

## GENERAL AGENT INSTRUCTIONS FOR REGULATION 60 APPLICATIONS

Regulation 60 establishes the requirements regarding New York Replacements of life insurance and annuities. Producers are obligated to comply with the regulation when proposing and submitting new business.

The purpose of Regulation 60 is to:

- (a) To implement the New York Insurance Law of New York by regulating the acts and practices of insurers, insurance agents, insurance brokers, and other licensees of the Department of Financial Services department with respect to the internal and external replacement of life insurance policies and annuity contracts; and
- (b) To protect the interest of the public by establishing minimum standards of conduct to be observed in the replacement and proposed replacement of life insurance policies and annuity contracts; by making available full and clear information on which an applicant for life insurance or annuities can make a decision in his or her own best interest by reducing the opportunity for misrepresentation and incomplete comparison in replacement situations (commonly referred to as twisting); and by precluding unfair methods of competition and unfair practices.

New York's Replacement Regulation 60 sets forth the procedures and forms which are required for any new life insurance or annuity application to be purchased and delivered, or issued for delivery, in the state of New York, where it is known that as a part of the transaction, existing life insurance policies or annuity contracts are likely to be, or have been, replaced by a proposed life insurance policy or annuity contract, to include:

- 1) lapsed, surrendered, partially surrendered, forfeited, assigned to the insurer replacing the life insurance policy or annuity contract, or otherwise terminated;
- 2) changed or modified into paid-up insurance; continued as extended term insurance or under another form of nonforfeiture benefit; or otherwise reduced in value by the use of nonforfeiture benefits, dividend accumulations, dividend cash values or other cash values;
- 3) changed or modified so as to effect a reduction either in the amount of the existing life insurance or annuity benefit or in the period of time the existing life insurance or annuity benefit will continue in force;
- 4) reissued with a reduction in amount such that any cash values are released, including all transactions wherein an amount of dividend accumulations or paid-up additions is to be released on one or more of the existing policies;
- 5) assigned as collateral for a loan or made subject to borrowing or withdrawal of any portion of the loan value, including all transactions wherein any amount of dividend accumulations or paid-up additions is to be borrowed or withdrawn on one or more existing policies; or
- 6) continued with a stoppage of premium payments or reduction in the amount of premium paid.

The following provides you with the forms, instructions and procedures necessary to ensure a correct application package and quality issuance of the contract.

## Required Forms –

**Note: Please verify that all forms are accurately completed. Incomplete forms, or forms missing signatures, dates, etc. will delay underwriting.**

1. **Definition of Replacement** – B-7377NY (1 pg.)
2. **Notice to Insurer of Proposed Replacement** – B-8704NY (2 pgs.)
3. **Important Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts** – B-7378NY (2 pgs.)
4. **Disclosure Statement** – B-7376NY (5 pgs.)

## Website Instructions –

- 1) Log on to [www.myprotective.com](http://www.myprotective.com).
- 2) Click on **MARKETING RESOURCES AND TOOLS**.
- 3) Under **Forms & Applications**, click **NY Independent Agents**.
- 4) Click on desired form(s) to print.

## Agent Procedures –

**To determine if a replacement exists, prior to taking the application/ticket, review the Definition of Replacement (B-7377NY) form with the applicant.**

### **Definition of Replacement (B-7377NY)**

- a. This form must be completed and signed by the applicant and agent for every application taken in the state of New York, even when no replacement is involved.
- b. Leave a signed copy of the Definition of Replacement form with the applicant for the applicant's records.
- c. This form must be received at Protective with the application, *completed and signed on or before the application signature date*.
- d. If your client answers "**Yes**" to any of the Definition of Replacement questions, a replacement has occurred or is likely to occur.

Where a replacement is identified, please provide the following:

1. **Notice to Insurer of Proposed Replacement (B-8704NY)**
  - a. This form serves as authorization for Protective to obtain the existing policy information from the existing insurer necessary to complete the Disclosure Statement.
  - b. List any sales material, including form name and number, and submit a copy of any proposal used in the sale of the proposed life insurance policy or annuity contract.
  - c. The Notice to Insurer of Proposed Replacement form must be completed and signed by the existing policy/contract owner(s) only when there is existing coverage being replaced.
2. **Important Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts (B-7378NY)**
  - a. The Important Notice form must be completed only when there is existing coverage being replaced.
  - b. This form must be received at Protective with the application, *completed and signed by the applicant on or before the application signature date*.
  - c. Leave a signed copy of the Important Notice form with the applicant for the applicant's records.

### 3. Disclosure Statement (B-7376NY)

- a. This form is only required when there is existing coverage being replaced.
- b. Upon Underwriting approval, Protective will provide you with a partially completed Disclosure Statement containing information received from the existing insurer, along with the proposed policy values.
- c. Upon receipt of the Disclosure Statement, you must:
  - Review all pages of the Disclosure Statement for accuracy and completeness
  - Complete the *Agent/Broker's Statement* with detailed responses regarding your recommendation to replace an existing policy or contract
  - Verify if sales material was used by checking the appropriate box
  - Sign and date the form
- d. The completed and signed Disclosure Statement must be received prior to policy issue.

#### **Important Reminders** –

- ✓ Submit to Protective, with the application, a list of all policies/contracts proposed to be replaced along with a copy of the sales material, including the proposal, used in the sale of the life insurance policy or annuity contract.
- ✓ Please verify that the items above are received as indicated to avoid Underwriting and Policy Issue delays.
- ✓ Once completed documents are received, reviewed and processed, the policy and supporting documents will be sent to you or your client, as prescribed by your firm or the arrangement with Protective.

**APPENDIX 11**  
**DEPARTMENT OF FINANCIAL SERVICES OF THE STATE OF NEW YORK**  
**DEFINITION OF REPLACEMENT**

IN ORDER TO DETERMINE WHETHER YOU ARE REPLACING OR OTHERWISE CHANGING THE STATUS OF EXISTING LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS, AND IN ORDER TO RECEIVE THE VALUABLE INFORMATION NECESSARY TO MAKE A CAREFUL COMPARISON IF YOU ARE CONTEMPLATING REPLACEMENT, THE AGENT OR BROKER IS REQUIRED TO ASK YOU THE FOLLOWING QUESTIONS AND EXPLAIN ANY ITEMS THAT YOU DO NOT UNDERSTAND.

AS PART OF YOUR PURCHASE OF A NEW LIFE INSURANCE POLICY OR A NEW ANNUITY CONTRACT, HAS EXISTING COVERAGE BEEN, OR IS IT LIKELY TO BE:

(1) LAPSED, SURRENDERED, PARTIALLY SURRENDERED, FORFEITED, ASSIGNED TO THE INSURER REPLACING THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT, OR OTHERWISE TERMINATED?  
YES \_\_\_\_\_ NO \_\_\_\_\_

(2) CHANGED OR MODIFIED INTO PAID-UP INSURANCE; CONTINUED AS EXTENDED TERM INSURANCE OR UNDER ANOTHER FORM OF NONFORFEITURE BENEFIT; OR OTHERWISE REDUCED IN VALUE BY THE USE OF NONFORFEITURE BENEFITS, DIVIDEND ACCUMULATIONS, DIVIDEND CASH VALUES OR OTHER CASH VALUES?  
YES \_\_\_\_\_ NO \_\_\_\_\_

(3) CHANGED OR MODIFIED SO AS TO EFFECT A REDUCTION EITHER IN THE AMOUNT OF THE EXISTING LIFE INSURANCE OR ANNUITY BENEFIT OR IN THE PERIOD OF TIME THE EXISTING LIFE INSURANCE OR ANNUITY BENEFIT WILL CONTINUE IN FORCE?  
YES \_\_\_\_\_ NO \_\_\_\_\_

(4) REISSUED WITH A REDUCTION IN AMOUNT SUCH THAT ANY CASH VALUES ARE RELEASED, INCLUDING ALL TRANSACTIONS WHEREIN AN AMOUNT OF DIVIDEND ACCUMULATIONS OR PAID-UP ADDITIONS IS TO BE RELEASED ON ONE OR MORE OF THE EXISTING POLICIES?  
YES \_\_\_\_\_ NO \_\_\_\_\_

(5) ASSIGNED AS COLLATERAL FOR A LOAN OR MADE SUBJECT TO BORROWING OR WITHDRAWAL OF ANY PORTION OF THE LOAN VALUE, INCLUDING ALL TRANSACTIONS WHEREIN ANY AMOUNT OF DIVIDEND ACCUMULATIONS OR PAID-UP ADDITIONS IS TO BE BORROWED OR WITHDRAWN ON ONE OR MORE EXISTING POLICIES?  
YES \_\_\_\_\_ NO \_\_\_\_\_

(6) CONTINUED WITH A STOPPAGE OF PREMIUM PAYMENTS OR REDUCTION IN THE AMOUNT OF PREMIUM PAID?  
YES \_\_\_\_\_ NO \_\_\_\_\_

IF YOU HAVE ANSWERED YES TO ANY OF THE ABOVE QUESTIONS, A REPLACEMENT AS DEFINED BY NEW YORK INSURANCE REGULATION 60 HAS OCCURRED OR IS LIKELY TO OCCUR AND YOUR AGENT OR BROKER IS REQUIRED TO PROVIDE YOU WITH THE **IMPORTANT** NOTICE REGARDING REPLACEMENT OR CHANGE OF LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS. YOU WILL ALSO RECEIVE A COMPLETED DISCLOSURE STATEMENT NO LATER THAN THE TIME YOUR NEW POLICY OR NEW CONTRACT IS DELIVERED.

**Date:** \_\_\_\_\_ **Signature of Applicant:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Signature of Applicant:** \_\_\_\_\_

TO THE BEST OF MY KNOWLEDGE, A REPLACEMENT IS INVOLVED IN THIS TRANSACTION:  
YES \_\_\_\_\_ NO \_\_\_\_\_

**Date:** \_\_\_\_\_ **Signature of Agent or Broker:** \_\_\_\_\_

**NOTICE TO INSURER OF PROPOSED REPLACEMENT - LIFE**

Date:

**EXISTING POLICY/CONTRACT INFORMATION**

Company Name: (Please complete a separate form for each company)

<b>Policy/Contract Type:</b>	<input type="checkbox"/> Life Insurance <input type="checkbox"/> Annuity	<input type="checkbox"/> Life Insurance <input type="checkbox"/> Annuity	<input type="checkbox"/> Life Insurance <input type="checkbox"/> Annuity
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Policy/Contract #:

Policy/Contract Owner(s):

**AGENT INFORMATION – PROPOSED POLICY/CONTRACT**

Name of Agent:

Address: (*Street, City, State and Zip Code*)

Telephone Number:

Fax Number:

**SALES MATERIAL**

**List all sales material used in this sale, including form name and form number. For variable products, list any sales material used in addition to the prospectus.**

If no sales material was used, please enter None.

**FORM NAME:**

**FORM NUMBER:**

**PROPOSAL**

Indicate if a proposal was used in this sale. If Yes, please submit a copy of the proposal with this form.

Yes  No

**EXISTING INSURER**

1. Please be advised that the policy/contract owner is considering replacing the policy(ies)/contract(s) listed above. The policy/contract owner authorizes the insurer to release the information needed for completing the New York State LICONY Disclosure Statement, LICONY Appendix 10A, attached. In accordance with the New York State Department of Financial Services Regulation 60, it is required that this information be furnished within twenty (20) days to:

- The agent named above
- PROTECTIVE LIFE AND ANNUITY INSURANCE COMPANY
- The agent of record of the existing policy and/or contract

2. Please forward this information to:

**PROTECTIVE LIFE AND ANNUITY INSURANCE COMPANY**  
P.O. Box 830619  
Birmingham, Alabama 35283-0619  
Telephone: 1-800-366-9378  
Fax: 1-205-268-5807

This authorization is valid until revoked by the undersigned in writing.

\_\_\_\_\_  
Policy/Contract Owner's Signature

\_\_\_\_\_  
Joint Policy/Contract Owner's Signature

\_\_\_\_\_  
Policy/Contract Owner's Name (Printed)

\_\_\_\_\_  
Joint Policy/Contract Owner's Name (Printed)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
City, State and Zip Code

**APPENDIX 10C  
DEPARTMENT OF FINANCIAL SERVICES OF THE STATE OF NEW YORK**

**IMPORTANT NOTICE REGARDING REPLACEMENT OR CHANGE OF LIFE INSURANCE POLICIES  
OR ANNUITY CONTRACTS**

**THIS NOTICE IS FOR YOUR BENEFIT AND REQUIRED BY 11 NYCRR PART 51 (INSURANCE  
REGULATION 60)**

YOU ARE CONTEMPLATING THE PURCHASE OF A LIFE INSURANCE POLICY OR ANNUITY CONTRACT IN CONNECTION WITH THE SURRENDER, LAPSE OR CHANGE OF EXISTING LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS. THE AGENT OR BROKER IS REQUIRED TO GIVE YOU THIS NOTICE. A SIGNED DISCLOSURE STATEMENT WILL ALSO BE PROVIDED TO YOU CONTAINING THE SUMMARY RESULT COMPARISON FOR THE NEW LIFE INSURANCE POLICY OR ANNUITY CONTRACT AND ANY LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS TO BE CHANGED THAT SETS FORTH THE FACTS OF THE TRANSACTION AND ITS ADVANTAGES AND DISADVANTAGES TO YOU. YOUR DECISION COULD BE A GOOD ONE – OR A MISTAKE – SO MAKE SURE YOU UNDERSTAND THE FACTS. YOU SHOULD:

1. CAREFULLY STUDY THE DISCLOSURE STATEMENT, WHICH INCLUDES A SUMMARY RESULT COMPARISON, UNTIL YOU ARE SURE YOU UNDERSTAND FULLY THE EFFECT OF THE TRANSACTION. **THE DISCLOSURE STATEMENT IS REQUIRED TO BE PROVIDED TO YOU NO LATER THAN UPON DELIVERY OF THE POLICY OR CONTRACT.**
2. ASK THE COMPANY, AGENT OR BROKER FROM WHOM YOU BOUGHT YOUR EXISTING LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS TO REVIEW WITH YOU THE TRANSACTION. YOU MAY BE ABLE TO EFFECT THE CHANGES YOU DESIRE MORE ADVANTAGEOUSLY WITH THEM.
3. CONSULT YOUR TAX ADVISOR. THERE MAY BE UNFAVORABLE TAX IMPLICATIONS ASSOCIATED WITH THE CONTEMPLATED CHANGES TO YOUR EXISTING LIFE INSURANCE POLICIES OR ANNUITY CONTRACTS.

As a general rule, it is often not advantageous to drop or change existing coverage in favor of new coverage, whether issued by the same or a different insurance company. Some of the reasons it may be disadvantageous are:

1. The amount of the annual premium under an existing life insurance policy may be lower than that called for by a new life insurance policy having the same or similar benefits. Any replacement of the same type of policy will normally be at a higher premium rate based upon the insured's then attained age.
2. Since the initial costs of a life insurance policy are charged against the cash value increases in the earlier life insurance policy years, the replacement of an old life insurance policy by a new one results in the policyholder sustaining the burden of these costs twice. Annuity contracts usually contain provisions for surrender charges, therefore a replacement involving annuity contracts may result in the imposition of surrender charges.
3. The incontestable and suicide clauses begin anew in a new life insurance policy. This could result in a claim being denied under the new life insurance policy that would have been paid under the life insurance policy that was replaced.

4. An existing life insurance policy or annuity contract often has more favorable provisions than a new life insurance policy or annuity contract in areas such as loan interest rate, settlement options, disability benefits and tax treatment.
5. There may have been changes in your health since the purchase of the existing coverage.
6. The insurance company with which you have existing coverage can often make a desired change on terms that would be more favorable than if you replaced existing coverage with new coverage.

YOU HAVE THE RIGHT, WITHIN 60 DAYS FROM THE DATE OF DELIVERY OF A NEW LIFE INSURANCE POLICY OR ANNUITY CONTRACT, TO RETURN IT TO THE INSURER AND RECEIVE AN UNCONDITIONAL FULL REFUND OF ALL PREMIUMS OR CONSIDERATIONS PAID ON IT, OR IN THE CASE OF A VARIABLE OR MARKET VALUE ADJUSTMENT POLICY OR CONTRACT, A PAYMENT OF THE CASH SURRENDER BENEFITS PROVIDED UNDER THE POLICY OR CONTRACT, PLUS THE AMOUNT OF ALL FEES AND OTHER CHARGES DEDUCTED FROM GROSS CONSIDERATIONS OR IMPOSED UNDER THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT, AND MAY HAVE THE RIGHT TO REINSTATE OR RESTORE ANY LIFE INSURANCE POLICIES AND ANNUITY CONTRACTS THAT WERE SURRENDERED, LAPSED OR CHANGED IN THE TRANSACTION TO THEIR FORMER STATUS TO THE EXTENT POSSIBLE AND IN ACCORDANCE WITH THE INSURER'S PUBLISHED REINSTATEMENT RULES TO THE EXTENT SUCH RULES ARE NOT INCONSISTENT WITH THE PROVISIONS OF 11 NYCRR PART 51 (INSURANCE REGULATION 60).

**IMPORTANT:** THIS RIGHT SHOULD NOT BE VIEWED AS REINSTATING OR RESTORING YOUR LIFE INSURANCE POLICY OR ANNUITY CONTRACT TO THE SAME CONDITION AS IF IT HAD NEVER BEEN REPLACED. THERE MAY BE CONSEQUENCES IN REINSTATING OR RESTORING YOUR LIFE INSURANCE POLICY OR ANNUITY CONTRACT, INCLUDING BUT NOT LIMITED TO:

- THE RIGHT TO REINSTATE OR RESTORE YOUR LIFE INSURANCE POLICY OR ANNUITY CONTRACT APPLIES ONLY TO COMPANIES SUBJECT TO NEW YORK INSURANCE LAWS;
- YOUR LIFE INSURANCE POLICY OR ANNUITY CONTRACT IS SUBJECT TO YOUR SPECIFIC COMPANY'S REINSTATEMENT RULES, WHICH MAY VARY FROM COMPANY TO COMPANY. THESE RULES MAY REQUIRE PAYMENT OF BOTH PREMIUM AND INTEREST; HOWEVER, YOU WILL NOT BE SUBJECT TO EVIDENCE OF INSURABILITY, OR A NEW CONTESTABLE OR SUICIDE PERIOD;
- YOU MAY NOT RECEIVE THE INTEREST OR INVESTMENT PERFORMANCE DURING THE PERIOD THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT WAS REPLACED; AND
- THERE MAY BE UNFAVORABLE FEDERAL INCOME TAX CONSEQUENCES AS A RESULT OF THE REINSTATEMENT OF YOUR LIFE INSURANCE POLICY OR ANNUITY CONTRACT.

**IMPORTANT:** IN THE CASE OF A VARIABLE OR MARKET VALUE ADJUSTMENT POLICY OR CONTRACT, THE VALUE OF THE POLICY OR CONTRACT MAY INCREASE OR DECREASE DURING THE 60 DAY PERIOD DEPENDING ON THE PERFORMANCE OF THE UNDERLYING INVESTMENTS, WHICH MAY AFFECT THE VALUE OF THE REFUND YOU RECEIVE.

**I HEREBY ACKNOWLEDGE THAT I READ THE ABOVE "IMPORTANT NOTICE" AND HAVE RECEIVED A COPY OF SAME.**

**Date:** \_\_\_\_\_ **Signature of Applicant:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Signature of Applicant:** \_\_\_\_\_



Protective Life and Annuity Insurance Company  
P.O. Box 830619, Birmingham, AL 35283-0619  
Telephone: 1-800-366-9378  
Fax: 1-205-268-5807

**ASSIGNMENT/TRANSFER OF OWNERSHIP SECTION 1035 EXCHANGE**

<b>Name of Insured(s):</b>	
<b>Name of Owner(s)/Joint Owner(s) (REQUIRED):</b>	
<b>Insurer/Existing Insurance Company Name:</b>	
<b>Insurer/Existing Insurance Company Address: (Include Street Address, City, State and Zip Code)</b>	
<b>Policy Number(s):</b>	
<b>Estimated Cash Surrender Value:</b>	<b>Phone Number(s):</b>

For value received, I hereby assign and transfer to Protective Life and Annuity Insurance Company (Protective Life and Annuity) all right, title, and interest to the above listed policy(ies) in an exchange intended to qualify under Section 1035 of the Internal Revenue Code. However, this assignment and all other terms and agreements set forth below are conditioned upon Protective Life and Annuity's underwriting and approving a new life insurance policy on the life of the Insured(s) named above. This conditional assignment will not become effective unless and until Protective Life and Annuity approves a new life insurance policy.

I understand that if Protective Life and Annuity approves a new life insurance policy on the life of the Insured(s) named above, then Protective Life and Annuity will surrender the assigned policy(ies) and it/they will no longer be in force or effect as of the date of surrender. I further understand that, if Protective Life and Annuity approves the new life insurance policy, Protective Life and Annuity will collect whatever cash surrender values are available from the existing insurance company on the assigned policy(ies) and apply such amount received as premium on the new life insurance policy. I agree that Protective Life and Annuity assumes no responsibility if the full scheduled cash surrender values of the assigned policy(ies) are not received.

I certify that the above listed policy(ies) is/are currently in force and not subject to any prior assignments, any legal or equitable claims, or liens. I further certify that there is no proceeding in bankruptcy pending against me.

I hereby designate Protective Life and Annuity as beneficiary of the above listed policy(ies) to the extent of the cash surrender value thereof at the date of death of the Insured(s) named above. All other beneficiary designations under the above listed policy(ies) will remain in effect. I further understand that the policy(ies) to be issued by Protective Life and Annuity will have the same designated Insured(s) and Owner(s) as the above listed policy(ies).

I certify that if the above listed policy(ies) is/are not attached to this conditional assignment that it/they has/have been lost or destroyed. I hereby waive all rights and benefits under such policy(ies) and agree to return it/them to you if it/they comes/come into my possession.

I understand and agree that I will be responsible for keeping the above listed policy(ies) in force by paying any premiums as they become due until such time as Protective Life and Annuity notifies me in writing that I have been issued a new life insurance policy.

I understand that under Section 1035, reporting may be required for federal income tax purposes. The replaced company is required to report all exchanges of insurance policies on Form 1099-R, including tax-free exchanges under Section 1035 in situations in which a policyholder has an outstanding policy loan at the time of exchange. If there is an outstanding policy loan at the time of the exchange, the transaction may not be characterized as tax-free. In fact, any gain will be taxed to the extent of the outstanding policy loan. Accordingly, I understand that it is advisable when filing my individual federal income tax return that I enclose a copy of the reporting form (Form 1099-R) with an explanation that the policy was exchanged pursuant to Section 1035 of the Internal Revenue Code.

Please Check One:

- I have enclosed the original policy(ies) to be exchanged.
- I certify that the original policy(ies) has/have been lost or destroyed. To the best of my knowledge, the original policy(ies) is/are not in the possession or control of any other person.

_____	_____	_____
Insured(s) Signature(s)	Witness Signature	Date
_____	_____	_____
Spouse Signature	Witness Signature	Date
_____	_____	_____
Owner(s) Signature(s) <b>(Required)</b>	Witness Signature <b>(Required)</b>	Date
_____	_____	_____
Joint Owner(s) Signature(s)	Witness Signature	Date
_____	_____	_____
Collateral Assignee/Irrevocable Beneficiary Signature, if any	Witness Signature	Date