

The issue or contract state of a policy (where the application was signed and the policy delivered) is its "situs." The laws of the situs or issue state are the laws that will apply to the contract issued. Situs is determined by the location of the owner/applicant during the solicitation and delivery of the annuity contract. The annuitant is not a party to the contract, and therefore is not the party being solicited (with the exception of certain trust arrangements, to be discussed below).

In many situations, all aspects of the solicitation, sale and delivery of the contract occur in the application signature state, and the contract can be issued in accordance with the applicable policy forms for this state (as long as the agent is licensed in the application signature state). In these situations, there will typically be an obvious link between the application signature state and the state of residence or employment of the owner/applicant or the annuitant.

However, on occasion, there may be some question as to why the owner/applicant would have been in a different state to sign the application, or evidence during the application process that not all aspects of the solicitation and delivery took place in the application signature state. The following guidelines were developed to assist New Business in determining the appropriate situs state when these situations arise:

1. **Owner is a trust and trustee is in a different state from annuitant:** OK to use an application in the state of trustee's signature as long as the application is signed in a state where the trustee or annuitant resides or works. (**Note:** It is not necessary to determine the state in which the trust was established for purposes of contract situs.)
2. **Owner is a corporation, limited liability company, partnership or other entity and is in different state from annuitant:** OK to use an application in the state of the entity's signature as long as the application is signed in a state where the entity has a bona fide location or where the annuitant resides or works. (**Note:** these forms of ownership are not generally accepted for Lincoln Individual Annuities).
3. **Annuity Application:** This form includes the Situs statement confirming the applicant's state of residence and where the application itself was signed. The representative confirms and signs attesting to language which reads as follows:
"The undersigned confirms this contract was principally negotiated, issued and delivered in the state where the application was signed. Any communication pertaining to this contract also occurred in the state where the application was signed."
4. **For Annuities sold to residents of Massachusetts, Minnesota, Utah and Washington:** Due to the requirements of Minnesota, Massachusetts, Utah and Washington state insurance law, if a client indicates that he/she is a resident of Massachusetts, Minnesota, Utah or Washington, the contract must be sited in the state which the client resides – no other state of situs will be allowed for any reason.
5. **Owner is a foreign national:** When the contract owner is a foreign national, e.g., Canadian citizen, whose primary residence and employment is in a foreign country, OK to use an application in the state of owner's signature as long as the application is signed in a state where the contract owner or annuitant has a residence or employment. Please refer to Lincoln's foreign national underwriting guidelines regarding a required connection of a residence or employment to the application state.
6. **Applications taken via phone:** When the owner and annuitant are contacted via phone to complete the answers on the application, the application must be signed in a state where owner or annuitant has a bona fide residence or employment. Under no circumstances should the application be signed in the state of residence or employment of the producer who solicited the application via the telephone.
7. **Annuitant is a foreign national and owner is a US trust:** OK to use an application in the state of trustee's signature as long as the application is signed in a state where the trustee or annuitant resides or works. Please note, however, that Lincoln's foreign national underwriting guidelines do not permit the issuance of a contract on a foreign national who does not have any connection to the US other than a trust created in their name. The foreign national must have a valid US residence or employment. If there is any indication that the foreign national may have been solicited outside of the US (such as the initial application being signed only by the annuitant with Delaware as the application state, but then no Delaware trust or Delaware trustee is used), then an amendment will be required to be signed by the owner including the following statement:
 - a. "I, John Doe, was located in the State of Delaware when I signed this application on [date]. This annuity contract was principally negotiated, issued and delivered in Delaware. No sale, solicitation or negotiation of the contract occurred while I was located in Canada."
 - b. If the owner is not willing to sign this amendment, then the contract will not be issued.

8. **Annuity changes:** When the owner exercises a contractual right or privilege on an existing contract, such as adding a rider, any forms required to execute the change should be signed in a state where the owner or annuitant has a bona fide residence or employment, which may not be the same state where the original contract was issued. The form itself will depend on the situs state of the underlying contract. For example, if a contract was originally issued in Pennsylvania where the owner lived at the time, but then the owner moved to Florida and requested a change, the appropriate Pennsylvania form would be used with the location of signature indicated as Florida.
9. **Special Protocol for OptiPoint in Pennsylvania:** The Pennsylvania version of the OptiPoint product was approved by the Department of Insurance under the stipulation that the product be sold **only to Pennsylvania residents**. Therefore Lincoln is unable to issue the OptiPoint product in Pennsylvania to a non-resident of the state.

*****IMPORTANT NOTE*****

Under no circumstances will an application be processed if an agent states any of the following:

- That the application was taken in a different state because he/she was not licensed where the owner or annuitant lived or resided.
- The product was not available where the owner or annuitant lived or resided.
- The agent wants to avoid certain regulatory requirements, e.g., New York Regulation 60.

If such statements are made, then the agent will be notified that the application will be withdrawn.