaced;

(4) Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account;

(5) An application to the existing insurer that issued the existing life insurance and a contractual policy change or conversion privilege or a privilege of policy change granted by the insurer is being exercised;

(6) Existing life insurance that is a nonconvertible term life insurance policy which will expire in five (5) years or less and cannot be renewed; or

(7) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company.

(d) For purposes of inducing or attempting to induce a policyholder to lapse, forfeit, borrow against, surrender, retain, exchange, modify, convert, or otherwise alter or dispose of any insurance policy or coverage, no person shall:

(1) Prepare, make or issue, or cause to be prepared, made or issued, any written or oral misrepresentation of a material fact regarding the terms, conditions or benefits of either existing insurance coverage or proposed replacement insurance coverage; or

(2) Omit information concerning a material fact regarding the terms, conditions or benefits of either existing insurance coverage or proposed replacement insurance coverage.

(e) The provisions of this section shall have no further force and effect as of the effective date of the emergency rule authorized by the provisions of section forty-eight, article thirteen of this chapter.

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