Life Insurance And Annuities - Policy Replacement And Cancellation

This chapter examines California regulations regarding policy replacement and cancellation. You will learn about the insured's right to cancel and specific time requirements for those who are age 60 or over. You will also examine samples of required disclosures for policy replacement and for immediate investments.

TERMS TO KNOW

Cancellation — termination of an in-force insurance policy, either by the insured or the insurer, prior to the expiration date shown in the policy
Home office — insurance company headquarters
Insurance Code — state laws that govern the solicitation and sale of insurance
Rescission — retroactive cancellation a policy by returning it to the insurer
Surrender — early termination of a policy by the policyowner

A. Insured's Right To Cancel

Educational Objective:

II.D.1. Be able to identify the insured's rights to cancel a recently purchased life policy when insured is:

a. An individual 60 years of age or older
b. An individual under 60 years of age (CIC 10127.09-10)

Every individual life insurance policy or annuity initially issued or delivered in this state must have printed on the front of the policy or on the cover page a notice stating that the policyowner has a right to return the policy within a specified period of time. The policyowner has the opportunity to review the policy on his or her own and, if dissatisfied, **return the policy for a full refund of all premiums paid.** No questions asked.

Rescinding the policy means it virtually never existed. The owner exercises this right by returning the policy to the original agent or mailing back to the insurer. This right must be clearly stated in the policy's text (outlined on title page and described in text). This timeframe starts when the contract/policy is received and signed for by the owner (not when the application is signed, or policy is underwritten). This is why a signed and dated "Acknowledgment of Delivery Receipt," as well as prompt delivery, is so important. It must be established exactly when this time period starts and ends. A client may cancel a policy after this time period but may not be entitled to a full refund.

Once the insurer receives notification of rescission, the company has 30 days to issue the refund of premiums. If the policy is a variable life or annuity policy, the refund due is the value of the account and any policy fees.

1. Age 60 or Over

If the insured on the individual life policy or the annuitant on an annuity contract is **60 years of age or older,** the insured has a right to cancel the policy for a full refund within **30 days.** Each individual life policy annuity contract (other than variable contracts and modified guaranteed contracts) delivered to a senior consumer must have the following notice either printed on the cover page or policy jacket in **12-point bold print** with one inch of space on all sides, or printed on a sticker attached to the cover page or policy jacket:

"IMPORTANT - YOU HAVE PURCHASED A LIFE INSURANCE POLICY OR ANNUITY CONTRACT. CAREFULLY REVIEW IT FOR LIMITATIONS.

THIS POLICY MAY BE RETURNED WITHIN 30 DAYS FROM THE DATE YOU RECEIVED IT FOR A FULL REFUND BY RETURNING IT TO THE INSURANCE COMPANY OR AGENT WHO SOLD YOU THIS POLICY. AFTER 30 DAYS, CANCELLATION MAY RESULT IN A SUBSTANTIAL PENALTY, KNOWN AS A SURRENDER CHARGE."

The words "known as a surrender charge" may be deleted if the policy does not contain surrender charges or penalties.

2. Less than 60 Years of Age (CIC 10127.9-10127.10)

The **free look** or **right-to-return period** allowed for new individual life policies must last for at least **10 days.** By law, insurers may give up to 30 days but not less than 10. This does not apply to term conversions or credit life policies.

If the policy is a **replacement**, a minimum **30-day** period is required because this requires even more time for evaluation.

3. Investment Requirements during the Free-Look Period

During the 30-day cancellation (free look) period, the premium for a variable annuity may only be invested in fixed-income investments and money-market funds, unless the investor specifically requests that the premium be invested in the mutual funds underlying the variable annuity contract.

4. Provisions for Face Value Less than $10,000

Every policy of individual life insurance with a face value of less than $10,000 must include a notice stating that the policy may be returned by the owner for cancellation by delivering it or mailing it to the insurer or to the agent through whom it was purchased. The insurer can establish how long the owner will have to return the policy. This amount of time must be between 10 and 30 days.

If the owner returns the policy, the agreement will be void from its beginning; the parties will be in the same position as if the policy hadn't been issued in the first place. All premiums and any policy fees that have already been paid must be refunded to the owner.

5. Notice of Right to Cancel Policy

Every policy of individual life insurance must include a notice stating that the policy may be returned by the owner for cancellation by delivering it to the insurer or agent through whom it was purchased. The period of time established by the insurer for return of the policy must be between 10 and 30 days. The insured may return the policy to the insurer at any time during the period specified in the notice. In the case of individual life insurance policies (other than variable contracts and modified guaranteed contracts), by delivering the policy during the cancellation period, the owner will void the policy from the beginning, and the parties will be in the same position as if no policy had been issued.

All premiums and policy fees paid for the policy must be refunded by the insurer to the owner within 30 days from the date that the insurer is notified that the insured has canceled the policy.

In the case of variable annuity contracts, variable life insurance contracts, and modified guaranteed contracts, return of the contract during the cancellation period entitles the owner to a refund of account value and any fee paid for the policy. The account value and policy fee must be refunded by the insurer to the owner within 30 days from the date that the insurer is notified that the owner has canceled the policy.

B. Policy Replacement

Educational Objective:

II.D.2. Be able to identify the requirements and penalties of the "Replacement of Life Insurance and Annuity Policies" article (CIC 10509-10509.09).

Replacement means any transaction in which new life insurance or a new annuity is purchased and, as a result, the existing life insurance or annuity has been or will be any of the following:

- Lapsed, forfeited, surrendered, or otherwise terminated;
- Reissued with any reduction in cash value;
- 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;
- Amended so as to affect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid; or
- Used in a financed purchase.

Replacing insurer is the company that issues the new policy.
Existing insurer is the company whose policy is being replaced.

Duties of the replacing producer:

- Present to the applicant a **Notice Regarding Replacement** that is signed by both the applicant and the producer. A copy must be left with the applicant;
- Obtain a list of all existing life insurance and/or annuity policies to be replaced including policy numbers and the names of all companies being replaced;
- Leave the applicant with the original or a copy of written or printed communications used for presentation to the applicant; and
- Submit to the replacing insurance company a copy of the replacement notice with the application.

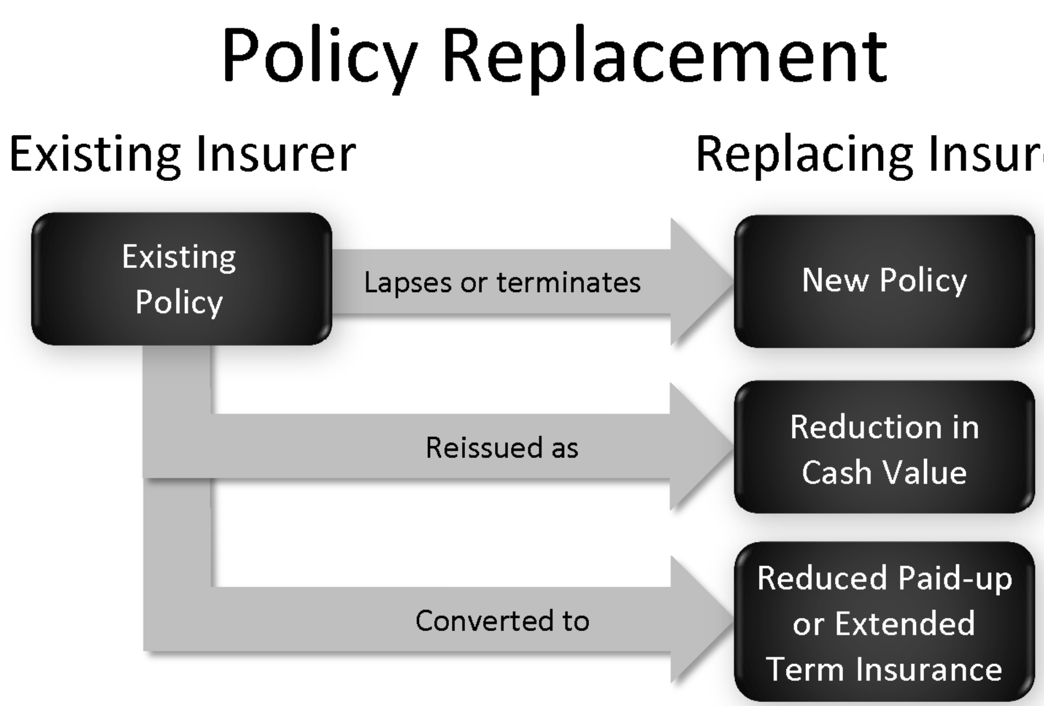
Each producer who initiates the application must submit the following to the insurance company with or as part of each application:

- A statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction; and
- A signed statement as to whether the producer knows replacement is or may be involved in the transaction.

Duties of the replacing insurance company:

- Require from the producer a list of the applicant's life insurance or annuity contracts to be replaced and a copy of the replacement notice provided to the applicant; and
- Send each existing insurance company a written communication advising of the proposed replacement within a specified period of time of the date that the application is received in the replacing insurance company's home or regional office. A policy summary or ledger statement containing policy data on the proposed life insurance or annuity must be included.

Conservation means any attempt by the existing insurer or its producers, or by a broker to dissuade a current policyowner from the replacement of existing life insurance or annuity. This does not include such routine administrative procedures as late payment reminders, late payment offers or reinstatement offers.



1. State Requirements

The burden of following the replacement rules falls on the replacing insurer to ensure that its agents are following these guidelines properly. This includes making sure the applications and disclosures properly ask replacement questions and returning to the agent any applications not correctly completed.

The replacing insurer must provide a notice to the applicant of the right to an **unconditional refund of all premiums within 30 days** starting from the date of policy delivery (free-look period).

The replacing and existing insurers must retain evidence of all signed applications and disclosures, as well as other materials used in replacement or conservation, for **no less than 3 years.**

When there is no agent involved in the replacement (such as during direct response or internet marketing), the replacing insurer must present to the client a **disclosure**, as soon as a replacement is suspected, even if that means presenting the disclosure when the actual policy is delivered (usually via mail).

To maintain this standard, the insurer should still ask on the application what life insurance the applicant currently has, as well as whether a replacement is involved. Not using agents does not excuse companies of their replacement responsibility.

Sample Disclosure (CIC 10509.4(d))

NOTICE REGARDING REPLACEMENT
REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY?

Are you thinking about buying a new life insurance policy or annuity 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.

Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest. We are required by law to notify your existing company that you may be replacing their policy.

____

(Applicant)(Agent)(Date)

2. Exclusions

The replacement regulation **does not apply** to:

- Credit life;
- Group life and group annuities;
- Converting or changing the current policy with the same insurer; or
- New policy transactions where the replacing insurer and the existing insurer are the same.

3. Penalties

The purpose of the replacement regulation for life insurance policies and annuities is to ensure that policyowners receive information they need to make decisions in their best interest, and to minimize the opportunity for misrepresentations and incomplete disclosures.

Any person or entity that violates the replacement provisions of the Insurance Code is liable for the following administrative penalties:

Agents:

- A minimum of $1,000 for a first violation; and
- No less than $5,000 and no more than $50,000 per violation for a second or subsequent violation.

Insurer:

- $10,000 for a first violation; and
- No less than $30,000 and no more than $300,000 per violation for a second or subsequent violation.

The Commissioner may suspend or revoke the license of any person or entity that violates the articles of the Code.

C. Chapter Recap

In this chapter, you learned about the replacement and cancellation requirements for life insurance policies and annuities. Let's recap the major points of this chapter:

	POLICY CANCELLATION
Right to Cancel	• Insured may cancel a policy at any time • Notice of Right to Cancel must be attached to every insurance policy • Insurer must return premiums within 30 days of notice
Free-look Periods	• Under age 60 - at least 10 days, but no more than 30 days • Age 60 or older - 30 days • Policy replacement - 30 days • Full refund of premium

	POLICY REPLACEMENT
General Rules	• Transaction in which a new policy replaces an existing policy that is ◦ Lapsed, forfeited, surrendered, or terminated ◦ Reissued with a reduction in cash value ◦ Converted to reduced paid-up insurance

- Notice Regarding Replacement (provided by replacing producer)
- Duties of replacing insurer:
  - Acquire list of contracts being replaced
  - Send notice of replacement to the existing insurer within 3 working days

Exemptions
- Credit life
- Group life and annuities
- Policies issued or converted by the same insurer