

## 11 NCAC 12 .0604 EXEMPTIONS

(a) Unless otherwise stated in Chapter 58 of the North Carolina General Statutes, this Section shall not apply to transactions involving:

- (1) Credit life insurance;
- (2) Group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer. Direct solicitation does not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct response solicitation is subject to the provisions of 11 NCAC 12 .0608;
- (3) Group life insurance and annuities used to fund prearranged funeral contracts;
- (4) An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the Commissioner; or, when a term conversion privilege is exercised among corporate affiliates;
- (5) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;
- (6) Policies or contracts used to fund:
  - (A) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);
  - (B) A plan described by Sections 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;
  - (C) A governmental or church plan defined in Section 414 of the Internal Revenue Code, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the Internal Revenue Code; or
  - (D) As described in the Internal Revenue Code, a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.
- (7) Where new coverage is provided under a life insurance policy or annuity contract and the cost is borne wholly by the insured's employer or by an association of which the insured is a member;
- (8) Existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed;
- (9) Immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities purchased with proceeds from an existing policy are not exempt from the rules in this Section; or
- (10) Structured settlements.

(b) Notwithstanding 11 NCAC 12 .0604(a)(6), the rules in this Section apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after tax-basis, and where the insurer has been notified that plan participants may choose from among two or more insurers and there is a direct solicitation of an individual employee by an insurance producer for the purchase of a contract or policy. As used in this Paragraph, direct solicitation does not include any group meeting held by an insurance producer solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement, or when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee.

(c) Registered contracts are exempt from the requirements of 11 NCAC 12 .0606(2) and 12 .0612(a)(2) with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular are required instead.

*History Note: Authority G.S. 58-2-40; 58-3-115; 58-58-1; 58-58-40; Eff. October 1, 1985; Amended Eff. February 1, 2008; August 1, 2004; April 8, 2002; November 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*