
Addendum: for use with Texas Life and Life & Health online ExamFX courses and study guides version 20338en (Life) and 20349en (L&H), per exam content outline updates effective 9/1/2018.

*The following are **content additions** to supplement your existing text unless otherwise indicated:*

Texas Statutes and Rules Common to Life and Health Insurance

A. Definitions

2. Types of Insurers

Fraternal

A fraternal benefit society is an organization formed to provide insurance benefits for members of an affiliated lodge, religious organization, or fraternal organization with a representative form of government. Fraternal sell only to their members and are considered charitable institutions, and not insurers. They are not subject to all of the regulations that apply to the insurers that offer coverage to the public at large.

C. Licensing Requirements

Records Maintenance

An agent must maintain all insurance records (including all records relating to customer complaints) separate from the records of any other business of the agent.

Notifying the Department of Certain Information

An individual licensed as an agent must notify the Texas Department of Insurance (TDI) on a **monthly** basis of any of the following:

- A change of the mailing address;
- A felony conviction; or
- An administrative action taken against the licensee by a financial or insurance regulator of Texas, another state, or the United States.

A corporation or partnership licensed as an agent must file biographical information with the TDI for:

- Each executive officer, director, or unlicensed partner who administers the entity's operations;
- Each shareholder who is in control of the corporation or partner who has the right or ability to control the partnership; and
- If the corporation or partnership is owned, in whole or in part, by another entity, each individual who is in control of the parent entity.

A corporation or partnership must notify the Department no later than **30 days** after the date of:

- A felony conviction of a licensed agent; and
- The addition or removal of an officer, director, partner, member, or manager.

D. Marketing Practices

1. Unfair/Prohibited Trade Practices

Rebating – *addition to the existing text:*

The state regulations do not prohibit agents from giving or providing promotional materials, educational items, articles of merchandise, or traditional courtesy commonly extended to consumers valued at **\$25 or less**.

Commingling

Because agents/producers handle the funds of the insured and the insurer, they have **fiduciary responsibility**. A *fiduciary* is someone in a position of trust. Insurance producers are prohibited from commingling premiums collected from the applicants with their own personal funds.

Note, however, that life insurance policy proceeds received by a trustee named as the beneficiary in the policy may be commingled with any other assets properly coming into the trust.

Unfair Discrimination

Discrimination in rates, premiums, or policy benefits for persons within the same class or with the same life expectancy is illegal. No discrimination may be made on the basis of an individual's marital status, race, national origin, gender identity, sexual orientation, creed, or ancestry unless the distinction is made for a business purpose or required by law.

While not a complete list of acts that may be considered unfair discrimination, the following are practices in life and health insurance which constitute unfair discrimination between individuals of the same class:

- Discriminating solely because of a physical or mental impairment;
- Discrimination due to blindness or partial blindness; or
- Investigating as part of the underwriting process a proposed insured's sexual orientation.

E. Guaranty Association

The Texas Life and Health Insurance Guaranty Association was created to protect policyowners, insureds, beneficiaries, and anyone entitled to payment under an insurance policy from the incompetence and insolvency of insurers. The Association is a nonprofit legal entity subject to the applicable provisions of the state Insurance Code and laws and the immediate supervision of the Commissioner. The Association is funded by its members through assessment, and **all authorized insurers** must be members of the Association. The association will pay covered claims up to certain limits set by state law.

It is considered an **unfair trade practice to advertise** protection by the Life, and Health Insurance Guaranty Association when selling any product that is covered by the Association.

Texas Statutes and Rules Pertinent to Life Insurance Only

B. Policy Provisions – addition to the existing text

Individual life insurance policies issued or delivered in this state must also include the following provisions:

Free Look: If a buyer's guide and disclosure document are not provided to the applicant at or before the time of application, the applicant must be allowed a free-look period of at least 15 calendar days during which the applicant may **return the policy for an unconditional refund without penalty**. A notice included on or attached to the cover page must prominently disclose information regarding the free-look period. The free look-period begins the day the consumer receives the contract.

Grace Period: A consumer must be provided a grace period of at least **one month** for the payment of each premium during which the policy remains in force. If the insured dies during the grace period, the overdue premium will be deducted from any settlement made under the policy.

Policy Loans: A life insurance policy must allow the policyowner to take out a policy loan from the policy's cash value as long as:

- The policy is in force;
- The premiums have been paid for at least 3 full years;
- And the policy is properly assigned.

Failure to repay the policy loan or interest on the loan will not void the policy until the total amount owed under the loans equals or exceeds the policy's cash value.

Note that the policy loan provision applies only to policies that provide cash values or nonforfeiture values (not term policies or pure endowment contracts).

Prohibited Provisions

Certain Limitations Periods: A life insurance policy may not include a provision that limits the time during which a lawsuit may be filed to a period of less than **2 years** after the cause of action.

Retroactive Issuance or Effect; Exchange or Conversion: A life insurance policy may not contain a provision under which the policy is issued on a date more than **6 months** before the date of the application (**backdating**) if it causes the insured to rate at an age that is younger than the insured's age on the date of the application (for the purposes of this subsection, the age of the insured on the date of the application is the age the insured was/will be on the birthday nearest to the date of the application).

If the policyholder consents, an issuer can exchange or convert a policy into another plan as of a date not earlier than the effective date of the original policy. If an exchange or conversion is made and the newly written policy is issued as of a date earlier than the date of the application for exchange or conversion, the amount of insurance or annuity under the new policy may not exceed the greater of the amount of the original policy or

the amount that the premium paid for the original policy would have purchased for an individual the age of the insured on the effective date of the original policy.

Settlement upon Maturity: The life insurance policy may not contain a provision for a settlement at maturity that is **less than the face amount of the policy** plus the amount of any dividend additions to the policy minus any debt owed to the company and any premium that may be deducted from the settlement. However, the policy may provide for a settlement below the face amount of the policy if the insured dies by suicide, or death is caused by a hazardous occupation or as a result of aviation activities under certain conditions specified in the policy.

Group Life – addition to the existing text

A group policy issued in this state must cover **at least 2 employees** on the date of its issue. If the insured employees do not pay any part of the premium, the policy must insure all eligible employees.

The insured may **assign** all rights and benefits under the policy to any individual, firm, corporation, association, trust, or other legal entity, other than the insured's employer.

Coverage under a group life insurance policy may be extended to the **insured's spouse and eligible children**. A natural or adopted child is eligible if the child is younger than 25 years of age or physically or mentally disabled and under the parents' supervision. Natural or adopted grandchildren are also eligible as long as they are younger than 25 years old.

Upon termination of group life insurance coverage for a spouse because the insured's employment terminates, the insured's eligibility for insurance terminates, or the insured dies, or because the group life insurance policy terminates, the spouse has the same conversion rights as to the group life insurance on the spouse's life as the insured.

Nonforfeiture Law – addition to the existing text

Nonforfeiture requirements **do not apply** to the following types of insurance products:

- Reinsurance;
- Group insurance;
- Pure endowment;
- Annuities;
- Most term policies;
- Policies delivered outside of Texas through an agent or other company representative; or
- Any policy that does not provide for cash values or nonforfeiture values.

Replacement – *new topic on the outline*

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.
- Submit to the replacing insurance company a copy of the replacement notice with the application.

Exemptions:

The replacement regulation does not apply to the following types of insurance:

- Credit life;
- Group life insurance and group annuities (not direct solicitation);
- An application to the existing insurer that issued the existing policy when a contractual change or conversion privilege is being exercised, or when the existing policy is being replaced by the same insurer;
- Replacement under a binding or conditional receipt issued by the same company;
- Policies used to fund an employee pension or welfare benefit plans that are covered by ERISA;
- New coverage provided under a life insurance policy the cost for which is borne in full by the insured's employer;
- Existing nonconvertible term life insurance policy that will expire in no more than 5 years and cannot be renewed;
- Immediate annuities purchased with proceeds from an existing contract; or
- Structured settlements.