South Carolina Department of Insurance Life Filing Checklist

South Carolina Department of Insurance
1201 Main Street, Suite 1000
Columbia, South Carolina 29201
803-737-6230—Phone
803-737-6233—Fax

This checklist is intended to be used as a tool by the insurer to properly prepare and submit filings with the South Carolina Department of Insurance. Please use the ***South Carolina Life, Accident, and Health "Type of Insurance"*** guide along with this checklist.

Please know that improper and/or incomplete filings will result in an automatic disapproval. Filings submitted that are not in compliance with all of the requirements will also result in an automatic disapproval.

Please contact the Rates, Rules and Forms Filings Office directly at 803-737-6230 if you have questions regarding life filings. Please do not contact an employee referenced in the attached bulletin(s) as they may no longer be with the Department or their position within the Department may have changed.

Line Code	DOI Series	Line of Business Description	Type of Filing	How Filing Handled
01	100/200	Life - Group	Form	Exempt
01	100/300	Life - Individual	Form	Exempt
01	100/400	Life - Variable	Form	Exempt

Group Life — Exempt Filings
Use all of the 100 and 200 DOI Series Numbers.

Individual Life — Exempt Filings
Use all of the 100 and 300 DOI Series Numbers.

Variable Life — Exempt Filings
Use all of the 100 and 400 DOI Series Numbers

100 DOI SERIES NUMBERS - POLICIES AND POSITIONS
This section applies to all policies.

100. Does the insurer have life authority? Section 38-1-20 (27)	Yes ☐	No ☐	N/A ☐
101. Does the filing comply with Bulletin 2003-13?	Yes ☐	No ☐	N/A ☐

200 DOI SERIES NUMBERS— Group Life

200.Unfair, deceptive, ambiguous, misleading, etc. Section 38-61-20	Yes ☐	No ☐	N/A ☐

Note:

A. Any policy which grants a right of conversion to an insured shall not deny a conversion right to an insured who becomes disabled during the term of the policy. We are of the opinion that this is discriminatory and a form of post underwriting.

B. We are of the opinion that a policy which provides a joint death benefit should contain a provision which describes what would happen in the event of a simultaneous death.

C. A guaranteed purchase option may not terminate upon the disability of the insured.

201. Assignment of Rights and Benefits Under Policies Section 38-65-30	Yes ☐	No ☐	N/A ☐
202. Group Life Policies Issued Outside State Section 38-65-60	Yes ☐	No ☐	N/A ☐

Note:

A. Bulletin 89-1

B. Bulletin 2003-13

203. Compliance with Definition of Group Life Insurance Section 38-65-40	Yes ☐	No ☐	N/A ☐
204. Compliance with Restrictions on Mass Marketed Life Insurance Section 38-65-50	Yes ☐	No ☐	N/A ☐
205. Assignment of Rights and Benefits under Mass Marketed Section 38-65-50	Yes ☐	No ☐	N/A ☐
206. Compliance w/ Coverage of Families of Employees/Members Section 38-65-70	Yes ☐	No ☐	N/A ☐
207. Spendthrift Provisions in Settlement Agreements Section 38-65-100	Yes ☐	No ☐	N/A ☐
208. Notice of Right to Apply for Individual Policy Section 38-65-110	Yes ☐	No ☐	N/A ☐

209. Compliance with Interest on Payment when Required Section 38-65-120	Yes ☐	No ☐	N/A ☐
210. Required Standard Contract Provisions Section 38-65-210	Yes ☐	No ☐	N/A ☐
211. Grace Period Section 38-65-210(1)	Yes ☐	No ☐	N/A ☐
212. Incontestability Section 38-65-210(2)	Yes ☐	No ☐	N/A ☐
213.Copy of the application must be attached Section 38-65-210(3)	Yes ☐	No ☐	N/A ☐
214. Conditions for Evidence of Insurability Section 38-65-210(4)	Yes ☐	No ☐	N/A ☐
215. Misstatement of Age or Sex Section 38-65-210(5)	Yes ☐	No ☐	N/A ☐
216. Payment of Claim to Beneficiary/Others Section 38-65-210(6)	Yes ☐	No ☐	N/A ☐
217. Issuance of Certificate Section 38-65-210(7)	Yes ☐	No ☐	N/A ☐
218. Issuance of Individual Policy Upon Termination Section 38-65-210(8)	Yes ☐	No ☐	N/A ☐
219. Required Form of Individual Policy Section 38-65-210(8)(a)	Yes ☐	No ☐	N/A ☐
220. Required Amount of Individual Policy Section 38-65-210(8)(b)	Yes ☐	No ☐	N/A ☐
221. Required Premium for Individual Policy Section 38-65-210(8)(c)	Yes ☐	No ☐	N/A ☐
222. Requirements on Termination of Group Policy Section 38-65-210(9)	Yes ☐	No ☐	N/A ☐
223. Death of Insured when Entitled to Ind. Policy Section 38-65-210(10)	Yes ☐	No ☐	N/A ☐
224. Continuation of Coverage During Disability Section 38-65-210(11)	Yes ☐	No ☐	N/A ☐
225. Certificate Required for Debtor Section 38-65-210(12)	Yes ☐	No ☐	N/A ☐
226. Required Contract Provisions – Yes / No / NA Section 38-65-310	Yes ☐	No ☐	N/A ☐

227. Definition of Franchise/Wholesale Insurance Section 38-65-310(1)	Yes ☐	No ☐	N/A ☐
228. Allowable Groups for Issuance Section 38-65-310(2)	Yes ☐	No ☐	N/A ☐
229. Group May Not be Formed to Obtain Insurance Section 38-65-310(3)	Yes ☐	No ☐	N/A ☐
230. Definition of Professional Association Section 38-65-310(4)	Yes ☐	No ☐	N/A ☐
231. Requirements for Eligibility Periods Section 38-65-310(5)	Yes ☐	No ☐	N/A ☐
232. Requirements for Termination/Nonrenewal Section 38-65-320	Yes ☐	No ☐	N/A ☐
233. Requirements for Conversion Privilege Section 38-65-330	Yes ☐	No ☐	N/A ☐
234. Disclosure of Conditional Nature of Coverage Section 38-65-340	Yes ☐	No ☐	N/A ☐
235. Disclosure Required on Face and Back of Policy Section 38-65-340	Yes ☐	No ☐	N/A ☐
236. May Not be a Supplement to Group Life Insurance Section 38-65-350	Yes ☐	No ☐	N/A ☐
300 DOI SERIES NUMBERS—Individual Life			
300. Unfair, deceptive, ambiguous, misleading, etc. Section 38-61-20 Note: A. Any policy which grants a right of conversion to an insured shall not deny a conversion right to an insured who becomes disabled during the term of the policy. B. A guaranteed purchase option may not terminate upon the disability of the insured. C. We are of the opinion that a policy which provides a joint death benefit should contain a provision which describes what would happen in the event of a simultaneous death.	Yes ☐	No ☐	N/A ☐
301. Entire Contract Section 38-63-210	Yes ☐	No ☐	N/A ☐
302. Brief Description of Benefits/Form Number Section 38-63-220(a)	Yes ☐	No ☐	N/A ☐
303. Free-Look Section 38-63-220(b)	Yes ☐	No ☐	N/A ☐
304. Authority to Modify Contract Section 38-63-220(c)	Yes ☐	No ☐	N/A ☐

305. Incontestability Section 38-63-220(d)	Yes ☐ No ☐ N/A ☐
306. Misstatement of Age or Sex Section 38-63-220(e)	Yes ☐ No ☐ N/A ☐
307. Payment of Claim / Interest Required if Late Section 38-63-220(f) Note: SC legal rate of interest is defined in Section 34-31-20 and could be subject to change	Yes ☐ No ☐ N/A ☐
308. Beneficiary Designation/Changes Section 38-63-220(g)	Yes ☐ No ☐ N/A ☐
309. Premium Payments/Refund of Premiums Section 38-63-220(h)	Yes ☐ No ☐ N/A ☐
310. Grace Period Section 38-63-220(i)	Yes ☐ No ☐ N/A ☐
311. Reinstatement Section 38-63-220(j)	Yes ☐ No ☐ N/A ☐
312. Dividends Section 38-63-220(k)	Yes ☐ No ☐ N/A ☐
313. Policy Loans Section 38-63-220(l)	Yes ☐ No ☐ N/A ☐
314. Policy Loan Interest Section 38-63-220(m)	Yes ☐ No ☐ N/A ☐
315. Standard Nonforfeiture Law Section 38-63-220(n) Refer to Sections 38-63-510 through Section 38-63-650. Note: A. An actuarial certification demonstrating compliance with the Standard Nonforfeiture Law must be included. B. Refer to Section 38-63-640 for a list of excepted policies. C. For purposes of determining the applicability of this article, the age at expiry for a joint term life policy is the age of expiry of the oldest life.	Yes ☐ No ☐ N/A ☐
316. Suicide Section 38-63-225(A) Note: A. The suicide period should run from the original effective date of coverage. A new period cannot be imposed to increases when exercising guaranteed purchase options, exercising a conversion privilege or situations when evidence of insurability is not required. B. The Department takes the position that the reinstatement of a life contract does not instigate a new suicide period.	Yes ☐ No ☐ N/A ☐

317. Death Exclusions — Yes ☐ No ☐ N/A ☐
Section 38-63-225(B)
Note:
Preexisting condition exclusions are not allowed in life insurance contracts.

318. Notice of Death Exclusions — Yes ☐ No ☐ N/A ☐
Section 38-63-225(C)

319. Does form comply with Replacement Regulation? — Yes ☐ No ☐ N/A ☐
Regulation 69-12.1

320. Does the form comply with Solicitation Regulation? — Yes ☐ No ☐ N/A ☐
Regulation 69-30

321. If graded or delayed benefits, does form comply? — Yes ☐ No ☐ N/A ☐
Bulletin 2004-04

322. Health of Insured -- Incontestable Clause does form comply? — Yes ☐ No ☐ N/A ☐
Bulletin 1964-3

323. Does form comply with Life Illustrations Regulation — Yes ☐ No ☐ N/A ☐
Regulation 69-40

324. Is Policy Loan interest rates > 8% per year? — Yes ☐ No ☐ N/A ☐
Section 38-63-240
Note:
If loan payments are payable in advance, the policy loan interest rate may not exceed 7.4%.

325. Adjustable maximum interest rate comply — Yes ☐ No ☐ N/A ☐
Section 38-63-250

326. Loan interest for policies with face - $5000 — Yes ☐ No ☐ N/A ☐
Section 38-63-260

327. Appropriate disclosure of periodic loan interest adj. — Yes ☐ No ☐ N/A ☐
Section 38-63-280

400 DOI SERIES NUMBERS — Variable Life

400. Compliance w/ required Statements for Variable Contracts — Yes ☐ No ☐ N/A ☐
Section 38-67-20

401. Does the policy comply with other applicable insurance laws? — Yes ☐ No ☐ N/A ☐
Section 38-67-50

402. Requirements for Variable Annuities met — Yes ☐ No ☐ N/A ☐
Regulation 69-12
Note:
All policies must state which settlement option is automatic in the event the owner has not selected an option but the owner should be able to change to another option.

South Carolina

Code of Laws, Regulations and Bulletin References

SECTION 38-1-20
(27) "Life Insurance" means a contract of insurance upon the lives of human beings. The following contracts are deemed to be contracts of life insurance within the meaning of this definition:
(a) a contract providing acceleration of life benefits, beginning on the contract's original effective date, in advance of the time they otherwise would be payable for long term care as defined in Section 38-72-40;
(b) a contract providing acceleration of life benefits, beginning on the contract's original effective date, in advance of the time they otherwise would be payable for a life threatening illness or a terminal illness as specified in the contract.

SECTION 38-61-20. Approval of forms by director or designee; notification; withdrawal of approval; exemptions; optional accident or health riders.

(A) It is unlawful for an insurer doing business in this State to issue or sell in this State a policy, contract, or certificate until it has been filed with and approved by the director or his designee. The director or his designee may disapprove the form if it:
(1) does not meet the requirements of law;
(2) contains provisions which are unfair, deceptive, ambiguous, misleading, or unfairly discriminatory; or
(3) is solicited by means of advertising, communication, or dissemination of information which is deceptive or misleading.
However, this subsection does not apply to surety contracts or fidelity bonds, except as required in Section 38-15-10, or to insurance contracts, riders, or endorsements prepared to meet special, unusual, peculiar, or extraordinary conditions applying to an individual risk or exempt commercial policies.
(B) Within thirty days after the filing of a form requiring approval, the director or his designee shall notify the organization filing the form of the approval or disapproval of the form, and the reason if the form is disapproved. The director or his designee, in his discretion, may extend for up to an additional sixty days the period within which he shall approve or disapprove the form. A form received, but neither approved nor disapproved by the director or his designee, is deemed approved at the expiration of the thirty days if the period is not extended, or at the expiration of the extended period, if any. An organization may not use a form deemed approved pursuant to the default provision of this section until the organization has filed with the director or his designee a written notice of its intent to use the form. The notice must be filed in the office of the director at least ten days before the organization uses the form.
(C) At any time after having given written approval, and after an opportunity for a hearing for which at least thirty days' written notice has been given, the director or his designee may withdraw approval if he finds that the form:
(1) does not meet the requirements of law;
(2) contains provisions which are unfair, deceptive, ambiguous, misleading, or unfairly discriminatory; or
(3) is solicited by means of advertising, communication, or dissemination of information which is deceptive or misleading.
(D) The director or his designee may exempt from the requirements of subsection (A) as long as he considers proper any type of insurance policy, contract, or certificate to which in his opinion subsection (A) practically must not be applied, or the filing and approval of which, in his opinion, is not necessary for the protection of the public. However, each insurer at least annually shall list the types and form numbers of all policies it issues or sells in this State which the director or his designee has exempted from being filed and approved, and an officer of the insurer shall certify that all of these policies comply fully with the laws of this State. If a policy, contract, or certificate is certified to be in compliance with the laws of this State and the director or his designee finds it violates a law of this State, he may disqualify that insurer from certifying policies, contracts, or certificates allowed under this subsection.

Section 38-61-20 continued

(E) Nothing in this chapter precludes the issuance of a life insurance contract that includes an optional accident, health, or accident and health insurance rider. However, the optional accident, health, or accident and health insurance rider must be filed with and approved by the director or his designee pursuant to Section 38-71-310, 38-71-720, or 38-71-740, as appropriate, and comply with all applicable sections of Chapter 71 of this title and, in addition, in the case of long term care insurance, Chapter 72 of this title.

SECTION 38-65-30. Assignment of rights and benefits under policies.

(1) Notwithstanding any other provision of law, any person insured under a group insurance policy, pursuant to an arrangement among the insured, the group policyholder, and the insurer, may assign his rights and benefits under the policy, including, but not limited to, the right to have issued to him an individual policy as set forth in items (8), (9), and (10) of Section 38-65-210 and the right to name a beneficiary. The assignment entitles the insurer to deal with the assignee as the owner of all rights and benefits conferred on the insured under the policy in accordance with the terms of the assignment.

(2) Subsection (1) of this section acknowledges, declares, and codifies the existing right of assignment of interest under group life insurance policies by persons insured under those policies.

SECTION 38-65-60. Requirements of group life policies extended to group life policies issued outside State to residents; prior approval needed for mass marketed policies and certificates.

(1) No life insurance coverage may be extended to residents of this State under a policy of group insurance issued outside this State which does not provide in substance the provisions of Section 38-65-210 unless the director or his designee determines that certain provisions are not appropriate for the coverage provided.

(2) Any insurer extending life insurance under a group policy issued outside this State to residents of this State shall comply with the requirements of this State relating to advertising and to claims settlement practices with respect to the insurance.

(3) Upon request of the director or his designee, copies of policies and certificates under a policy of group life insurance issued outside this State and covering residents of this State must be made available on an informational basis only. However, mass marketed life insurance policies and certificates must have approval of the director or his designee pursuant to Section 38-61-20 before they can be offered for sale to residents of this State.

SECTION 38-65-40. Requirements of policies.

No policy of group life insurance may be delivered or issued for delivery in this State unless it conforms to the following description:

(1) A policy of group life insurance may be issued to a trust or to cover the lives of two or more persons who are associated in a common group formed for purposes other than the obtaining of insurance, except that group certificates of credit life insurance may be issued to persons other than those in a common group.

(2) The amounts of life insurance under the policy must be based on some plan or plans precluding individual selection, except that insurance supplemental to the basic coverage may be available to persons insured under the policy.

(3) For groups of twenty five or more persons no evidence of individual insurability may be required at the time the person first becomes eligible for insurance or within thirty one days thereafter except for any insurance supplemental to the basic coverage for which evidence of individual insurability may be required. With respect to trustee groups the phrase “groups of twenty five” must be applied on a participating unit basis for the purpose of requiring individual evidence of insurability.

(4) Premiums for basic and supplemental coverage must be paid by the policyholder from the policyholder’s funds or from funds contributed by the insured persons or from both.

SECTION 38-65-50. Restrictions on mass marketed life insurance.

No mass marketed life insurance may be effected on a person in this State if the charges to the individual insured's are unreasonable in relation to the benefits provided. "Mass marketed life insurance" for purposes of this chapter means coverage under any group policy of life insurance which is offered by means of direct response solicitation whether through a sponsoring organization or the mails or other media, except that it does not include coverage offered to an employee or union member through his employer or union, to a member of a professional association, to a member of a national association of retired or aged persons through the association, or to a member of a national association of war veterans either chartered by Congress or composed of veterans of a particular ethnic, racial, or religious background through the association. This coverage offered through a trust formed by one or more employers, labor unions, or both, or by a professional association or association of retired or aged persons or war veterans to provide insurance coverage for employees, union members, and their dependents or for association members and their dependents is considered to be offered through the employer, union, or association, respectively. "Direct response solicitation" means any offer by an insurer to persons in this State to effect life insurance coverage which enables the individual to apply or enroll for the insurance on the basis of that offer.

SECTION 38-65-70. Coverage of families of employees and members.

Any policy issued pursuant to Section 38-65-40 may be extended to insure the employees or members against loss due to the death of their spouses and any child under the age of nineteen or who is a dependent and a full time student under twenty five years of age and also may be extended to any child who is both (i) incapable of self sustaining employment by reason of mental retardation or physical handicap and (ii) chiefly dependent upon the employee for support and maintenance, subject to the following requirements:

(1) The premium for the insurance must be paid by the policyholder from the policyholder's funds or from funds contributed by the insured persons, or from both.

(2) Upon termination of the insurance with respect to the members of the family of any employee or member by reason of the employee's or member's termination of employment, termination of membership in the class or classes eligible for coverage under the policy, or death, the spouse or child is entitled to have issued by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits as long as application for the individual policy is made and the first premium paid to the insurer within thirty one days after the termination, subject to the requirements of subitems (a), (b), and (c) of Section 38-65-210(8). If the group policy terminates or is amended so as to terminate the insurance of any class of employees or members and the employee or member is entitled to have issued an individual policy under Section 38-65-210(9), the spouse also is entitled to have issued by the insurer an individual policy, subject to the conditions and limitations provided above in this item (2). If the spouse dies within the period during which he would have been entitled to have an individual policy issued in accordance with this provision, the amount of life insurance which he would have been entitled to have issued under the individual policy is payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefore has been made. Notwithstanding Section 38-65-210(7), only one certificate need be issued for delivery to an insured person if a statement concerning a dependent's coverage is included in the certificate.

(3) The amounts of insurance must be based upon some plan precluding individual selection either by the employees or members or by the policyholder, employer, or union.

SECTION 38-65-100. Spendthrift provisions in settlement agreements are valid.

When the proceeds of a life insurance policy becoming a claim by death of the insured are left with an insurance company under a trust or other agreement, the benefits accruing thereunder after the death of the insured are not transferable nor subject to computation or incumbrance nor to legal process, except in an action to recover for necessaries if the parties to the trust or other agreement so agree.

SECTION 38-65-110. Extension of right to apply for individual policy.

If an individual insured under a group life insurance policy delivered in this State becomes entitled under the terms of the policy to have an individual policy of life insurance issued without evidence of insurability, subject to making of application and payment of the first premium within the period specified in the policy, and if the individual is not given notice of the existence of this right at least fifteen days before the expiration date of the period, the individual has an additional period within which to exercise the right. Nothing contained in this section may be construed to continue any insurance beyond the period provided in the policy. This additional period expires fifteen days after the individual is given the notice but in no event may the additional period extend beyond sixty days after the expiration date of the period provided in the policy. Written notice presented to the individual or mailed by the policyholder to the last known address of the individual or mailed by the insurer to the last known address of the individual as furnished by the policyholder is notice for the purpose of this section.

SECTION 38-65-120. Interest on payment; when required.

When a group life insurance policy provides for payment of its proceeds in a lump sum upon the death of an insured and the insurer fails to pay the proceeds within thirty days of submission of proof of death, the payment must include interest at the legal rate of interest from the date of death of that insured until the date the claim is paid.

SECTION 38-65-210. Provisions required in all policies.

No policy of group life insurance may be delivered in this State unless it contains in substance the following provisions or provisions which in the opinion of the director or his designee are more favorable to the persons insured or at least as favorable to the persons insured and more favorable to the policyholder. However, (a) items (6) to (11), inclusive, do not apply to policies issued to a creditor, (b) the standard provisions required for individual life insurance policies do not apply to group life insurance policies, and (c) if the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision which in the opinion of the director or his designee is equitable to the insured persons and to the policyholder, but nothing may be construed in this section to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies:

(1) A provision that the policyholder is entitled to a grace period of thirty one days for the payment of any premium due except the first, during which grace period the death benefit coverage continues in force, unless the policyholder has given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder is liable to the insurer for the payment of a pro rata premium for the time the policy was in force during the grace period.

(2) A provision that the validity of the policy may not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue and that no statement made by any person insured under the policy relating to his insurability may be used in contesting the validity of the insurance with respect to which the statement was made after the insurance has been in force before the contest for a period of two years during the person's lifetime nor unless it is contained in a written instrument signed by him.

(3) A provision that a copy of the application, if any, of the policyholder must be attached to the policy when issued, that all statements made by the policyholder or by the persons insured are considered representations and not warranties and that no statement made by any person insured may be used in any contest unless a copy of the instrument containing the statement is or has been furnished to the person or his beneficiary.

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage.

(5) A provision specifying an equitable adjustment of premiums or of benefits, or of both, to be made in the event the age or sex of a person insured has been misstated. The provision shall contain a clear statement of the method of adjustment to be used.

(6) A provision that any sum becoming due by reason of the death of the person insured is payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of the sum, living at the death of the person insured and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of the sum not exceeding two thousand dollars to any person appearing to the insurer to be entitled equitably thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

(7) A provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable and the rights and conditions set forth in items (8), (9), and (10) of this section.

Section 38-65-210 continued

(8) A provision that if the insurance or any portion of it on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy that person is entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits so long as application for the individual policy is made and the first premium paid to the insurer within thirty one days after the termination and so long as the following conditions are met:

(a) The individual policy is, at the option of the individual, on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for.

(b) The individual policy is in an amount not in excess of the amount of life insurance which ceases because of the termination, less, in the case of a person whose membership in the class or classes eligible for coverage terminates but who continues in employment in another class, the amount of any life insurance for which the person is or becomes eligible under any other group policy within thirty one days after the termination. Any amount of insurance which has matured on or before the date of the termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, is not, for the purposes of this provision, included in the amount which is considered to cease because of the termination.

(c) The premium on the individual policy is at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which the person then belongs, and to his age attained on the effective date of the individual policy.

(9) A provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of the termination whose insurance terminates and who has been so insured for at least five years before the termination date is entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by item (8) of this section, except that the group policy may provide that the amount of the individual policy may not exceed the smaller of (a) the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty one days after the termination and (b) ten thousand dollars.

(10) A provision that if a person insured under the group policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with item (8) or (9) of this section and before the individual policy has become effective the amount of life insurance which he would have been entitled to have issued to him under the individual policy is payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefore has been made.

(11) Where active employment is a condition of insurance, a provision that an insured may continue coverage during the insured's total disability by timely payment to the policyholder of that portion, if any, of the premium that would have been required from the insured had total disability not occurred. Unless otherwise provided by law, the continuation must be on a premium paying basis for a period of six months from the date on which the total disability started, but not beyond the earlier of (a) approval by the insurer of continuation of the coverage under any disability provision which the group insurance policy may contain or (b) the discontinuance of the group insurance policy.

(12) In the case of a policy issued to a creditor, a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a certificate of insurance describing the coverage and specifying that the death benefit first must be applied to reduce or extinguish the indebtedness.

SECTION 38-65-310. Life, term, and endowment insurance on franchise or wholesale plan.

Nothing contained in this chapter is considered to prohibit a life insurer from issuing life, term, and endowment insurance on the franchise plan, with or without annuities. The insurance under a franchise agreement or upon a wholesale basis may be written under rates less than the usual rates for the insurance. This insurance is subject to the following provisions:
(1) The term "franchise" or "wholesale" insurance means a life insurance plan under which a number of individual life insurance policies are issued at special rates to a selected group. A special rate is any rate lower than the rate shown in the issuing insurer's manual for individually issued policies of the same type and to insured's of the same class.
(2) No franchise or wholesale life insurance plan may be entered into in this State unless the individuals to whom the insurance is made available are members of a professional association, employees of a common employer or affiliated employers, or unless the insurance is made available in connection with an indebtedness or a contract of sale. The word "employees", as used herein, is considered to include the individual proprietors or partners who constitute the employer or affiliated employers and may include retired employees of any employer or affiliated employer.
(3) The association may not be formed, exist, or be continued for the sole or primary purpose of obtaining such insurance.
(4) For purposes of this section, a professional association means an association whose membership is restricted to one or more of the licensed professions such as medicine, dentistry, pharmacy, law, and accountancy.
(5) Each plan must have an eligibility period for the initial enrollment and for any new employees or members entering, and during this time insurance must be obtained without the requirement of statement of health.

SECTION 38-65-320. Termination of or refusal to renew policy issued on franchise or wholesale plan.

The right of the insurer to terminate or refuse to renew a life, term, or endowment insurance policy issued on the franchise or wholesale plan is limited to:
(1) Nonpayment of premium.
(2) The insured has attained the age limit prescribed in the policy.
(3) The employee's employment in the eligible classes or the member's membership in the eligible association terminates.
(4) The insurer terminates or refuses to renew the insurance on all employees of a common employer or affiliated employers after sixty days' written notice.
(5) Participation in the plan falls below any percentage or minimum number specified by the policy.

SECTION 38-65-330. Conversion privilege of policy issued on franchise or wholesale plan.

A life, term, or endowment insurance policy on the franchise or wholesale plan which is subject to termination under the provisions of Section 38-65-320 shall contain a conversion privilege not less favorable to the insured than that provided under item (8) of Section 38-65-210.

SECTION 38-65-340. Disclosure of conditional nature of coverage under policy issued under franchise or wholesale plan subject to termination.

No insurer nor its agent or representative may misrepresent or fail to disclose the conditional nature of the coverage with respect to any policy subject to termination under the provisions of Section 38- 65-320. Every advertisement, announcement, or sales presentation with respect to any franchise or wholesale life insurance plan, some or all of the policies issued under which are subject to termination in accordance with Section 38-65-320 shall clearly and affirmatively disclose the conditional nature of the coverage.
Every policy which is subject to termination under the provisions of Section 38-65-320 shall contain a clear and conspicuous statement to that effect in bold face type upon the face and the filing back, if any, of the policy.

SECTION 38-65-350. Franchise or wholesale plan policies may not be used to supplement group life insurance.

Franchise or wholesale life insurance policies may not be used to supplement group life insurance on the same lives.

SECTION 38-63-210. Whole contract, including application, must appear in policy; oral applications.

Every insurer doing a life insurance business in the State shall deliver with each policy of insurance issued by it a copy of the application made by the insured so that the whole contract appears in the application and policy of insurance. If the insurer violates this requirement, no defense is allowed to the policy on account of anything contained in, or omitted from, the application. If the insurance policy is issued upon an oral application, no defense is allowed to the policy on account of anything contained in, or omitted from, the oral application.

SECTION 38-63-220. Required policy provisions.

All individual life insurance policies must contain in substance the following:
(a) a brief and correct description of its benefits on the lower portion of its first page and an identifying form number on the lower left hand corner of its first page;
(b) a provision stating clearly, understandably, and conspicuously on the first page that the policyholder is permitted to return the policy within a period of not less than ten days of its delivery to the policyholder. If replacement of insurance is involved, the policyholder is permitted to return the policy within a period of not less than twenty days of its delivery to the policyholder. If the policy was solicited by a direct response insurer rather than through a licensed insurance agent, the provision must state that the policyholder is permitted to return the policy within a period of not less than thirty one days. The entire premium paid by the policyholder must be returned immediately to the policyholder;
(c) a provision stating who is authorized by the insurer to waive, alter, or change any of the terms or conditions of the policy. It may also state that no agent has the power or authority to waive, change, or alter any of the terms or conditions of the policy;
(d) a provision that the policy and any rider or supplemental benefits attached to the policy are incontestable as to the truth of the application for insurance and to the representations of the insured individual after they have been in force during the lifetime of the insured for a period of two years from their date of issue. Any rider or supplemental benefits subsequently attached to the policy are incontestable as to the truth of the application for the rider or supplemental benefits and to the representations of the insured individual after they have been in force during the lifetime of the insured for a period of two years from their date of issue. If an insurer institutes proceedings to vacate a policy on the ground of the falsity of the representations contained in the application for the policy, the proceedings must commence within the time permitted in this subsection;
(e) A provision that if it is found that the age or sex of the insured, or of any individual considered in determining the premium, has been misstated, any amount payable or benefit accruing under the policy is that as the premium would have purchased according to the correct age or sex;
(f) a provision that when a policy becomes a claim by the death of the insured, settlement must be made upon receipt of proof of death. When a policy provides for payment of its proceeds in a lump sum upon the death of the insured and the insurer fails to pay the proceeds within thirty days of submission of proof of death and all necessary claim papers needed in order to pay the claim properly, the payment must include interest at the legal rate of interest from the date of death of the insured until the date the claim is paid;
(g) a provision stating how the beneficiary is designated and how the beneficiary may be changed;
(h) a provision stating the amount of premium and the time and manner payable. If the death of the insured occurs during a period for which the premium has been paid, the insurer shall add to the policy proceeds a refund of any premium paid for any period beyond the date of death of the insured, provided such premium was not waived under any policy provision for waiver of premium;

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(i) a provision that the insured is entitled to a grace period of not less than thirty one days within which the payment of any premium after the first may be made. During the grace period, the policy continues in full force. If a claim arises under the policy during the grace period, the amount of any premium due or overdue may be deducted from any amount payable under the policy in settlement;

(j) a provision that the policy may be reinstated at any time within three years after the date of default in the payment of any premium, unless the policy has been surrendered for its cash value or unless the extended term insurance, if any, has expired, upon evidence of insurability satisfactory to the insurer and the payment of all overdue premiums and payment (or within the limits permitted by the then cash value of the policy reinstatement) of any other indebtedness to the insurer upon the policy with interest as to both premiums and indebtedness at a rate not exceeding eight percent a year compounded annually. However, acceptance of all or any part of a premium more than thirty days in arrears by the agent or company without requiring reinstatement application continues the policy in force without any lapse of coverage;

(k) a provision in participating policies that, beginning not later than the end of the third policy year, the insurer shall annually ascertain and apportion the divisible surplus, if any, that will accrue on the policy anniversary or other dividend date specified in the policy. Except as provided in this section, any dividend becoming payable is, at the option of the party entitled to elect the option, either payable in cash or applied to any one of the other dividend options as may be provided by the policy. If other dividend options are provided, the policy must further state which option is automatically effective if the party has not elected some other option. If a policy specifies a period within which the other option may be elected, this period must be not less than thirty days following the date on which the dividend is due and payable. If a participating policy provides that the benefit under any paid up nonforfeiture provision is to be participating, it may provide that any divisible surplus becoming payable or apportioned while the insurance is in force under the nonforfeiture provision will be applied in the manner set forth in the policy;

(l) a provision that after three full years' premiums have been paid, and after the policy has a cash surrender value, and while no premium is in default beyond the grace period for payment, the insurer will loan on the execution of a proper note or loan agreement by the owner of the policy, or on proper assignment of the policy and on the sole security of the policy, at the option of the owner of the policy, an amount not exceeding the cash value of the policy at the end of the current policy year including any dividend additions to the policy. The company may deduct from the loan value or from the proceeds of the loan any existing indebtedness on or secured by the policy not already deducted in determining the cash value, including interest due or accrued, and any unpaid balance of the premium for the current policy year, and may collect interest in advance of the loan through the end of the current policy year. The policy must reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six months after application for the loan. The policy may also provide that if interest on any indebtedness is not paid when due, it must then be added to the existing indebtedness and bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value of the policy, then the policy terminates, but not until at least thirty days' notice has been mailed by the insurer to the last known address of the insured or policy owner and to that of any assignee of record on file with the insurer. The policy, at the insurer's option, may provide for an automatic premium loan, subject to an election of the party entitled to elect. No condition other than as provided in this subsection may be exacted as a prerequisite to any loan. This subsection does not apply to term insurance or to term insurance benefits provided by rider or supplemental policy provisions;

(m) a provision that is in accordance with Sections 38-63-240 to 38-63-280;

(n) a provision that is in accordance with Article 5 of Chapter 63 of Title 38, Standard Nonforfeiture Law for Life Insurance.

The director or his designee may approve policies with provisions which vary from the provisions required in this section if the provisions are more favorable to the insured or if the provisions are not applicable because of the nature of the product.

SECTION 38-63-510. Short title.

This article is known and may be cited as the "Standard Nonforfeiture Law for Life Insurance".

SECTION 38-63-520. Paid up nonforfeiture benefit and cash surrender value provisions are required in life insurance policies.

No policy of life insurance, except as stated in Section 38- 63-640, may be delivered or issued for delivery in this State unless it contains in substance the following provisions or corresponding provisions which, in the opinion of the director or his designee, are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified and are essentially in compliance with Section 38-63- 630:

(1) In the event of default in any premium payment, the insurer shall grant, upon proper request not later than sixty days after the due date of the premium in default, a paid up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be hereinafter specified. In lieu of the stipulated paid up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty days after the due date of the premium in default, an actuarially equivalent alternative paid up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(2) Upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the insurer shall pay, in lieu of any paid up nonforfeiture benefit, a cash surrender value of such amount as may be specified in this article.

(3) A specified paid up nonforfeiture benefit becomes effective as specified in the policy unless the person entitled to make the election elects another available option not later than sixty days after the due date of the premium in default.

(4) If the policy has become paid up by completion of all premium payments or if it is continued under any paid up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the insurer shall pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be specified in this article.

(5) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid up nonforfeiture benefits, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

(6) A statement that the cash surrender values and the paid up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid up nonforfeiture benefits are altered by the existence of any paid up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that the method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered. Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefore with surrender of the policy.

SECTION 38-63-530. Minimum cash surrender values.

(1) In event of default. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by Section 38-63-520, must be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid up additions, if there had been no default, over the sum of (a) the then present value of the adjusted premiums as defined in Sections 38-63-570 to 38-63-600, corresponding to premiums which would have fallen due on and after such anniversary, and (b) the amount of indebtedness to the insurer on the policy. Any policy issued on or after the operative date of Section 38-63-600, as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in the first paragraph of this section must be an amount not less than the sum of the cash surrender value as defined in that paragraph for an otherwise similar policy issued at the same age without the rider or supplemental policy provision and the cash surrender value as defined in that paragraph for a policy which provides only the benefits otherwise provided by the rider or supplemental policy provision. Any family policy issued on or after the operative date of Section 38-63-600, as defined therein, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age of seventy one, the cash surrender value referred to in the first paragraph of this section must be an amount not less than the sum of the cash surrender value as defined in that paragraph for an otherwise similar policy issued at the same age without the term insurance on the life of the spouse and the cash surrender value as defined in that paragraph for a policy which provides only the benefits otherwise provided by the term insurance on the life of the spouse.

(2) On paid up policies. Any cash surrender value available within thirty days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid up nonforfeiture benefit, whether or not required by Section 38-63-620, must be an amount not less than the present value on such anniversary of the future guaranteed benefits provided for by the policy, including any existing paid up additions, decreased by any indebtedness to the insurer on the policy.

SECTION 38- 63- 540. Minimum paid up nonforfeiture benefits.

Any paid up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary must be such that its present value as of such anniversary is at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this article in the absence of the condition that premiums must have been paid for at least a specified period.

SECTION 38-63-550. Calculation of cash surrender values and paid up nonforfeiture benefits when default occurs not on anniversary date of policy.

Any cash surrender value and any paid up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary must be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary.

SECTION 38-63-560. Additional benefits and premiums therefore must be disregarded.

Notwithstanding the provisions of Section 38-63-530, additional benefits payable (a) in the event of death or dismemberment by accident or accidental means, (b) in the event of total and permanent disability, (c) as reversionary annuity or deferred reversionary annuity benefits, (d) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this article would not apply, (e) as term insurance on the life of a child or on the lives of children provided in a policy, on the life of a parent of the child, if the term insurance expires before the child's age is twenty six, is uniform in amount after the child's age is one, and has not become paid up by reason of the death of a parent of the child, and (f) as other policy benefits additional to life insurance and endowment benefits, and premiums for all these additional benefits, must be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this article, and these additional benefits are not required to be included in any paid up nonforfeiture benefits.

SECTION 38-63-570. Calculation of adjusted premiums and present values.

This section does not apply to policies issued on or after the operative date of Section 38-63-600 as defined therein. Except as provided in the third paragraph of this section the adjusted premiums for any policy must be calculated on an annual basis and must be the uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums must be equal to the sum of (a) the then present value of the future guaranteed benefits provided for by the policy, (b) two percent of the amount of insurance, if the insurance is uniform in amount, or of the equivalent uniform amount as defined in this section if the amount of insurance varies with duration of the policy, (c) forty percent of the adjusted premium for the first policy year, and (d) twenty five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less. However, in applying the percentages specified in terms (c) and (d) above no adjusted premium may be considered to exceed four percent of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this section is the date as of which the rated age of the insured is determined. In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this section is considered to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the inception of the insurance as the benefits under the policy. However, in the case of a policy providing a varying amount of insurance issued on the life of a child under the age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by the policy at age ten. The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision is equal to (i) the adjusted premiums for an otherwise similar policy issued at the same age without the term insurance benefits, increased, during the period for which premiums for the term insurance benefits are payable, by (ii) the adjusted premiums for the term insurance, the foregoing items (i) and (ii) being calculated separately and as specified in the first two paragraphs of this section except that, for the purposes of (b), (c), and (d) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (ii) must be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (i).

SECTION 38-63-580. Basis for calculation of adjusted premiums and present values of industrial policies.

This section does not apply to industrial policies issued on or after the operative date of Section 38-63-600 as defined therein. All adjusted premiums and present values referred to in this article must, for policies of industrial insurance issued prior to January 1, 1968, be calculated on the basis of either the 1941 Standard Industrial Mortality Table or the Commissioners' 1961 Standard Industrial Mortality Table as may be elected by the insurer and approved by the Secretary of Commerce or his designee. However, adjusted premiums and present values for all policies of industrial insurance issued on or after January 1, 1968, must be calculated on the basis of the latter table. All calculations must be made on the basis of the rate of interest specified in the policy for calculating cash surrender values and paid up nonforfeiture benefits so long as the rate of interest does not exceed three and one half percent per annum, except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after January 3, 1976, and prior to January 1, 1979, and a rate of interest not exceeding five and one half percent per annum may be used for policies issued on or after January 1, 1979, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one half percent per annum may be used. However, in calculating the present value of any paid up term insurance with the accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of

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mortality assumed may be not more than one hundred thirty percent of the rates of mortality according to the 1941 Standard Industrial Mortality Table, if this table is used for calculating adjusted premiums and present values, or more than those shown in the Commissioners' 1961 Industrial Extended Term Insurance Table, if the Commissioners' 1961 Standard Industrial Mortality Table is used for calculating adjusted premiums and present values. For insurance issued on a substandard basis, the calculation of adjusted premiums and present values may be based on any other table of mortality as may be specified by the insurer and approved by the Secretary of Commerce or his designee.

SECTION 38-63-590. Basis for calculation of adjusted premiums and present values of ordinary policies.

This section does not apply to ordinary policies issued on or after the operative date of Section 38-63-600 as defined therein. In case of ordinary policies, all adjusted premiums and present values referred to in this article must be calculated on the basis of the Commissioners' 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid up nonforfeiture benefits so long as the rate of interest does not exceed three and one half percent per annum, except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after January 3, 1976, and prior to January 1, 1979, and a rate of interest not exceeding five and one half percent per annum may be used for policies issued on or after January 1, 1979, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one half percent per annum may be used, and, for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured. In calculating the present value of any paid up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners' 1958 Extended Term Insurance Table, and, for insurance issued on a substandard basis, the calculation of the adjusted premiums and present values may be based on any other table of mortality as may be specified by the insurer and approved by the director or his designee.

SECTION 38-63-600. Basis for calculating adjusted premiums and present values of policies issued on or after date of election of compliance by insurer or January 1, 1989, if later.

(1) This section applies to all policies issued on or after the operative date of this section as defined herein. Except as provided in subsection (7) of this section, the adjusted premiums for any policy must be calculated on an annual basis and must be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums must be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) one percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and (iii) one hundred twenty five percent of the nonforfeiture net level premium as hereinafter defined. In applying the percentage specified in (iii) above, no nonforfeiture net level premium may be considered to exceed four percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years. The date of issue of a policy for the purpose of this section is the date as of which the rated age of the insured is determined.

(2) The nonforfeiture net level premium must be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of the policy on which a premium falls due.

(3) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values must initially be calculated on the assumption

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that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums, and present values must be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(4) Except as otherwise provided in subsection (7) of this section, the recalculated future adjusted premiums for any such policy must be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards and also excluding any uniform annual contract charge or policy fee specified by the policy in a statement of the method to be used in calculating the cash surrender values and paid up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums must be equal to the excess of (A) the sum of (i) the then present value of the then future guaranteed benefits provided for by the policy and (ii) the additional expense allowance, if any, over (B) the then cash surrender value, if any, or present value of any paid up nonforfeiture benefit under the policy.

(5) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, must be the sum of (i) one percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten policy years subsequent to the time of the most recent previous change or, if there has been no previous change, the date of issue of the policy; and (ii) one hundred twenty five percent of the increase, if positive, in the nonforfeiture net level premium.

(6) The recalculated nonforfeiture net level premium must be equal to the result obtained by dividing (A) by (B) where (A) equals the sum of (i) the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and (ii) the present value of the increase in future guaranteed benefits provided for by the policy, and (B) equals the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(7) Notwithstanding any other provisions of this section to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for the substandard policy may be calculated as if it were issued to provide the higher uniform amounts of insurance on the standard basis.

(8) All adjusted premiums and present values referred to in this article:

(A) must for all policies of ordinary insurance be calculated on the basis of (i) the Commissioners' 1980 Standard Ordinary Mortality Table or (ii) at the election of the insurer for any one or more specified plans of life insurance, the Commissioners' 1980 Standard Ordinary Mortality Table with Ten Year Select Mortality Factors;

(B) must for all policies of industrial insurance be calculated on the basis of the Commissioners' 1961 Standard Industrial Mortality Table; and

(C) must for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section for policies issued in that calendar year. However:

(a) At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this section, for policies issued in the immediately preceding calendar year.

(b) Under any paid up nonforfeiture benefit, including any paid up dividend additions, any cash surrender value available, whether or not required by Section 38-63-520, must be calculated on the basis of the mortality table and rate of interest used in determining the amount of the paid up nonforfeiture benefit and paid up dividend additions, if any.

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(c) An insurer may calculate the amount of any guaranteed paid up nonforfeiture benefit including any paid up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(d) In calculating the present value of any paid up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners' 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners' 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

(e) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

(f) Any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the department for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners' 1980 Standard Ordinary Mortality Table with or without Ten Year Select Mortality Factors or for the Commissioners' 1980 Extended Term Insurance Table.

(g) Any industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the department for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners' 1961 Standard Industrial Mortality Table or the Commissioners' 1961 Industrial Extended Term Insurance Table.

(9) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year must be equal to one hundred twenty five percent of the calendar year statutory valuation interest rate for the policy as defined in the Standard Valuation Law rounded to the nearest one quarter of one percent.

(10) Notwithstanding any other provision of law, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values does not require refiling of any other provisions of that policy form.

(11) After the effective date of this section, any insurer may file with the department a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1989, which shall be the operative date of this section for that insurer. If an insurer does not make that election, the operative date of this section for that insurer is January 1, 1989.

SECTION 38-63-610. Premiums, values, and benefits of life insurance plans providing for future premium determination.

In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on then estimates of future experience or, in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in Sections 38-63-520 to 38-63-600, then:

(a) The director or his designee must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insured's as the minimum benefits otherwise required by Sections 38-63-520 to 38-63-600.

(b) The director or his designee must be satisfied that the benefits and the pattern of premiums of that plan are not misleading to prospective policyholders or insured's.

(c) The cash surrender values and paid up nonforfeiture benefits provided by the plan may not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this article, as determined by regulations promulgated by the department.

SECTION 38-63-620. Calculation of cash surrender values, paid up nonforfeiture benefits, adjusted premiums, and present values; net value of paid up additions.

Any cash surrender value and any paid up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, must be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in Sections 38-63-530, 38-63-540, and 38-63-570 to 38-63-600 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid up additions, other than paid up term additions, may not be less than the amounts used to provide such additions.

SECTION 38-63-630. Cash surrender value of policies issued on or after January 1, 1986.

This section, in addition to all other applicable sections of this article, applies to all policies issued on or after January 1, 1986. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary must be in an amount which does not differ by more than two tenths of one percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years, from the sum of (a) the greater of zero and the basic cash value hereinafter specified and (b) the present value of any existing paid up additions less the amount of any indebtedness to the company under the policy.

The basic cash value must be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which would have fallen due on and after the anniversary. The effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in Section 38-63-530 or 38-63-570, whichever is applicable, must be the same as are the effects specified in Section 38-63-530 or 38-63-570, whichever is applicable, on the cash surrender values defined in that section.

The nonforfeiture factor for each policy year must be an amount equal to a percentage of the adjusted premium for the policy year, as defined in Section 38-63-570 or 38-63-600, whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, the percentage:

(a) Must be the same percentage for each policy year between the second policy anniversary and the later of (i) the fifth policy anniversary and (ii) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid up additions and before deducting any indebtedness, of at least two tenths of one percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years.

(b) Must be such that no percentage after the later of the two policy anniversaries specified in the preceding item (a) may apply to fewer than five consecutive policy years.

No basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in Section 38-63-570 or 38-63-600, whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

All adjusted premiums and present values referred to in this section must for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other sections of this article. The cash surrender values referred to in this section include any endowment benefits provided for by the policy.

Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary and the amount of any paid up nonforfeiture benefit available under the policy in the event of default in a premium payment must be determined in ways consistent with the ways specified for determining the analogous minimum amounts in Sections 38-63-520 to 38-63-540, 38-63-600, and 38-63-620. The amounts of any cash surrender values and of any paid up nonforfeiture benefits granted in connection with additional benefits such as those listed as items (a) through (f) of subsection (8) of Section 38-63-600 shall conform with the principles of this section.

SECTION 38-63-640. Excepted policies.

This article does not apply to:
(a) Any reinsurance.
(b) Group insurance.
(c) Pure endowment.
(d) Annuity or reversionary annuity contract.
(e) Any term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty years or less expiring before age seventy one, for which uniform premiums are payable during the entire term of the policy.
(f) Any term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in Sections 38-63-570 to 38-63-600, is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before age seventy one, for which uniform premiums are payable during the entire term of the policy.
(g) Any policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in Sections 38-63-530 to 38-63-600, exceeds two and one half percent of the amount of insurance at the beginning of the same policy year.
(h) Any policy which is delivered outside this State through an agent or other representative of the company issuing the policy.
For purposes of determining the applicability of this article, the age at expiry for a joint term life insurance policy is the age of expiry of the oldest life.

SECTION 38-63-650. Operative date of article.

An insurer may file with the department a written notice of its election to comply with the provisions of this article after a specified date before January 1, 1966. After the filing of the notice, then upon the specified date, which shall be the operative date for that insurer, this article becomes operative with respect to the policies thereafter issued by the insurer. If an insurer makes no election, the operative date of this article for that insurer is January 1, 1966.

SECTION 38-63-225. Suicide and death exclusions.

(A) If an individual life insurance policy contains a suicide provision, it may not limit payment of benefits for a period more than two years from the date of issue of the policy and it must provide for at least the return of premiums paid on the policy.
(B) An individual life insurance policy or rider to such a policy delivered or issued for delivery in this State may exclude or restrict liability in the event of death occurring while the insured is a resident in a specified foreign country or countries, but except as provided in subsection (A) may not contain any provision excluding or restricting liability in the event of death caused in a certain specified manner, except as a result of:
(1) death as a result of war, declared or undeclared, or any act or hazard of such a war;
(2) death as a result of operating, riding, or descending from an aircraft unless the insured is a passenger and the aircraft is operated commercially to transport passengers for hire or by a private business to transport personnel or guests;
(3) death as a result of hazardous occupations or hazardous sports specified in the policy or rider.
If death is caused in a manner excluded in the policy or rider, the policy must provide for at least the return of premiums paid on the policy less any indebtedness to the insurer on the policy.
(C) If an individual life insurance policy or rider contains any exclusions or restrictions of liability as allowed in subsection (B), the policy or rider must have a prominent stamp of notice of these exclusions or restrictions on the face of it and the insurer is required to have a separate form acknowledging the exclusions of liability signed by the owner of the policy.

SECTION 38-63-240. Interest rate on insurance policy loans.

Life insurance policies issued after May 1, 1985, may not provide for policy loan interest rates of more than eight percent per annum, except as provided in Section 38-63-250.

SECTION 38-63-250. Alternative adjustable interest rate.

(a) In the alternative life insurers may issue policies that permit an adjustable maximum interest rate established from time to time by the life insurer as permitted by law. These adjustable maximum interest rates may not exceed the higher of the following:
(1) The Published Monthly Average for the calendar month ending two months before the date on which the rate is determined; or
(2) The rate used to compute the cash surrender values under the policy during the applicable period plus one percent per annum. "Published Monthly Average" means Moody's Corporate Bond Yield Average Monthly Average Corporate as published by Moody's Investors Service, Inc., or any successor thereto or, if Moody's Corporate Bond Yield Average Monthly Average Corporate is no longer published, a substantially similar average, established by regulation issued by the department.
(b) If the maximum rate of interest is determined pursuant to this section, the policy shall contain a provision setting forth the frequency at which the rate is to be determined for the policy.
(c) The maximum rate for each policy must be determined at regular intervals but only once each twelve months.
(d) At the intervals specified in the policy:
(1) The rate being charged may be increased whenever the increase as determined under subsection (a) would increase the rate by one half percent or more per annum, but not more than twice in any calendar year.
(2) The rate being charged must be reduced whenever the reduction as determined under subsection (a) would decrease that rate by one half percent or more per annum.
(e) The life insurer shall:
(1) Notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan.
(2) Notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so, but in no event later than sixty days after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in item (3) of this subsection (e).
(3) Send to policyholders with loans at least thirty days' advance notice of any increase in the rate and within due course notify the policyholder of any decrease in the interest rate.
(4) Include in the notices required above the substance of the pertinent provisions of Section 38-63-240 or subsections (a) and (b) of this section.
(f) The loan value of the policy must be determined in accordance with the provisions of this article but no policy may terminate in a policy year as the sole result of change in the interest rate during that policy year, and the life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.
(g) The substance of the pertinent provisions of Section 38-63-240 or subsections (a) and (b) of this section must be set forth in the policies to which they apply.
(h) For the purposes of this section:
(1) The rate of interest on policy loans hereunder shall include the interest rate charged on reinstatement of policy loans for the period during and after any lapse of a policy.
(2) Policy loan includes any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they fell due.
(3) Policyholder includes the owner of the policy or the person designated to pay premiums, if different, as shown on the records of the life insurer.
(4) Policy includes certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans. However, before May 1, 1986, no life insurer may issue policies that permit such rates unless at the same time it also makes available policies providing for a rate of interest under Section 38-63-240.

SECTION 38-63-260. Policies with face value less than five thousand dollars.

Notwithstanding any other provision of this article, for life insurance policies having a face value of less than five thousand dollars, life insurers may issue policies with an adjustable maximum policy loan interest rate when the policy loan is three hundred dollars or more, but, if the policy loan is less than three hundred dollars, a fixed policy loan interest rate of not more than eight percent per annum must be charged.

SECTION 38-63-280. Written disclosures.

At the time an insurer makes a policy or premium loan that provides for periodic adjustment of policy or premium loan interest rates, the insurer shall provide a separate written disclosure form to the policyholder using plain understandable language that:
(a) Provides an explanation of the dollar impact on policy or premium loans when the adjustable interest rate moves up or down.
(b) Provides an explanation of the impact of a policy or premium loan on the benefits payable to the policyholder upon the death of the insured if a policy or premium loan remains unpaid at the time of death of the insured.

SECTION 38-67-20. Statement of essential features of procedures used in determining dollar amount of variable benefits.

Any contract providing benefits payable in variable amounts delivered or issued for delivery in this State shall contain a statement of the essential features of the procedures to be followed by the insurer in determining the dollar amount of the variable benefits. Any contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that the dollar amount will so vary and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

SECTION 38-67-50. Insurance laws applicable; grace, reinstatement, and nonforfeiture provisions; reserve liability for variable contracts.

Except as otherwise provided in this chapter, all pertinent provisions of the insurance laws of this State apply to separate accounts and contracts relating thereto. However, Article 5 of Chapter 63 of this title does not apply to variable life insurance policies. Any individual variable life insurance contract, delivered or issued for delivery in this State, shall contain grace, reinstatement, and nonforfeiture provisions appropriate to such a contract. The reserve liability for variable contracts must be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

Regulation 69-12. Variable Contracts.

PART A VARIABLE ANNUITIES

Article I: Authority.

Part A of this Regulation, applicable to variable annuities, is promulgated under the authority of S. C. Code Section 38-67-40 (1976).

Article II: Definitions.

As used in Part A of this Regulation:

(1) The term "variable annuity" shall mean any policy or contract which provides for annuity benefits which vary according to the investment experience of any separate account or accounts maintained by the insurer as to such policy or contract, as provided for in S. C. Code Section 38-67-10 (1976) or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

(2) "Agent" shall mean any individual licensed by the Commissioner as a life insurance agent.

(3) "Commissioner" shall mean the Chief Insurance Commissioner of South Carolina.

Article III: Qualification of Insurance Companies to Issue Variable Annuities.

(1) No insurance company shall deliver or issue for delivery variable annuities within this State unless (a) it is licensed or organized to do a life insurance or annuity business in this State, and (b) the Commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this State. In this connection, the Commissioner shall consider among other things:

(i) The history and financial condition of the company;

(ii) The character, responsibility and fitness of the officers and directors of the company;

(iii) The law and regulation under which the company is authorized in its state of domicile to issue variable annuities.

(2) If the company is a subsidiary of an admitted life insurance company, or affiliated with such company by common management or ownership, it may be deemed by the Commissioner to have satisfied the provisions of clause (b) of Paragraph (1) hereof if either it or such admitted life company satisfies the aforementioned provisions; provided, further, that companies licensed and having a satisfactory record of doing business in this State for a period of at least three years may be deemed to have satisfied the Commissioner with respect to clause (b) of Paragraph (1) above.

(3) Before any company shall deliver or issue for delivery variable annuities within this State it shall submit to the Commissioner (a) a general description of the kinds of variable annuities it intends to issue, (b) if requested by the Commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue variable annuities, and (c) if requested by the Commissioner, biographical data with respect to officers and directors of the company on such forms as the Commissioner may approve.

Article IV: Separate Account.

A domestic company issuing variable annuities shall establish one or more separate accounts pursuant to S. C. Code Section 38-67-10 (1976), subject to the following provisions of this Article:

(1)(a) Except as may be provided with respect to reserves for guaranteed benefits and funds referred to in Paragraph (1)(b), (i) amounts allocated to any separate account and accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this State governing the investments of life insurance companies, and (ii) the investments in such separate account or accounts shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.

(b) Reserves for (i) benefits guaranteed as to dollar amount and duration, and (ii) funds guaranteed as to principal amount or stated rate of interest may be maintained in a separate account, if a portion of the assets of such separate account at least equal to such reserve liability is invested in accordance with the laws and regulations of this State governing the investments of life insurance companies. Such portion of the assets also shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.

(c) With respect to 75% of the market value of the total assets in a separate account, no company shall purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal or interest by the United States, if immediately after such purchase or acquisition the market value of such investment, together with prior investments of such separate account in such security taken at market, would exceed 10% of the market value of the assets of said separate account; provided, however, that the Commissioner may waive such limitation if, in his opinion, such waiver will not render the operation of such separate account hazardous to the public or policyholders in this State.

(d) Unless otherwise permitted by law or approved by the Commissioner, no company shall purchase or otherwise acquire for its separate accounts the voting securities of any issuer if as a result of such acquisition the insurance company and its separate accounts, in the aggregate, will own more than 10% of the total issued and outstanding voting securities of such issuer; provided, that the foregoing shall not apply with respect to securities held in separate accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interest in such accounts.

(e) The limitations provided in Paragraphs (1)(c) and (1)(d) above shall not apply to the investment with respect to a separate account in the securities of an investment company registered under the Investment Company Act of 1940, provided that the investments of such investment company comply in substance with Paragraphs (1)(c) and (1)(d) hereof.

(2) Unless otherwise approved by the Commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; provided, that unless otherwise approved by the Commissioner, the portion, if any, of the assets of such separate account equal to the company's reserve liability with regard to the benefits and funds referred to in clauses (i) and (ii) of Paragraph (1)(b) shall be valued in accordance with the rules otherwise applicable to the company's assets.

(3) If and to the extent so provided under the applicable contracts, that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

(4) Notwithstanding any other provisions of law, a company may

(a) with respect to any separate account registered with the Securities and Exchange Commission as a unit investment trust, exercise voting rights in connection with any securities of a regulated investment company registered under the Investment Company Act of 1940 and held in such separate accounts in accordance with instructions from persons having interests in such accounts ratably as determined by the company, or

(b) with respect to any separate account registered with the Securities and Exchange Commission as a management investment company, establish for such account a committee, board, or other body, the members of which may or may not be otherwise affiliated with such company and may be elected to such membership by the vote of persons having interests in such account ratably as determined by the company. Such committee, board or other body may have the power, exercisable alone or in conjunction with others, to manage such separate account and the investment of its assets.

A company, committee, board or other body may make such other provisions in respect to any such separate account as may be deemed appropriate to facilitate compliance with requirements of any federal or state law now or hereafter in effect; provided that the Commissioner approves such provisions as not hazardous to the public or the company's policyholders in this State.

(5) No sale, exchange or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in the case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, is made (a) by a transfer of cash, or (b) by a transfer of securities having a valuation which could be readily determined in the marketplace, provided that such transfer of securities is approved by the Commissioner. The Commissioner may authorize other transfers among such accounts, if, in his opinion, such transfers would not be inequitable.

(6) The company shall maintain in each separate account assets with a value at least equal to the reserves and other contract liabilities with respect to such account, except as may otherwise be approved by the Commissioner.

(7) Rules under any provision of the insurance laws of this State or any regulation applicable to the officers and directors of insurance companies with respect to conflict of interest shall also apply to members of any separate accounts committee, board or other similar body. No officer or director of such company nor any member of the committee, board or body of a separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate account.

Article V: Filing of Contracts.

The filing requirements applicable to variable annuities shall be those filing requirements otherwise applicable under existing statutes and regulations of this State with respect to individual and group life insurance and annuity contract form filings, to the extent appropriate.

Article VI: Variable Annuity Contracts.

(1) Any variable annuity providing benefits payable in variable amounts delivered or issued for delivery in this State shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will vary to reflect investment experience and shall contain on its first page a clear and prominent statement to the effect that the benefits thereunder are on a variable basis.

(2) Illustrations of benefits payable under any variable annuity shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided that nothing contained herein is intended to prohibit use of hypothetical assumed rates of return to illustrate possible levels of benefits.

(3) No individual variable annuity contract calling for the payment of periodic stipulated payments to the insurer shall be delivered or issued for delivery in this State unless it contains in substance the following provision or provisions which in the opinion of the Commissioner are more favorable to the holders of such contracts:

(a) A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising there from;

(b) A provision that, at any time within one year from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefore;

(4) Any variable annuity contract delivered or issued for delivery in this State shall stipulate the investment increment factors to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder, and may guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. In the case of an individual variable annuity contract under which the expense and mortality results may adversely affect the dollar amount of benefits, the expense and mortality factors shall be stipulated in the contract.

In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

(a) The annual net investment increment assumption shall not exceed 5% except with the approval of the Commissioner.

(b) To the extent that the level of benefits may be affected by future mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, ultimate, or any modification of that

table not having a lower life expectancy at any age, or, if approved by the Commissioner, from another table. "Expense" as used in this Paragraph, may exclude some or all taxes, as stipulated in the contract.
(5) The reserve liability for variable annuities shall be established pursuant to the requirements of S. C. Code Section 38-9-180 (1976) (the Standard Valuation Law) in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

Article VII: Nonforfeiture Benefits.

(1) This Article shall not apply to any (i) reinsurance, (ii) group annuity contract purchased in connection with one or more retirement plans or plans of deferred compensation established or maintained by or for one or more employers (including partnerships or sole proprietorships), employee organizations, or any combination thereof, or other than plans providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, (iii) premium deposit fund, (iv) investment annuity, (v) immediate annuity, (vi) deferred annuity contract after annuity payments have commenced, (vii) reversionary annuity, or to any (viii) contract which is to be delivered outside this state through an agent or other representative of the company issuing the contract.
(2) To the extent that any variable annuity contract provides benefits which do not vary in accordance with the investment performance of a separate account before the annuity commencement date, such contract shall contain provisions which satisfy the requirements of Chapter 69 of Title 38 of 1976 Code, (the Standard Nonforfeiture Law for Deferred Annuities) and shall not otherwise be subject to this Article.
(3) In the case of a contract issued one hundred eighty (180) days after the effective date of this regulation, no variable annuity contract, except as stated in Paragraphs (1) and (2), shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the Commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:
(a) That upon cessation of payment of considerations under a contract, the company will grant a paid up annuity benefit on a plan described in the contract that complies with Paragraph (7). Such description will include a statement of the mortality table, if any, and guaranteed or assumed interest rates used in calculating annuity payments.
(b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid up annuity benefit a cash surrender benefit as described in the contract that complies with Paragraph (8). The contract may provide that the company reserves the right, at its option, to defer the determination and payment of any cash surrender benefit for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such determination and payment impractical.
(c) A statement that any paid up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.
(4) The minimum values as specified in this Article of any paid up annuity, cash surrender or death benefits available under a variable annuity contract shall be based upon nonforfeiture amounts meeting the requirements of this paragraph.
The minimum nonforfeiture amount on any date prior to the annuity commencement date shall be an amount equal to the percentages of net considerations (as specified in Paragraph 5) increased (or decreased) by the net investment return allocated to the percentages of net considerations, which amount shall be reduced to reflect the effect of:
(i) any partial withdrawals from or partial surrenders of the contract;
(ii) the amount of any indebtedness on the contract, including interest due and accrued;

(iii) an annual contract charge not less than zero and equal to (a) the lesser of thirty dollars ($30.00) and 2% of the end of year contract value less (b) the amount of any annual contract charge deducted from any gross considerations credited to the contract during such contract year; and
(iv) a transaction charge of ten dollars ($10.00) for each transfer to another separate account or to another investment division within the same separate account.
"Net investment return" means the rate of investment return to be credited to the variable annuity contract in accordance with the terms of the contract after deductions for tax charges, if any, and for asset charges either at a rate not in excess of that stated in the contract, or in the case of a contract issued by a non profit corporation under which the contract holder participates fully in the investment, mortality and expense experience of the account, in an amount not in excess of the actual expense not offset by other deductions. The net investment return to be credited to a contract shall be determined at least monthly.
The annual contract charge of thirty dollars ($30.00) and the transaction charge of ten dollars ($10.00) referred to above will be adjusted to reflect changes in the Consumer Price Index in accordance with Paragraph (6).
(5) The percentages of net considerations used to define the minimum nonforfeiture amount in Paragraph (4) shall meet the requirements of this paragraph.
(a) With respect to contracts providing for periodic considerations, the net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars ($30.00) and less a collection charge of one dollar and twenty five cents ($1.25) per consideration credited to the contract during that contract year less any charges for premium taxes. The percentages of net considerations shall be sixty five percent (65%) for the first contract year and eighty seven and one half percent (87 1/2 %) for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty five percent (65%).
(b) With respect to contracts providing for a single consideration, the net consideration used to define the minimum nonforfeiture amount shall be the gross consideration less a contract charge of seventy five dollars ($75.00) and less any charge for premium taxes. The percentage of the net consideration shall be ninety percent (90%).
The annual contract charge of thirty dollars ($30.00), the collection charge of one dollar and twenty five cents ($1.25) per collection, and the single consideration contract charge of seventy five dollars ($75.00) referred to above, will be adjusted to reflect changes in the Consumer Price Index in accordance with Paragraph (6).
(6) Demonstration that a contract's nonforfeiture amounts comply with this Article shall be based on the following assumptions:
(a) Values should be tested at the ends of each of the first twenty (20) contract years;
(b) A net investment return of 7% per year should be used;
(c) If the contract provides for transfers to another separate account or to another investment division within the same separate account, one transfer per contract year should be assumed;
(d) In determining the state premium tax, if any, applicable to the contract, the state of residence should be assumed to equal the state of delivery;
(e) With respect to contracts providing for periodic considerations, monthly considerations of $100 should be assumed for each of the first 240 months;
(f) With respect to contracts providing for a single consideration, a $10,000 single consideration should be assumed; and
(g) The following contract charges should be used:
(l) For contracts filed in 1980 or earlier, the annual contract charge of thirty dollars ($30.00) referred to in Paragraphs (4) and (5), the charge of ten dollars ($10.00) per transfer referred to in Paragraph (4), the collection charge of one dollar and twenty five cents ($1.25) per consideration referred to in

Paragraph (5), and the contract charge of seventy five dollars ($75.00) referred to in Paragraph (5)(b).
(2) For contracts filed in 1981 or later, the above contract charges multiplied by the ratio of (i) the Consumer Price Index for June of the calendar year preceding the date of filing, to (ii) the Consumer Price Index for June, 1979.
(h) If the contract provides for allocation of considerations to both fixed and variable accounts, 100% of the considerations should be assumed to be allocated to the variable account.
As used herein, the Consumer Price Index means such Index for all urban consumers for all items as published by the Bureau of Labor Statistics of the United States Department of Labor or its successor.
If publication of the Consumer Price Index ceases, or if such Index otherwise becomes unavailable or is altered in such a way as to be unusable, the Commissioner will substitute an index he deems to be suitable.
(7) Any paid up annuity benefit available under a variable annuity contract shall be such that its present value on the annuity commencement date is at least equal to the minimum nonforfeiture amount on the date. Such present value shall be computed using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.
(8) For variable annuity contracts which provide cash surrender benefits, the cash surrender benefit at any time prior to the annuity commencement date shall not be less than the minimum nonforfeiture amount next computed after the request for surrender is received by the company. The death benefit under such contracts shall be at least equal to the cash surrender benefits.
(9) Any variable annuity contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the annuity commencement date shall include a statement in a prominent place in the contract that such benefits are not provided.
(10) Notwithstanding the requirements of this Article, a variable annuity contract may provide under the situations specified in (a) or (b) below that the company, at its option, may cancel the annuity and pay the contract holder its accumulated value and by such payment be released of any further obligation under such contract:
(a) if at the time the annuity becomes payable the accumulated value is less than $2,000, or would provide an income the initial amount of which is less than $20 per month; or
(b) if prior to the time the annuity becomes payable under a periodic payment variable annuity contract no considerations have been received under the contract for a period of two (2) full years and both (i) the total considerations paid prior to such period, reduced to reflect any partial withdrawals from or partial surrenders of the contract and (ii) the accumulated value, amount to less than $2,000.
(11) For any variable annuity contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of Paragraph (4), additional benefits payable (a) in the event of total and permanent disability, (b) as reversionary annuity or deferred reversionary annuity benefits, or (c) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid up annuity, cash surrender and death benefits that may be required by this Article. The inclusion of such additional benefits shall not be required in any paid up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid up annuity, cash surrender and death benefits.

Article VIII: Required Reports.

(1) Any company issuing individual variable annuities shall mail to the contract holder at least once in each contract year after the first at his last address known to the company, a statement or statements reporting the investments held in the separate account. The company shall submit annually to the Commissioner a statement of business of its separate account or accounts in such form as may be approved by the Commissioner.

(2) Any company issuing individual variable annuities shall mail to the contract holder at least once in each contract year after the first at his last address known to the company a statement reporting as of a date not more than four months previous to the date of mailing. In the case of an annuity contract under which payments have not yet commenced, the report shall contain (a) the number of accumulation units credited to such contract and the dollar value of a unit, or (b) the value of the contract holder's account.

Article IX: Foreign Companies.

If the law or regulation in the place of domicile of a foreign company provides a degree of protection to policyholders and the public which is substantially equal to that provided by these regulations, the Commissioner, to the extent deemed appropriate by him in his discretion, may consider compliance with such law or regulation as compliance with these regulations.

Article X: Qualifications of Agents for the Sale of Variable Annuities.

(1)(a) No person may sell or offer for sale in this state any variable annuity contract unless such person is an agent and has filed with the Commissioner, in a form satisfactory to the Commissioner, evidence that such person holds any license or authorization which may be required for the solicitation or sale of variable annuity contracts by any federal or state securities law.

(b) Any examination required by the Commissioner for the purpose of determining the eligibility of any person for licensing as an agent shall, after the effective date of this regulation, include such questions concerning the history, purpose, regulation, and sale of variable annuity contracts as the Commissioner deems appropriate.

(2) Any person qualified in this state under this Article to sell or offer to sell variable annuity contracts shall immediately report to the Commissioner:

(a) Any suspension or revocation of his agents license in any other state or territory of the United States;

(b) The imposition of any disciplinary sanction, including suspension or expulsion from membership, suspension, or revocation of or denial of registration, imposed upon him by any national securities exchange, or national securities association, or any federal, state, or territorial agency with jurisdiction over securities or variable annuity contracts;

(c) Any judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

(3) The Commissioner may reject any application or suspend or revoke or refuse to renew any agent's qualification under this Article to sell or offer to sell variable annuity contracts or impose monetary penalties upon any ground that would warrant similar disciplinary action arising out of the agent's sale of other life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of an agent's license shall also govern any proceeding for suspension or revocation of an agent's qualification to sell or offer to sell variable annuity contracts.

PART B VARIABLE LIFE INSURANCE

Article I: Authority.

Section 1. Authority.

Part B of this Regulation, applicable to variable life insurance, is promulgated under the authority of S. C. Code Section 38-67-40 (1976).

Article II: Definitions.

As used in Part B of this Regulation:

Section 1. Affiliate.

"Affiliate" of an insurer means any person, directly or indirectly, controlling, controlled by, or under common control with such insurer; any person who regularly furnishes investment advice to such insurer with respect to its separate accounts for which a specific fee or commission is charged; or any director, officer, partner, or employee of such insurer, controlling or controlled person, or person providing investment advice or any member of the immediate family of such person.

Section 2. Agent.

"Agent" means any individual licensed by the Commissioner as a life insurance agent.

Section 3. Assumed Investment Rate.

"Assumed investment rate" means the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses, and mortality and expense guarantees to maintain the variable death benefit equal at all times to the amount of death benefit, other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.

Section 4. Benefit Base.

"Benefit base" means the amount to which the net investment return is applied.

Section 5. Commissioner.

"Commissioner" means the Chief Insurance Commissioner of South Carolina.

Section 6. Control.

"Control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing more than ten (10) percent of the voting securities of any other person. This presumption may be rebutted by a showing made to the satisfaction of the Commissioner that control does not exist in fact. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

Section 7. Flexible Premium Policy.

"Flexible premium policy" means any variable life insurance policy other than a scheduled premium policy as defined in this Article.

Section 8. General Account.

"General account" means all assets of the insurer other than assets in separate accounts established pursuant to S. C. Code Section 38-67-10 (1976) or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer, whether or not for variable life insurance.

Section 9. Incidental Insurance Benefit.

"Incidental insurance benefit" means all insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including but not limited to accidental death and dismemberment benefits, disability benefits, guaranteed insurability options, family income, or term riders.

Section 10. May.

"May" is permissive.

Section 11. Minimum Death Benefit.

"Minimum death benefit" means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.

Section 12. Net Investment Return.

"Net Investment Return" means the rate of investment return in a separate account to be applied to the benefit base.

Section 13. Person.

"Person" means an individual, corporation, partnership, association, trust, or fund.

Section 14. Policy Processing Day.

"Policy processing day" means the day on which charges authorized in the policy are deducted from the policy's cash value.

Section 15. Scheduled Premium Policy.

"Scheduled premium policy" means any variable life insurance policy under which both the amount and timing of premium payments are fixed by the insurer.

Section 16. Separate Account.

"Separate account" means a separate account established pursuant to S. C. Code Section 38-67-10 (1976), or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

Section 17. Shall.

"Shall" is mandatory.

Section 18. Variable Death Benefit.

"Variable death benefit" means the amount of the death benefit, other than incidental insurance benefits, payable under a variable life insurance policy dependent on the investment performance of the separate account, which the insurer would have to pay in the absence of any minimum death benefit.

Section 19. Variable Life Insurance Policy.

"Variable life insurance policy" means any individual policy which provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to such policy, pursuant to S. C. Code Section 38-67-10 (1976), or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

Article III: Qualification of Insurer to Issue Variable Life Insurance.

The following requirements are applicable to all insurers either seeking authority to issue variable life insurance in this state or having authority to issue variable life insurance in this state.

Section 1. Licensing and Approval to do Business in this State.

An insurer shall not deliver or issue for delivery in this state any variable life insurance policies unless:

(a) the insurer is licensed or organized to do a life insurance business in this state;

(b) the insurer has obtained the written approval of the Commissioner for the issuance of variable life insurance policies in this state. The Commissioner shall grant such written approval only after he has found that:

(1) the plan of operation for the issuance of variable life insurance policies is not unsound;

(2) the general character, reputation, and experience of the management and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer are such as to reasonably assure competent operation of the variable life insurance business of the insurer in this state; and

(3) the present and foreseeable future financial condition of the insurer and its method of operation in connection with the issuance of such policies is not likely to render its operation hazardous to the public or its policyholders in this state. The Commissioner shall consider, among other things:

(A) the history of operation and financial condition of the insurer;

(B) the qualifications, fitness, character, responsibility, reputation and experience of the officers and directors and other management of the insurer and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer;

(C) the applicable law and regulations under which the insurer is authorized in its state of domicile to issue variable life insurance policies. The state of entry of an alien insurer shall be deemed its state of domicile for this purpose; and

(D) if the insurer is a subsidiary of, or is affiliated by common management or ownership with another company, its relationship to such other company and the degree to which the requesting insurer, as well as the other company, meets these standards.

Section 2. Filing for Approval to do Business in this State.

The Commissioner may, at his discretion, require that an insurer, before it delivers or issues for delivery any variable life insurance policy in this state, file with this Department the following information for the consideration of the Commissioner in making the determination required by Section 1, subsection (b) of this Article:

(a) copies of and a general description of the variable life insurance policies it intends to issue;

(b) a general description of the methods of operation of the variable life insurance business of the insurer, including methods of distribution of policies and the names of those persons or firms proposed to

supply consulting, investment, administrative, custodial or distributive services to the insurer;
(c) with respect to any separate account maintained by an insurer for any variable life insurance policy, a statement of the investment policy the issuer intends to follow for the investment of the assets held in such separate account, and a statement of procedures for changing such investment policy. The statement of investment policy shall include a description of the investment objectives intended for the separate account;
(d) a description of any investment advisory services contemplated as required by Section 10 of Article VI;
(e) a copy of the statutes and regulations of the state of domicile of the insurer under which it is authorized to issue variable life insurance policies;
(f) biographical data with respect to officers and directors of the insurer on forms approved by the Commissioner; and
(g) a statement of the insurer's actuary describing the mortality and expense risks which the insurer will bear under the policy.

Section 3. Standards of Suitability.

Every insurer seeking approval to enter into the variable life insurance business in this state shall establish and maintain a written statement specifying the Standards of Suitability to be used by the insurer. Such Standards of Suitability shall specify that no recommendation shall be made to an applicant to purchase a variable life insurance policy and that no variable life insurance policy shall be issued in the absence of reasonable grounds to believe that the purchase of such policy is not unsuitable for such applicant on the basis of information furnished after reasonable inquiry of such applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and any other information known to the insurer or the agent making the recommendation.

Section 4. Use of Sales Materials.

An insurer authorized to transact variable life insurance business in this state shall not use any sales material, advertising material, or descriptive literature or other materials of any kind in connection with its variable life insurance business in this state which is false, misleading, deceptive, or inaccurate.

Section 5. Requirements Applicable to Contractual Services.

Any material contract between an insurer and suppliers of consulting, investment, administrative, sales, marketing, custodial, or other services with respect to variable life insurance operations shall be in writing and provide that the supplier of such services shall furnish the Commissioner with any information or reports in connection with such services which the Commissioner may request in order to ascertain whether the variable life insurance operations of the insurer are being conducted in a manner consistent with these regulations, and any other applicable law or regulations.

Section 6. Reports to the Commissioner.

Any insurer authorized to transact the business of variable life insurance in this state shall submit to the Commissioner, in addition to any other materials which may be required by this regulation or any other applicable laws or regulations:
(a) an Annual Statement of the business of its separate account or accounts in such forms as may be approved by the Commissioner; and
(b) prior to its use in this state, any information furnished to applicants as provided for in Article VII; and
(c) prior to its use in this state, the form of any of the Reports to Policyholders as provided for in Article IX; and
(d) such additional information concerning its variable life insurance operations or its separate accounts as the Commissioner shall deem necessary.

Any material submitted to the Commissioner under this Section shall be disapproved if it is found to be false, misleading, deceptive, or inaccurate in any material respect and, if previously distributed, the Commissioner shall require the distribution of amended material.

Section 7. Authority of Commissioner to Disapprove.

Any material required to be filed with and approved by the Commissioner shall be subject to disapproval if at any time it is found by him not to comply with the standards established in this regulation.

Article IV: Insurance Policy Requirements.

Policy Qualification. The Commissioner shall not approve any variable life insurance form filed pursuant to this regulation unless it conforms to the requirements of this Article.

Section 1. Filing of Variable Life Insurance Policies.

All variable life insurance policies, and all riders, endorsements, applications and other documents which are to be attached and made a part of the policy, and which relate to the variable nature of the policy, shall be filed with the Commissioner and approved by him prior to delivery or issuance for delivery in this state.

(a) The procedures and requirements for such filing and approval shall be, to the extent appropriate and not inconsistent with this regulation, the same as those otherwise applicable to other life insurance policies.

(b) The Commissioner may approve variable life insurance policies and related forms with provisions the Commissioner deems to be not less favorable to the policyholder and the beneficiary than those required by this regulation.

Section 2. Mandatory Policy Benefit and Design Requirements.

Variable life insurance policies delivered or issued for delivery in this state shall comply with the following minimum requirements.

(a) Mortality and expense risks shall be borne by the insurer. The mortality and expense charges shall be subject to the maximums stated in the contract.

(b) For scheduled premium policies, a minimum death benefit shall be provided in an amount at least equal to the initial face amount of the policy so long as premiums are duly paid [subject to the provisions of Section 4(b) of this Article];

(c) The policy shall reflect the investment experience of one or more separate accounts established and maintained by the insurer. The insurer must demonstrate that the reflection of investment experience in the variable life insurance policy is actuarially sound.

(d) Each variable life insurance policy shall be credited with the full amount of the net investment return applied to the benefit base.

(e) Any changes in variable death benefits of each variable life insurance policy shall be determined at least annually.

(f) The cash value of each variable life insurance policy shall be determined at least monthly. The method of computation of cash values and other non forfeiture benefits, as described either in the policy or in a statement filed with the Commissioner of the state in which the policy is delivered, or issued for delivery, shall be in accordance with the actuarial procedures that recognize the variable nature of the policy. The method of computation must be such that, if the net investment return credited to the policy at all times from the date of issue should be equal to the assumed investment rate with premiums and benefits determined accordingly under the terms of the policy, then the resulting cash values and other non forfeiture benefits must be at least equal to the minimum values required by Chapter 63 of Title 38 of the 1976 Code (the Standard Nonforfeiture Law for Life Insurance) for a general account policy with such premiums and benefits. The assumed investment rate shall not exceed the maximum interest rate permitted under the Standard Nonforfeiture Law of this state. If the policy does not contain an assumed investment rate, this demonstration shall be based on the maximum interest rate permitted under the Standard Nonforfeiture Law. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, but are not limited to, a guarantee that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the policy at all times from the date of issue had been equal to the assumed investment rate.

(g) The computation of values required for each variable life insurance policy may be based upon such reasonable and necessary approximations as are acceptable to the Commissioner.

Section 3. Mandatory Policy Provisions.

Every variable life insurance policy filed for approval in this state shall contain at least the following:

(a) The coverage page or pages corresponding to the cover page of each such policy shall contain:

(1) A prominent statement in either contrasting color or in boldface type that the amount or duration of death benefit may be variable or fixed under specified conditions;
(2) A prominent statement in either contrasting color or in boldface type that cash values may increase or decrease in accordance with the experience of the separate account subject to any specified minimum guarantees;
(3) A statement describing any minimum death benefit required pursuant to Section 2(b) of this Article;
(4) The method, or a reference to the policy provision which describes the method, for determining the amount of insurance payable at death;
(5) A captioned provision that the policyholder may return the variable life insurance policy within 10 days of receipt of the policy by the policyholder, and receive a refund of premiums. Unless otherwise provided by state law, the policy may provide that the refund shall equal the total of all premium payments for the policy, or shall equal the sum of (A) the difference between the premiums paid including any policy fees or other charges and the amounts allocated to any separate accounts under the policy and (B) the value of the amounts allocated to any separate accounts under the policy, on the date the returned policy is received by the insurer or its agent.
(6) Such other items as are currently required for fixed benefit life insurance policies and which are not inconsistent with this regulation.
(b)(1) For scheduled premium policies, a provision for a grace period of not less than thirty one days from the premium due date which shall provide that when the premium is paid within the grace period, policy values will be the same, except for the deduction of any overdue premium, as if the premium were paid on or before the due date.
(2) For flexible premium policies, a provision for a grace period beginning on the policy processing day when the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amounts available under the policy to pay such charges in accordance with the terms of the policy. Such grace period shall end on a date not less than 61 days after the mailing date of the Report to Policyholders required by Section 3 of Article IX.
The death benefit payable during the grace period will equal the death benefit in effect immediately prior to such period less any overdue charges. If the policy processing days occur monthly, the insurer may require the payment of not more than 3 times the charges which were due on the policy processing day on which the amounts available under the policy were insufficient to pay all charges authorized by the policy that are necessary to keep such policy in force until the next policy processing day.
(c) For scheduled premium policies, a provision that the policy will be reinstated at any time within two years from the date of default upon the written application of the insured and evidence of insurability, including good health, satisfactory to the insurer, unless the cash surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with accrued interest thereon to the date of reinstatement and payment of an amount not exceeding the greater of:
(1) All overdue premiums with interest at a rate not exceeding the policy loan interest rate in effect for the period during and after the lapse of the policy and any indebtedness in effect at the end of the grace period following the date of default with interest at a rate not exceeding the policy loan interest rate in effect for the period during and after the lapse of the policy; or
(2) 110% of the increase in cash value resulting from reinstatement plus all overdue premiums for incidental insurance benefits with interest at a rate not exceeding the policy loan interest at a rate not exceeding the policy loan interest rate in effect for the period during and after the lapse of the policy.
(d) A full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy;
(e) A provision designating the separate account to be used and stating that:
(1) The assets of such separate account shall be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account arising under the variable life insurance policies supported by the separate account.
(2) The assets of such separate account shall be valued as often as any policy benefits vary, but at least monthly.

(f) A provision specifying what documents constitute the entire insurance contract under state law;
(g) A designation of the officers who are empowered to make an agreement or representation on behalf of the insurer and an indication that statements by the insured, or on his behalf, shall be considered as representations and not warranties;
(h) An identification of the owner of the insurance contract;
(i) A provision setting forth conditions or requirements as to the designation, or change of designation, of a beneficiary and a provision for disbursement of benefits in the absence of a beneficiary designation;
(j) A statement of any conditions or requirements concerning the assignment of the policy;
(k) A description of any adjustments in policy values to be made in the event of misstatement of age or sex of the insured;
(l) A provision that the policy shall be incontestable by the insurer after two years from the date of issue, provided, however, that any increase in the amount of the policy's death benefits subsequent to the policy issue date, which increase occurred upon a new application or request of the owner and was subject to satisfactory proof of the insured's insurability, shall be incontestable after two years from the date of issue of such increase;
(m) A provision stating that the investment policy of the separate account shall not be changed without the approval of the Commissioner of the state of domicile of the insurer, and that the approval process is on file with the Commissioner of this state;
(n) A provisions that payment of variable death benefits in excess of any minimum death benefits, cash values, policy loans, or partial withdrawals (except when used to pay premiums) or partial surrenders may be deferred:
(1) For up to six months from the date of request, if such payments are based on policy values which do not depend on the investment performance of the separate account, or
(2) Otherwise, for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such payment impractical.
(o) If settlement options are provided, at least one such option shall be provided on a fixed basis only;
(p) A description of the basis for computing the cash value and the surrender value under the policy shall be included;
(q) Premiums or charges for incidental insurance benefits shall be stated separately;
(r) Any other policy provision required by this regulation;
(s) Such other items as are currently required for fixed benefit life insurance policies and are not inconsistent with this regulation.
(t) A provision for nonforfeiture insurance benefits. The insurer may establish a reasonable minimum cash value below which any nonforfeiture insurance options will not be available.

Section 4. Policy Loan Provisions.

Every variable life insurance policy, other than term insurance policies and pure endowment policies, delivered or issued for delivery in this state shall contain provisions which are not less favorable to the policyholder than the following:
(a) A provision for policy loans after the policy has been in force for three (3) full years which provides the following:
(1) At least 75% of the policy's cash surrender value may be borrowed.
(2) The amount borrowed shall bear interest at a rate not to exceed that permitted by state insurance law.
(3) Any indebtedness shall be deducted from the proceeds payable on death.
(4) Any indebtedness shall be deducted from the cash surrender value upon surrender or in determining any nonforfeiture benefit.
(5) For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within thirty one days after the date of mailing of such notice. For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next following policy processing day exceed the amounts available under the policy to pay such charges, a report

must be sent to the policyholder containing the information specified by Section 3 or Article IX.
(6) The policy may provide that if, at any time, so long as premiums are duly paid, the variable death benefit is less than it would have been if no loan or withdrawal had ever been made, the policyholder may increase such variable death benefit up to what it would have been if there had been no loan or withdrawal by paying an amount not exceeding 110% of the corresponding increase in cash value and by furnishing such evidence of insurability as the insurer may request.
(7) The policy may specify a reasonable minimum amount which may be borrowed at any time but such minimum shall not apply to any automatic premium loan provision.
(8) No policy loan provision is required if the policy is under the extended insurance nonforfeiture option.
(9) The policy loan provisions shall be constructed so that variable life insurance policyholders who have not exercised such provisions are not disadvantaged by the exercise thereof.
(10) Amounts paid to the policyholders upon the exercise of any policy loan provision shall be withdrawn from the separate account and shall be returned to the separate account upon repayment except that a stock insurer may provide the amounts for policy loans from the general account.
Section 5. Other Policy Provisions.
The following provision may in substance be included in a variable life insurance policy or related form delivered or issued for delivery in this state:
(a) An exclusion for suicide within two (2) years of the issue date of the policy; provided, however, that to the extent of the increased death benefits only, the policy may also provide an exclusion for suicide within two (2) years of any increase in death benefits which result from an application of the owner subsequent to the policy issue date;
(b) Incidental insurance benefits may be offered on a fixed or variable basis;
(c) Policies issued on a participating basis shall offer to pay dividend amounts in cash. In addition, such policies may offer the following dividend options:
(1) the amount of the dividend may be credited against premium payments;
(2) the amount of the dividend may be applied to provide amounts of additional fixed or variable benefit life insurance;
(3) the amount of the dividend may be deposited in the general account at a specified minimum rate of interest;
(4) the amount of the dividend may be applied to provide paid up amounts of fixed benefit one year term insurance;
(5) the amount of the dividend may be deposited as a variable deposit in a separate account.
(d) A provision allowing the policyholder to elect in writing in the application for the policy or thereafter an automatic premium loan on a basis not less favorable than that required of policy loans under Section 4 of this Article, except that a restriction may be imposed that no more than two consecutive premiums can be paid under this provision.
(e) A provision allowing the policyholder to make partial withdrawals;
(f) Any other policy provision approved by the Commissioner.
Article V: Reserve Liabilities for Variable Life Insurance.
(1) Reserve liabilities for variable life insurance policies shall be established under S. C. Code Section 38-9-180 (1976) (the Standard Valuation Law) in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.
(2) For scheduled premium policies, reserve liabilities for the guaranteed minimum death benefit shall be the reserve needed to provide for the contingency of death occurring when the guaranteed minimum death benefit exceeds the death benefit that would be paid in the absence of the guarantee, and shall be maintained in the general account of the insurer and shall not be less than the greater of the following minimum reserve:
(a) The aggregate total of the term costs, if any, covering a period of one full year from the valuation date, of the guarantee on each variable life insurance contract, assuming an immediate one third depreciation in the current value of the assets in the separate account followed by a net investment

return equal to the assumed investment rate; or

(b) The aggregate total of the "attained age level" reserved on each variable life insurance contract. The "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall equal the "residue", as described in Paragraph (1), of the prior year's "attained age level" reserve on the contract, with any such "residue", increased or decreased by a payment computed on an attained age basis as described in Paragraph (2) below.

(1) The "residue" of the prior year's "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall be determined by adding interest at the valuation interest rate to such prior year's reserve, deducting the tabular claims based on the "excess", if any, of the guaranteed minimum death benefit over the death benefit that would be payable in the absence of such guarantee, and dividing the net result by the tabular probability of survival. The "excess" referred to in the preceding sentence shall be based on the actual level of death benefits that would have been in effect during the preceding year in the absence of the guarantee, taking appropriate account of the reserve assumptions regarding the distribution of death claim payments over the year.

(2) The payment referred to in Subsection 2(b) of this Article shall be computed so that the present value of a level payment of that amount each year over the future premium paying period of the contract is equal to (A) minus (B) minus (C), where (A) is the present value of the future guaranteed minimum death benefits, (B) is the present value of the future death benefits that would be payable in the absence of such guarantee, and (C) is any "residue", as described in Paragraph (1), of the prior year's "attained age level" reserve on such variable life insurance contract. If the contract is paid up, the payment shall equal (A) minus (B) minus (C). The amounts of the future death benefits referred to in (B) shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate and/or the valuation interest but in no event may exceed the maximum interest rate permitted for the valuation of life contracts.

(c) The valuation interest rate and mortality table used in computing the two minimum reserves described in (a) and (b) above shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

(3) For flexible premium policies, reserve liabilities for any guaranteed minimum death benefit shall be maintained in the general account of the insurer and shall not be less than the aggregate total of the term costs, if any, covering the period provided for in the guarantee not otherwise provided for by the reserves held in the separate account assuming an immediate one third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the valuation interest rate. The valuation interest rate and mortality table used in computing this additional reserve, if any, shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

(4) Reserve liabilities for all fixed incidental insurance benefits and any guarantees associated with variable accidental insurance benefits shall be maintained in the general account and reserve liabilities for all variable aspects of the variable incidental insurance benefits shall be maintained in a separate account, in amounts determined in accordance with the actuarial procedures appropriate to such benefit.

Article VI: Separate Accounts.

The following requirements apply to the establishment and administration of variable life insurance separate accounts by any domestic insurer:

Section 1. Establishment and Administration of Separate Accounts.

Any domestic insurer issuing variable life insurance shall establish one or more separate accounts pursuant to S. C. Code Section 38-67-10 (1976).

(a) If no law or other regulation provides for the custody of separate account assets and if such insurer is not the custodian of such separate account assets, all contracts for custody of such assets shall be in writing and the Commissioner shall have authority to review and approve of both the terms of any such contract and the proposed custodian prior to the transfer of custody.

(b) Such insurer shall not without prior written approval of the Commissioner employ in any material in connection with the handling of separate account assets any person who:
(1) within the last ten years has been convicted of any felony or a misdemeanor arising out of such person's conduct involving embezzlement, fraudulent conversion, or misappropriation of funds or securities or involving violation of Sections 1341, 1342 or 1343 of Title 18, United States Code; or
(2) within the last ten years has been found by any state regulatory authority to have violated or has acknowledged violation of any provision of any state insurance law involving fraud, deceit, or knowing misrepresentation; or
(3) within the last ten years has been found by federal or state regulatory authorities to have violated or has acknowledged violation of any provision of federal or state securities laws involving fraud, deceit, or knowing misrepresentation.
(c) All persons with access to the cash, securities, or other assets of the separate account shall be under bond in such amounts as the Commissioner may in his discretion prescribe.
(d) The assets of such separate accounts shall be valued at least as often as variable benefits are determined but in any event at least monthly.

Section 2. Amounts in the Separate Account.

The insurer shall maintain in each separate account assets with a value at least equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for such policies.

Section 3. Investments by the Separate Account.

(a) No sale, exchange, or other transfer of assets may be made by any insurer or any of its affiliates between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:
(1) in case of transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the policies with respect to the separate account to which the transfer is made; and
(2) such transfer, whether into or from a separate account, is made by a transfer of cash; but other assets may be transferred if approved by the Commissioner in advance.
(b) The separate account shall have sufficient net investment income and readily marketable assets to meet anticipated withdrawals under policies funded by the account.

Section 4. Limitations on Ownership.

(a) A separate account shall not purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States, if immediately after such purchase or acquisition the value of such investment, together with prior investments of such account in such security valued as required by these regulations, would exceed 10% of the value of the assets of the separate account. The Commissioner may waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state.
(b) No separate account shall purchase or otherwise acquire the voting securities of any issuer if as a result of such acquisition the insurer and its separate accounts in the aggregate, will own more than 10% of the total issued and outstanding voting securities of such issuer. The Commissioner may waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state or jeopardize the independent operation of the issuer of such securities.
(c) The percentage limitation specified in Subsection (a) of this Section shall not be construed to preclude the investment of the assets of separate accounts in shares of investment companies registered pursuant to the Investment Company Act of 1940 or other pools of investment assets if the investments and investment policies of such investment companies or asset pools comply substantially with the provisions of Section 3 of this Article and other applicable portions of this regulation.

Section 5. Valuation of Separate Account Assets.

Investments of the separate account shall be valued at their market value on the date of valuation, or at

amortized cost if it approximates market value.

Section 6. Separate Account Investment Policy.

The investment policy of a separate account operated by a domestic insurer filed under Section 2(c) of Article II shall not be changed without first filing such change with the Commissioner.

(1) Any change filed pursuant to this Section shall be effective sixty days after the date it was filed with the Commissioner, unless the Commissioner notifies the insurer before the end of such sixty day period of his disapproval of the proposed change. At any time the Commissioner may, after notice and public hearing, disapprove any change that has become effective pursuant to this Section.

(2) The Commissioner may disapprove the change if he determines that the change would be detrimental to the interests of the policyholders participating in such separate accounts.

Section 7. Charges Against Separate Account.

The insurer must disclose in writing, prior to or contemporaneously with delivery of the policy, all charges that may be made against the separate account, including, but not limited to, the following:

(1) taxes or reserves for taxes attributable to investment gains and income of the separate account;

(2) actual cost of reasonable brokerage fees and similar direct acquisition and sale costs incurred in the purchase or sale of separate account assets;

(3) actuarially determined costs of insurance (tabular costs) and the release of separate account liabilities;

(4) charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate account;

(5) a charge, at a rate specified in the policy, for mortality and expense guarantees;

(6) any amounts in excess of those required to be held in the separate accounts;

(7) charges for incidental insurance benefits.

Section 8. Standards of Conduct.

Every insurer seeking approval to enter into the variable life insurance business in this state shall adopt by formal action of its Board of Directors a written statement specifying the Standards of Conduct of the insurer, its officers, directors, employees, and affiliates with respect to the purchase or sale of investments of separate accounts. Such Standards of Conduct shall be binding on the insurer and those to whom it refers. A code or codes of ethics meeting the requirements of Section 17(j) under the Investment Company Act of 1940 and applicable rules and regulations thereunder shall satisfy the provisions of this Section.

Section 9. Conflicts of Interest.

Rules under any provision of the insurance laws of this state or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee or other similar body.

Section 10. Investment Advisory Services to a Separate Account.

An insurer shall not enter into a contract under which any person undertakes, for a fee, to regularly furnish investment advice to such insurer with respect to its separate accounts maintained for variable life insurance policies unless:

(1) the person providing such advice is registered as an investment adviser under the Investment Advice Act of 1940; or

(2) the person providing such advice is an investment manager under the Employee Retirement Income Security Act of 1974, with respect to the assets of each employee benefit plan allocated to the separate account; or

(3) the insurer has filed with the Commissioner and continues to file annually the following information and statements concerning the proposed advisor:

(a) the name and form of organization, state of organization, and its principal place of business;

(b) the names and addresses of its partners, officers, directors, and persons performing similar functions or, if such an investment advisory be an individual, of such individual;

(c) a written Standard of Conduct complying in substance with the requirements of Section B of this Article which has been adopted by the investment advisor and is applicable to the investment advisor,

its officers, directors, and affiliates;
(d) a statement provided by the proposed advisor as to whether the advisor or any person associated therewith:
(i) has been convicted within ten years of any felony or misdemeanor arising out of such person's conduct as an employee, salesman, officer or director of an insurance company, a banker, an insurance agent, a securities broker, or an investment advisor involving embezzlement, fraudulent conversion, or misappropriation of funds or securities, or involving the violation of Sections 1341, 1342, or 1343 of Title 18 of United States Code;
(ii) has been permanently or temporarily enjoined by an order, judgment or decree of any court of competent jurisdiction from acting as an investment advisor, underwriter, broker or dealer, or as an affiliated person or as an employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity;
(iii) has been found by federal or state regulatory authorities to have violated or have acknowledged violation of any provision of federal or state securities laws or state insurance laws or of any rule or regulation under any such laws; or
(iv) has been censured, denied an investment advisor registration, had a registration as an investment advisor revoked or suspended, or been barred or suspended from being associated with an investment advisor by order of federal or state regulatory authorities; and
(4) such investment advisory contract shall be in writing and provide that it may be terminated by the insurer without penalty to the insurer or the separate account upon no more than sixty days' written notice to the investment advisor.
The Commissioner may, after notice and opportunity for hearing, by order require such investment advisory contract to be terminated if he deems continued operation thereunder to be hazardous to the public or the insurer's policyholders.
Article VII: Information Furnished to Applicants.
An insurer delivering or issuing for delivery in this state any variable life insurance policies shall deliver to the applicant for such policy, and obtain a written acknowledgment of receipt from such applicant coincident with or prior to the execution of the application, the following information. The requirements of this Article shall be deemed to have been satisfied to the extent that a disclosure containing information required by this Article is delivered, either in the form of (1) a prospectus included in the requirements of the Securities Act of 1933 and which was declared effective by the Securities Exchange Commission; or (2) all information and reports required by the Employee Retirement Income Security Act of 1974 if the policies are exempted from the registration requirements of the Securities Act of 1933 pursuant to Section 3(a)(2) thereof.
(1) A summary explanation, in non technical terms, of the principal features of the policy, including a description of the manner in which the variable benefits will reflect the investment experience of the separate account and the factors which affect such variation. Such explanation must include notices of the provision required by Article IV, Sections 3(a)(5) and 3(f).
(2) A statement of the investment policy of the separate account, including:
(a) a description of the investment objectives intended for the separate account and the principal types of investments intended to be made; and
(b) any restrictions or limitations on the manner in which the operations of the separate account are intended to be conducted.
(3) A statement of the net investment return of the separate account for each of the last ten years or such lesser period as the separate account has been in existence.
(4) A statement of the charges levied against the separate account during the previous year.
(5) A summary of the method to be used in valuing assets held by the separate account.
(6) A summary of the federal income tax aspects of the policy applicable to the insured, the policyholder, and the beneficiary.
(7) Illustrations of benefits payable under the variable life insurance contract. Such illustrations shall be prepared by the insurer and shall not include projections of past investment experience into the future or

attempted predictions of future investments experience, provided that nothing contained herein prohibits use of hypothetical assumed rates of return to illustrate possible levels of benefits if it is made clear that such assumed rates are hypothetical only.

Article VIII: Applications.

The application for a variable life insurance policy shall contain:

(1) a prominent statement that the death benefit may be variable or fixed under specified conditions;

(2) a prominent statement that cash values may increase or decrease in accordance with the experience of the separate account (subject to any specified minimum guarantees);

(3) questions designed to elicit information which enables the insurer to determine the suitability of variable life insurance for the applicant.

Article IX: Reports to Policyholders.

Any insurer delivering or issuing for delivery in this state any variable life insurance policies shall mail to each variable life insurance policyholder at his or her last known address the following reports:

(1) Within thirty days after each anniversary of the policy, a statement or statements of the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge, any optional payments allowed pursuant to Section (4) of Article IV under the policy computed as of the policy anniversary date. Provided, however, that such statement may be furnished within thirty days after a specified date in each policy year so long as the information contained therein is computed as of a date not more than sixty days prior to the mailing of such notice. This statement shall state that, in accordance with the investment experience of the separate account, the cash values and the variable death benefit may increase or decrease, and shall prominently identify any value described therein which may be recomputed prior to the next statement required by this Section. If the policy guarantees that the variable death benefit on the next policy anniversary date will not be less than the variable death benefit specified in such statement, the statement shall be modified to so indicate. For flexible premium policies, the report must contain a reconciliation of the change since the previous report in cash value and cash surrender value, if different, because of payments made (less deductions for expense charges), withdrawals, investment experience, insurance charges and any other charges made against the cash value. In addition, the report must show the projected cash value and cash surrender value, if different, as of one year from the end of the period covered by the report assuming that: (i) planned periodic premiums, if any, are paid as scheduled; (ii) guaranteed costs of insurance are deducted; and (iii) the net return is equal to the guaranteed rate or, in the absence of a guaranteed rate, is not greater than zero. If the projected value is less than zero, a warning message must be included that states that the policy may be in danger of terminating without value in the next 12 months unless additional premium is paid.

(2) Annually, a statement or statements including:

(a) a summary of the financial statement of the separate account based on the annual statement last filed with the Commissioner;

(b) the net investment return of the separate account for the last year and, for each year after the first, a comparison of the investment rate of the separate account during the last year with the investment rate during prior years, up to a total of not less than five years when available;

(c) a list of investments held by the separate account as of a date not earlier than the end of the last year for which an annual statement was filed with the Commissioner;

(d) any charges levied against the separate account during the previous year;

(e) a statement of any change, since the last report, in the investment objective and orientation of the separate account, in any investment restriction or material quantitative or qualitative investment requirement applicable to the separate account or in the investment advisor of the separate account.

(3) For flexible premium policies, a report must be sent to the policyholder if the amounts available under the policy on any policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next following policy processing day. The report must indicate the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment of such amount.

Article X: Foreign Companies.

If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially similar to that provided by these regulations, the Commissioner to the extent deemed appropriate by him in his discretion, may consider compliance with such law or regulation as compliance with these regulations.

Article XI: Qualifications of Agents for the Sale of Variable Life Insurance.

(1) Qualification to Sell Variable Life Insurance.

(a) No person may sell or offer for sale in this state any variable life insurance policy unless such person is an agent and has filed with the Commissioner, in a form satisfactory to the Commissioner, evidence that such person holds any license or authorization which may be required for the solicitation or sale of variable life insurance.

(b) Any examination required by the Commissioner for the purpose of determining the eligibility of any person for licensing as an agent shall, after the effective date of this regulation, include such questions concerning the history, purpose, regulation, and sale of variable life insurance as the Commissioner deems appropriate.

(2) Reports of Disciplinary Actions. Any person qualified in this state under this Article to sell or offer to sell variable life insurance shall immediately report to the Commissioner:

(a) any suspension or revocation of his agent's license in any other state or territory of the United States;

(b) the imposition of any disciplinary sanction, including suspension or expulsion from membership, suspension, or revocation of or denial of registration, imposed upon him by any national securities exchange, or national securities association, or any federal, state, or territorial agency with jurisdiction over securities or variable life insurance;

(c) any judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

(3) Refusal to Qualify Agent to Sell Variable Life Insurance: Suspension, Revocation, or Non renewal of Qualification. The Commissioner may reject any application or suspend or revoke or refuse to renew any agent's qualification under this Article to sell or offer to sell variable life insurance or impose monetary penalties upon any ground that would warrant similar disciplinary arising out of the agent's sale of other life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of an agent's license shall also govern any proceeding for suspension or revocation of an agent's qualification to sell or offer to sell variable life insurance.

PART C SEPARABILITY

If any provision of this Regulation or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the Regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

PART D EFFECTIVE DATE

This Regulation shall take effect on July 1, 1988.

Regulation 69-12.1. Replacement of Life Insurance and Annuities.

Statutory Authority:
1976 Code Sections 1-23-10, 38-3-110, 38-57-60, 38-63-10, 38-63-20, 38-65-10, 38-65-20, 38-69-10, 38-69-20

Section 1. Purpose.
The purpose of this Regulation is:
A. To regulate the activities of insurers, agents and brokers with respect to the replacement of existing life insurance and annuities.
B. To protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement transactions by:
1. Assuring that purchasers receive information with which a decision can be made in his or her own best interest;
2. Reducing the opportunity for misrepresentation and incomplete disclosures; and
3. Establishing penalties for failure to comply with requirements of this Regulation.

Section 2. Definition of Replacement.
"Replacement" means any transaction in which new life insurance or a new annuity is to be purchased, and it is known or should be known to the proposing agent or broker or to the proposing insurer if there is no agent, that by reason of such transaction, existing life insurance or annuity has been or is to be:
A. Lapsed, forfeited, surrendered, or otherwise terminated;
B. 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;
C. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
D. Reissued with any reduction in cash value; or
E. Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding twenty five percent (25%) of the loan value set forth in the policy.

Section 3. Other Definitions.
A. "Conservation" means any attempt by the existing insurer or its agent or broker to dissuade a policy owner from the replacement of existing life insurance or annuity. Conservation does not include routine administrative procedures such as late payment reminders, late payment offers or reinstatement offers.
B. "Direct Response Sales" means any sale of life insurance or annuity where the insurer does not utilize an agent in the sale or delivery of the policy.
C. "Existing Insurer" means the insurance company whose policy is or will be changed or terminated in such a manner as described within the definition of "replacement".
D. "Existing Life Insurance or Annuity" means any life insurance or annuity in force, including life insurance under a binding or conditional receipt or a life insurance policy or annuity that is within an unconditional refund period.
E. "Replacing Insurer" means the insurance company that issues or proposes to issue a new policy or contract which is a replacement of existing life insurance or annuity.
F. "Registered Contract" means variable annuities, investment annuities, variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account, or any other contracts issued by life insurance companies which are registered with the Federal Securities and Exchange Commission.

Section 4. Exemptions.
Unless otherwise specifically included, this Regulation shall not apply to transactions involving:
A. Credit life insurance;
B. Group life insurance and group annuities;

C. An application to the insurer that issued the existing life insurance to effect a change permitted by contract or to exercise a conversion privilege contained in the contract;

D. Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;

E. Transactions where the replacing insurer and the existing insurer are the same; provided, however, agents or brokers proposing replacement shall comply with the requirements of Section 5.A; and

F. Registered Contracts shall be exempt from the requirements of Sections 7.B.2. and 7.B.3. requiring provision of Policy Summary or ledger statement information; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required in lieu thereof.

G. Existing life insurance that is a non convertible term life insurance policy which will expire in five years or less and cannot be renewed.

Section 5. Duties of Agents and Brokers.

A. Each agent or broker who initiates the application shall submit to the insurer to which an application for life insurance or annuity is presented, with or as part of each application:

1. A statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction; and

2. A signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction.

B. Where a replacement is involved, the agent or broker shall:

1. Present to the applicant, not later than at the time of taking the application, a "Notice Regarding Replacement" in the form as described in Exhibit A, or other substantially similar form approved by the Commissioner. The Notice shall be signed by both the applicant and the agent or broker and left with the applicant.

2. Obtain with or as part of each application a list of all existing life insurance and/or annuity to be replaced and properly identified by name of insurer, the insured and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

3. Leave with the applicant the original or a copy of written or printed communications used for presentation to the applicant.

4. Submit to the replacing insurer with the application a copy of the Replacement Notice provided pursuant to Section 5.B.1.

C. Each agent or broker who uses written or printed communications in a conservation shall leave with the applicant the original or a copy of such materials used.

Section 6. Duties of All Insurers.

Each insurer shall:

A. Inform its field representatives or other personnel responsible for compliance with this Regulation of the requirements of this Regulation.

B. Require with or as a part of each completed application for life insurance or annuity a statement signed by the applicant as to whether such proposed insurance or annuity will replace existing life insurance or annuity.

Section 7. Duties of Insurers that Use Agents or Brokers.

Each insurer that uses an agent or broker in a life insurance or annuity sale shall:

A. Require with or as part of each completed application for life insurance or annuity, a statement signed by the agent or broker as to whether he or she knows replacement is or may be involved in the transaction.

B. Where a replacement is involved:

1. Require from the agent or broker with the application for life insurance or annuity (i) a list of all of the applicant's existing life insurance or annuity to be replaced and (ii) a copy of the Replacement Notice provided the applicant pursuant to Section 5.B.1. Such existing life insurance or annuity shall be identified by name of insurer, insured and contract number. If a number has not been assigned by the

existing insurer, alternative identification, such as an application or receipt number, shall be listed.
2. Send to each existing insurer a written communication advising of the replacement or proposed replacement including the identification information obtained pursuant to Section 7.B.1. and a Policy Summary, Contract Summary or ledger statement containing Policy Data on the proposed life insurance or annuity as required by Regulation 69 30 (Solicitation of Life Insurance) and/or Regulation 69 39 (Annuity and Deposit Fund Disclosure Regulation). Cost indices and equivalent level annual dividend figures need not be included in the Policy Summary or ledger statement. This written communication shall be made within three (3) working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner.
3. Each existing insurer or such insurer's agent or broker that undertakes a conservation shall, within twenty days from the date the written communication plus the materials required in Section 7.B.1. and section 7.B.2 is received by the existing insurer, furnish the policy owner with a Policy Summary for the existing life insurance or ledger statement containing Policy Data on the existing policy and/or annuity. Such Policy Summary or ledger statement shall be completed in accordance with the provisions of Regulation 69 30, except that information relating to premiums, cash values, death benefits and dividends, if any, shall be computed from the current policy year of the existing life insurance. The Policy Summary or ledger statement shall include the amount of any outstanding indebtedness, the sum of any dividend accumulations or additions, and may include any other information that is not in violation of any regulation or statute. Cost indices and equivalent level annual dividend figures need not be included. When annuities are involved, the disclosure information shall be that required in a Contract Summary under Regulation 69 39. The replacing insurer may request the existing insurer to furnish it with a copy of the Summaries or ledger statement, which shall be within five working days of the receipt of the request.
C. The replacing insurer shall maintain evidence of the "Notice Regarding Replacement", the Policy Summary, the Contract Summary and any ledger statements used, and a replacement register, cross indexed, by replacing agent and existing insurer to be replaced. The existing insurer shall maintain evidence of Policy Summaries, Contract Summaries or ledger statements used in any conservation. Evidence that all requirements were met shall be maintained for at least three years or until the conclusion of the next succeeding regular examination by the Insurance Department of its state of domicile, whichever is earlier.
D. The replacing insurer shall provide in its policy or in a separate written notice which is delivered with the policy that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised within a period of twenty days commencing from the date of delivery of the policy.
Section 8. Duties of Insurers with respect to Direct Response Sales.
A. If in the solicitation of a direct response sale, the insurer did not propose the replacement, and a replacement is involved, the insurer shall send to the applicant with the policy a Replacement Notice as described in Exhibit A or other substantially similar form approved by the Commissioner. In such instances, the insurer may delete the last sentence and the references to signatures from Exhibit A without having to obtain approval of the form from the Commissioner.
B. If the insurer proposed the replacement it shall:
1. Provide to applicants or prospective applicants with or as a part of the application a Replacement Notice as described in Exhibit A or other substantially similar form approved by the Commissioner.
2. Request from the applicant with or as part of the application, a list of all existing life insurance or annuity to be replaced and properly identified by name of insurer and insured.
3. Comply with the requirements of Section 7.B.2., if the applicant furnishes the names of the existing insurers, and the requirements of Section 7.C., except that it need not maintain a replacement register.
Section 9. Penalties.
A. A violation of this Regulation shall occur if an agent, broker or insurer recommends the replacement or conservation of an existing policy by use of a substantially inaccurate presentation or comparison of

an existing contract's premiums and benefits or dividends and values, if any. Any insurer, agent, representative, officer or employee of such insurer failing to comply with the requirements of this Regulation shall be subject to such penalties as may be appropriate under the Insurance Laws.

B. Patterns of action by policy owners who purchase replacing policies from the same agent or broker, after indicating on applications that replacement is not involved, shall be deemed prima facie evidence of the agent's or broker's knowledge that replacement was intended in connection with the sale of those policies, and such patterns of action shall be deemed prima facie evidence of the agent's or broker's intent to violate this Regulation.

C. This Regulation does not prohibit the use of additional material other than that which is required that is not in violation of this Regulation or any other statute or regulation.

Section 10. Severability.

If any section or portion of a section of this Regulation, or the applicability thereof to any person or circumstance, is held invalid by a court, the remainder of this Regulation, or the applicability of such provision to other persons, shall not be affected thereby.

Section 11. Effective Date.

This Regulation shall become effective ninety days after final publication in the State Register.

EXHIBIT A

(NAME, ADDRESS AND TELEPHONE NUMBER OF THE INSURANCE COMPANY)

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. You are urged not to take action to terminate, assign or alter your existing policy until your new policy has been issued and you have examined it and found it acceptable.

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's Signature	Date	Agent's Signature

Regulation 69-30. Solicitation of Life Insurance.

This regulation requires that all persons selling or soliciting the sale of life insurance furnish to prospective purchasers certain basic information to enable these purchasers to accurately determine their insurance needs and to make comparisons of available policies.

A. Authority

This regulation is adopted and promulgated by the South Carolina Insurance Commission pursuant to Sections 38-3-60, 38-63-10, 38-65-10, 38-69-10, and Chapter 57 of the 1976 Code of Laws of South Carolina, as amended.

B. Purpose.

The purpose of this regulation is to require that certain information be furnished to prospective purchasers of life insurance in order to prevent misrepresentation of policies by insurers or their agents and to enable the insurance purchaser to accurately determine his insurance needs and to make comparisons of available insurance policies.

C. Scope.

(1) Except as hereafter exempted, this regulation shall apply to any solicitation, negotiation or procurement of life insurance occurring within this state. This regulation shall apply to any issuer of life insurance contracts including fraternal benefit societies.

(2) Unless otherwise specifically included, this regulation shall not apply to:

(a) Annuities.

(b) Credit life insurance.

(c) Group life insurance.

(d) Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA).

(e) Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

D. Definitions.

For the purposes of this regulation, the following definitions shall apply:

(1) Buyer's Guide. A Buyer's Guide is a document which contains, and is limited to, the language contained in the Appendix to this regulation or language approved by the Chief Insurance Commissioner.

(2) Cash Dividend. A Cash Dividend is the current illustrated dividend which can be applied toward payment of the gross premium.

(3) Equivalent Level Annual Dividend. The Equivalent Level Annual Dividend is calculated by applying the following steps:

(a) Accumulate the annual cash dividends at five percent interest compounded annually to the end of the tenth and twentieth policy years.

(b) Divide each accumulation of Step (a) by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in Step (a) over the respective periods stipulated in Step (a). If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.

(c) Divide the results of Step (b) by the number of thousands of the Equivalent Level Death Benefit to arrive at the Equivalent Level Annual Dividend.

(4) Equivalent Level Death Benefit. The Equivalent Level Death Benefit of a policy or term life insurance rider is an amount calculated as follows:

(a) Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for ten and twenty years at five percent interest compounded annually to the end of the tenth and twentieth policy years respectively.

(b) Divide each accumulation of Step (a) by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step (a) over the respective periods stipulated in Step (a). If the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.

(5) Generic Name. Generic Name means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

(6) Life Insurance Cost Indexes.

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(a) Life Insurance Surrender Cost Index. The Life Insurance Surrender Cost Index is calculated by applying the following steps:

1. Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.
2. For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual Cash Dividends at five percent interest compounded annually to the end of the period selected and add this sum to the amount determined in Step 1.
3. Divide the result of Step 2. (Step 1. for guaranteed cost policies) by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step 2. (Step 1. for guaranteed cost policies) over the respective periods stipulated in Step 1., if the period is ten years, the factor is 13.207 and if the period is twenty years, the factor is 34.719.
4. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at five percent interest compounded annually to the end of the period stipulated in Step 1. and dividing the result by the respective factors stated in Step 3. (this amount is the annual premium payable for a level premium plan).
5. Subtract the result of Step 3. from Step 4.
6. Divide the result of Step 5. by the number of thousands of the Equivalent Level Death Benefit to arrive at the Life Insurance Surrender Cost Index.

(b) Life Insurance Net Payment Cost Index. The Life Insurance Net Payment Cost Index is calculated in the same manner as the comparable Life Insurance Cost Index except that the cash surrender value and any terminal dividend are set at zero.

(7) Policy Summary. For the purposes of this regulation, Policy Summary means a written statement describing the elements of the policy including but not limited to:

(a) A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

(b) The name and address of the insurance agent, or, if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the Policy Summary.

(c) The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

(d) The Generic Name of the basic policy and each rider.

(e) The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including, but not necessarily limited to, the years for which Life Insurance Cost Indexes are displayed and at least one age from sixty through sixty five or maturity whichever is earlier:

1. The annual premium for the basic policy.
2. The annual premium for each optional rider.
3. Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.
4. Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.
5. Cash Dividends payable at the end of the year with values shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the twentieth policy year.)
6. Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.

(f) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is variable, the Policy Summary includes the maximum annual percentage rate.

(g) Life Insurance Cost Indexes for ten and twenty years but in no case beyond the premium paying period. Separate indexes are displayed for the basic policy and for each optional term life insurance rider.

Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for basic policies or optional riders covering more than one life.

(h) The Equivalent Level Annual Dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same duration at which Life Insurance Cost Indexes are displayed.

(i) A Policy Summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed in addition to a statement in close proximity to the Equivalent Level Annual Dividend as follows: An explanation of the intended use of the Equivalent Level Annual Dividend is included in the Life Insurance Buyer's Guide.

(j) A statement in close proximity to the Life Insurance Cost Indexes as follows: An explanation of the intended use of these indexes is provided in the Life Insurance Buyer's Guide.

(k) The date on which the Policy Summary is prepared.

(l) The Policy Summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as to not minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in item (e) of this section shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insured's if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

E. Disclosure Requirements.

(1) The insurer shall provide, to all prospective purchasers, a Buyer's Guide and a Policy Summary prior to accepting the applicant's initial premium or premium deposit, unless the policy for which application is made contains an unconditional refund provision of at least ten days or unless the Policy Summary contains such an unconditional refund offer, in which event the Buyer's Guide and Policy Summary must be delivered with the policy or prior to the delivery of the policy.

(2) The insurer shall provide a Buyer's Guide and a Policy Summary to any prospective purchaser upon request.

(3) In case of policies whose Equivalent Level Benefit does not exceed $5,000 and whose annualized premium is less than $120, the requirement for providing a Policy Summary will be satisfied by delivery of a written statement containing the information described in Section D(7), items (b), (c), (d), (e)1, (e)2, (e)3, (f), (h), (i) and (k).

F. General Rules.

(1) Each insurer shall maintain at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this regulation. Such file shall contain one copy of each authorized form for a period of three years following the date of its last authorized use.

(2) An agent shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he is acting as a life insurance agent and inform the prospective purchaser of the full name of the insurance company which he is representing to the buyer. In sales situations in which an agent is not involved, the insurer shall identify its full name.

(3) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance agent is generally engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case.

(4) Any reference to policy dividends must include a statement that dividends are not guaranteed.

(5) A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life insurance policies. Such a system may be used for the purpose of demonstrating the cash flow pattern of a policy if such presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.

(6) A presentation of benefits shall not display guaranteed and non guaranteed benefits as a single sum unless they are shown separately in close proximity thereto.
(7) A statement regarding the use of the Life Insurance Cost Indexes shall include an explanation to the effect that the indexes are useful only for the comparison of the relative costs of two or more similar policies.
(8) A Life Insurance Cost Index which reflects dividends or an Equivalent Level Annual Dividend shall be accompanied by a statement that it is based on the company's current dividend scale and is not guaranteed.
(9) For the purposes of this regulation, the annual premium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.
G. Failure to Comply.
Failure of an insurer to provide or deliver a Buyer's Guide, or a Policy Summary as provided in Section E. shall constitute an omission which misrepresents the benefits, advantages, conditions or terms of an insurance policy.
H. Effective Date.
This rule shall apply to all solicitations of life insurance which commence after six months following final legislative approval of this Regulation.
I. APPENDIX
1. Life Insurance Buyer's Guide.
a. The language in the Buyer's Guide is limited to that contained in the following pages of this Appendix, or to language approved by the Chief Insurance Commissioner. However, companies can vary the type style and format and are encouraged to enhance the readability, design, and attractiveness of the Buyer's Guide.
b. The face page of the Buyer's Guide shall read as follows:
Life Insurance Buyer's Guide
This guide can help you get the most for your money when you shop for life insurance. It can help you answer questions about:
*Buying Life Insurance
*Deciding How Much You Need
*Finding a Low Cost Policy
*Things to Remember
Prepared by the National Association of Insurance Commissioners. The National Association of Insurance Commissioners is an association of state insurance regulatory officials. This association helps the various Insurance Departments to coordinate insurance laws for the benefit of all consumers.
This Guide Does Not Endorse Any Company or Policy.
2. Buying Life Insurance.
a. When you buy life insurance, you want coverage that fits your needs and doesn't cost too much.
(1) First, decide how much you need and for how long and what you can afford to pay.
(2) Next, find out what kinds of policies are available to meet your needs and pick the one that best suits you.
(3) Then, find out what different companies charge for that kind of policy for the amount of insurance you want. You can find important cost differences between life insurance policies by using cost comparison indexes as described in this guide.
b. It makes good sense to ask a life insurance agent or company to help you. An agent can be particularly useful in reviewing your insurance needs and in giving you information about the kinds of policies that are available. If one kind doesn't seem to fit your needs, ask about others.
c. This guide provides only basic information. You can get more facts from a life insurance agent or company or at your public library.
3. What About Your Present Policy? Think twice before dropping a life insurance policy you already have to buy a new one.
a. It can be costly because much of what you paid in the early years of the policy you now have was

used for the company's expense of selling and issuing the policy. This expense will be incurred again for a new policy.
b. If you are older or your health has changed, premiums for the new policy will often be higher.
c. You may have valuable rights and benefits in your present policy that are not in the new one.
d. You might be able to change your present policy or even add to it to get the coverage or benefits you now want.
e. Check with the agent or the company that issued your present policy get both sides of the story. In any case, don't give up your present policy until you are covered by a new one.
4. How Much Do You Need?
a. To decide how much life insurance you need, figure out what your dependents would have if you were to die now, and what they would actually need. Your new policy should come as close to making up the difference as you can afford.
b. In figuring what you have, count your present insurance including any group insurance where you work, social security, or veteran's insurance. Add other assets you have savings, investments, real estate, and personal property.
c. In figuring what you need, think of income for your dependents for family living expenses, educational costs, and any other future needs. Think also of cash needs for the expenses of a final illness and for paying taxes, mortgages, or other debts.
5. What Is the Right Kind?
a. All life insurance policies agree to pay an amount of money when you die. But all policies are not the same. Some provide permanent coverage and others temporary coverage. Some build up cash values and others do not. Some policies combine different kinds of insurance, and others let you change from one kind of insurance to another. Your choice should be based on your needs and what you can afford.
b. A wide variety of plans is being offered today. Here is a brief description of two basic kinds term and whole life and some combinations and variations. You can get detailed information from a life insurance agent or company.
(1) Term Insurance Covers you for a term of one or more years. It pays a death benefit only if you die in that term. Term insurance generally provides the largest immediate death protection for your premium dollar.
(a) Most term insurance policies are renewable for one or more additional terms even if your health has changed. Each time you renew the policy for a new term, premiums will be higher. Check the premiums at older ages and how long the policy can be continued.
(b) Many term insurance policies can be traded before the end of a conversion period for a whole life policy even if you are not in good health. Premiums for the new policy will be higher than you have been paying for the term insurance.
(2) Whole Life Insurance Covers you for as long as you live. The common type is called straight life or ordinary life insurance you pay the same premiums for as long as you live. These premiums can be several times higher than you would pay at first for the same amount of term insurance. But they are smaller than the premiums you would eventually pay if you were to keep renewing a term policy until your later years.
(a) Some whole life policies let you pay premiums for a shorter period such as 20 years, or until age 65. Premiums for these policies are higher than for ordinary life insurance since the premium payments are squeezed into a shorter period.
(b) Whole life policies develop cash values. If you stop paying premiums, you can take the cash or you can use the cash value to buy continuing insurance protection for a limited time or a reduced amount. (Some term policies that provide coverage for a long period also have cash values.)
(c) You may borrow against the cash values by taking a policy loan. Any loan and interest on the loan that you do not pay back will be deducted from the benefits if you die, or from the cash value if you stop paying premiums.
(3) Combinations and Variations You can combine different kinds of insurance. For example, you can buy whole life insurance for lifetime coverage and add term insurance for the period of your greatest

insurance need. Usually the term insurance is on your life but it can also be bought for your spouse or children.
(a) Endowment insurance policies pay a sum or income to you if you live to a certain age. If you die before then, the death benefit is paid to the person you named as beneficiary.
(b) Other policies may have special features which allow flexibility as to premiums and coverage. Some let you choose the death benefit you want and the premium amount you can pay. The kind of insurance and coverage period are determined by these choices.
(c) One kind of flexible premium policy, often called universal life, lets you vary your premium payments every year, and even skip a payment if you wish. The premiums you pay (less expense charges) go into a policy account that earns interest, and charges for the insurance are deducted from the account. Here, insurance continues as long as there is enough money in the account to pay the insurance charges.
(d) Variable life is a special kind of insurance where the death benefits and cash values depend upon the investment performance of one or more separate accounts. Be sure to get the prospectus provided by the company when buying this kind of policy. The method of cost comparison outlined in this guide does not apply to policies of this kind.
6. Finding a Low Cost Policy.
a. After you have decided which kind of life insurance is best for you, compare similar policies from different companies to find which one is likely to give you the best value for your money. A simple comparison of the premiums is not enough. There are other things to consider. For example:
(1) Do premiums or benefits vary from year to year?
(2) How much cash value builds up under the policy?
(3) What part of the premiums or benefits is not guaranteed?
(4) What is the effect of interest on money paid and received at different times on the policy?
b. Cost Comparison Index numbers, which you get from life insurance agents or companies, take these sorts of items into account and can point the way to better buys.
7. Cost Comparison Indexes.
a. There are two types of cost comparison index numbers. Both assume you will live and pay premiums for the next 10 or 20 years.
(1) The Surrender Cost Comparison Index helps you compare costs over a 10 or 20 year period assuming you give up (surrender) the policy and take its cash value at the end of the period. It is useful if you consider the level of cash values to be of special importance to you.
(2) The Net Payment Cost Comparison Index helps you compare costs over a 10 or 20 year period assuming you will continue to pay premiums on your policy and do not take its cash value. It is useful if your main concern is the benefits that are to be paid at your death.
b. The two index numbers are the same for a policy without cash values.
8. Guaranteed and Illustrated Figures.
a. Many policies provide benefits on a more favorable basis than the minimum guaranteed basis in the policy. They may do this by paying dividends, or by charging less than the maximum premium specified. Or they may do this in other ways, such as by providing higher cash values or death benefits than the minimums guaranteed in the policy. In these cases, the index numbers are shown on both a guaranteed and currently illustrated basis. The currently illustrated basis reflects the company's current scale of dividends, premiums, or benefits. These scales can be changed after the policy is issued, so that the actual dividends, premiums, or benefits over the years can be higher or lower than those assumed in the indexes on the currently illustrated basis.
b. Some policies are sold only on a guaranteed or fixed cost basis. These policies do not pay dividends; the premiums and benefits are fixed at the time you buy the policy and will not change.
9. Using Cost Comparison Indexes.
a. The most important thing to remember is that a policy with smaller index numbers is generally a better buy than a similar policy with larger index numbers.
b. Compare index numbers only for similar policies those which provide essentially the same benefits, with premiums payable for the same length of time. Make sure they are for your age, and for the kind of

policy and amount you intend to buy. Remember that no one company offers the lowest cost at all ages for all kinds and amounts of insurance.
c. Small differences in index numbers should be disregarded, particularly where there are dividends or non guaranteed premiums or benefits. Also, small differences could easily be offset by other policy features, or difference in the quality of service from the agent or company. When you find small differences in the indexes, your choice should be based on something other than cost.
d. Finally, keep in mind that index numbers cannot tell you the whole story. You should also consider:
(1) The pattern of policy benefits. Some policies have low cash values in the early years that build rapidly later on. Other policies have a more level cash value build up. A year by year display of values and benefits can be very helpful. (The agent or company will give you a Policy Summary that will show benefits and premiums for selected years.)
(2) Any special policy features may be particularly suited to your needs.
(3) The methods by which non guaranteed values are calculated. For example, interest rates are an important factor in determining policy dividends. In some companies, dividends reflect the average interest earnings on all policies whenever issued. In others, the dividends for policies issued in a recent year, or a group of years, reflect the interest earnings on those policies; in this case, dividends are likely to change more rapidly when interest rates change.
10. Things to Remember.
a. Review your particular insurance needs and circumstances. Choose the kind of policy with benefits that most closely fit your needs. Ask an agent or company to help you.
b. Be sure that the premiums are within your ability to pay. Don’t look only at the initial premium, but take account of any later premium increase.
c. Ask about cost comparison index numbers and check several companies which offer similar policies. Remember, smaller index numbers generally represent a better buy.
d. Don’t buy life insurance unless you intend to stick with it. It can be very costly if you quit during the early years of the policy.
e. Read your policy carefully. Ask your agent or company about anything that is not clear to you.
f. Review your life insurance program with your agent or company every few years to keep up with changes in your income and your needs.
11. The Life Insurance Buyer’s Guide contained in subsection I of this regulation shall be effective and used in connection with solicitation of life insurance which occurs six months after final publication in the State Register.

Regulation 69-40. Life Insurance Policy Illustration Rules.

Section 1. Purpose

The purpose of this regulation is to provide rules for life insurance policy illustrations that will protect consumers and foster consumer education. The regulation provides illustration formats, prescribes standards to be followed when illustrations are used, and specifies the disclosures that are required in connection with illustrations. The goals of this regulation are to ensure that illustrations do not mislead purchasers of life insurance and to make illustrations more understandable. Insurers will, as far as possible, eliminate the use of footnotes and caveats and define terms used in the illustration in language that would be understood by a typical person within the segment of the public to which the illustration is directed.

Section 2. Applicability and Scope

This regulation applies to all group and individual life insurance policies and certificates except:

A. Variable life insurance;

B. Individual and group annuity contracts;

C. Credit life insurance; or

D. Life insurance policies with no illustrated death benefits on any individual exceeding $10,000.

Section 3. Definitions

For the purposes of this regulation:

A. "Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

B. "Contract premium" means the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.

C. "Currently payable scale" means a scale of non guaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next ninety five (95) days.

D. "Disciplined current scale" means a scale of non guaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. Further guidance in determining the disciplined current scale as contained in standards established by the Actuarial Standards Board may be relied upon if the standards:

(1) Are consistent with all provisions of this regulation;

(2) Limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;

(3) Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and

(4) Do not permit assumed expenses to be less than minimum assumed expenses.

E. "Generic name" means a short title descriptive of the policy being illustrated such as "whole life," "term life" or "flexible premium adjustable life."

F. "Guaranteed elements" and "non guaranteed elements"

(1) "Guaranteed elements" means the premiums, benefits, values, credits or charges under a policy of life insurance that are guaranteed and determined at issue.

(2) "Non guaranteed elements" means the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

G. "Illustrated scale" means a scale of non guaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:

(1) The disciplined current scale; or

(2) The currently payable scale.

H. "Illustration" means a presentation or depiction that includes non guaranteed elements of a policy of life insurance over a period of years and that is one of the three (3) types defined below:

(1) "Basic illustration" means a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and non guaranteed elements.

(2) "Supplemental illustration" means an illustration furnished in addition to a basic illustration that

meets the applicable requirements of this regulation, and that may be presented in a format differing from the basic illustration, but may only depict a scale of non guaranteed elements that is permitted in a basic illustration.
(3) "In force illustration" means an illustration furnished at any time after the policy that it depicts has been in force for one year or more.
I. "Illustration actuary" means an actuary meeting the requirements of Section 10 who certifies to illustrations based on the standard of practice promulgated by the Actuarial Standards Board.
J. "Lapse supported illustration" means an illustration of a policy form failing the test of self supporting as defined in this regulation, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first five (5) years and 100 percent policy persistency thereafter.
K.(1) "Minimum assumed expenses" means the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form. The insurer may choose to designate each year the method of determining assumed expenses for all policy forms from the following:
(a) Fully allocated expenses;
(b) Marginal expenses; and
(c) A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the NAIC or the Director.
(2) Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses must be used.
L. "Non term group life" means a group policy or individual policies of non term life insurance issued to insure members of an employer group or other permitted group where:
(1) Every plan of coverage was selected by the employer or other group representative;
(2) Some portion of the premium is paid by the group or through payroll deduction; and
(3) Group underwriting or simplified underwriting is used.
M. "Policy owner" means the owner named in the policy or the certificate holder in the case of a group policy.
N. "Premium outlay" means the amount of premium assumed to be paid by the policy owner or other premium payer out of pocket.
O. "Self supporting illustration" means an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the fifteenth policy anniversary or the twentieth policy anniversary for second or later to die policies (or upon policy expiration if sooner), the accumulated value of all policy cash flows equals or exceeds the total policy owner value available. For this purpose, policy owner value will include cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

Section 4. Policies to Be Illustrated

A. Each insurer marketing policies to which this regulation is applicable shall notify the Director whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on the effective date of this regulation, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after the effective date of this regulation, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the Director.
B. Except in the case of replacement, if the insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration for any policy using that form prior to the first policy anniversary is prohibited.
C. If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this regulation is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on

multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

D. Potential enrollees of non term group life subject to this regulation shall be furnished a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non guaranteed basis appropriate to the group and the coverage. This quotation shall not be considered an illustration for purposes of this regulation, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the policy or certificate to enrollees for non term group life who enroll for more than the minimum premium necessary to provide pure death benefit protection. In addition, the insurer shall make a basic illustration available to any non term group life enrollee who requests it.

Section 5. General Rules and Prohibitions

A. An illustration used in the sale of a life insurance policy shall satisfy the applicable requirements of this regulation, be clearly labeled "life insurance illustration" and contain the following basic information:

(1) Name of insurer;

(2) Name and business address of agent or insurer's authorized representative, if any;

(3) Name, age and sex of proposed insured, except where a composite illustration is permitted under this regulation;

(4) Underwriting or rating classification upon which the illustration is based;

(5) Generic name of policy, the company product name, if different, and form number;

(6) Initial death benefit; and

(7) Dividend option election or application of non guaranteed elements, if applicable.

B. When using an illustration in the sale of a life insurance policy, an insurer or its agents or other authorized representatives shall not:

(1) Represent the policy as anything other than a life insurance policy;

(2) Use or describe non guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;

(3) State or imply that the payment or amount of non guaranteed elements is guaranteed;

(4) Use an illustration that does not comply with the requirements of this regulation;

(5) Use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;

(6) Provide an applicant with an incomplete illustration;

(7) Represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;

(8) Use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan for using non guaranteed elements to pay a portion of future premiums;

(9) Except for policies that can never develop nonforfeiture values, use an illustration that is "lapse supported"; or

(10) Use an illustration that is not "self supporting."

C. If an interest rate used to determine the illustrated non guaranteed elements is shown, it shall not be greater than the earned interest rate underlying the disciplined current scale.

Section 6. Standards for Basic Illustrations

A. Format. A basic illustration shall conform with the following requirements:

(1) The illustration shall be labeled with the date on which it was prepared.

(2) Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration (e.g., the fourth page of a seven page illustration shall be labeled "page 4 of 7 pages").

(3) The assumed dates of payment receipt and benefit pay out within a policy year shall be clearly identified.

(4) If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.

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(5) The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.

(6) Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.

(7) If the illustration shows any non guaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled non guaranteed.

(8) The guaranteed elements, if any, shall be shown before corresponding non guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non guaranteed elements (e.g., "see page one for guaranteed elements.")

(9) The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown in close proximity to the corresponding value available upon surrender.

(10) The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans and policy loan interest, as applicable.

(11) Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.

(12) Any illustration of non guaranteed elements shall be accompanied by a statement indicating that:

(a) The benefits and values are not guaranteed;

(b) The assumptions on which they are based are subject to change by the insurer; and

(c) Actual results may be more or less favorable.

(13) If the illustration shows that the premium payer may have the option to allow policy charges to be paid using non guaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

(14) If the applicant plans to use dividends or policy values, guaranteed or non guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

B. Narrative Summary. A basic illustration shall include the following:

(1) A brief description of the policy being illustrated, including a statement that it is a life insurance policy;

(2) A brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code;

(3) A brief description of any policy features, riders or options, guaranteed or non guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;

(4) Identification and a brief definition of column headings and key terms used in the illustration; and

(5) A statement containing in substance the following: "This illustration assumes that the currently illustrated nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

C. Numeric Summary.

(1) Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract

premium. This summary shall be shown for at least policy years five (5), ten (10) and twenty (20) and at age 70, if applicable, on the three bases shown below. For multiple life policies the summary shall show policy years five (5), ten (10), twenty (20) and thirty (30).
(a) Policy guarantees;
(b) Insurer's illustrated scale;
(c) Insurer's illustrated scale used but with the non guaranteed elements reduced as follows:
(i) Dividends at fifty percent (50%) of the dividends contained in the illustrated scale used;
(ii) Non guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and
(iii) All non guaranteed charges, including but not limited to, term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.
(2) In addition, if coverage would cease prior to policy maturity or age 100, the year in which coverage ceases shall be identified for each of the three (3) bases.
D. Statements. Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this regulation.
(1) A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that any non guaranteed elements illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed."
(2) A statement to be signed and dated by the insurance agent or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any non guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."
E. Tabular Detail.
(1) A basic illustration shall include the following for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and except for term insurance beyond the 20th year, for any year in which the premium outlay and contract premium, if applicable, is to change:
(a) The premium outlay and mode the applicant plans to pay and the contract premium, as applicable;
(b) The corresponding guaranteed death benefit, as provided in the policy; and
(c) The corresponding guaranteed value available upon surrender, as provided in the policy.
(2) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.
(3) Non guaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any non guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a non guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

Section 7. Standards for Supplemental Illustrations

A. A supplemental illustration may be provided so long as:
(1) It is appended to, accompanied by or preceded by a basic illustration that complies with this regulation;
(2) The non guaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration;
(3) It contains the same statement required of a basic illustration that non guaranteed elements are not guaranteed; and
(4) For a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration. For policies that do not require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the

premium outlay shown in the basic illustration.
B. The supplemental illustration shall include a notice referring to the basic illustration for guaranteed elements and other important information.

Section 8. Delivery of Illustration and Record Retention

A.(1) If a basic illustration is used by an insurance agent or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this regulation, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant.
(2) If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy. The revised illustration shall conform to the requirements of this regulation, shall be labeled "Revised Illustration" and shall be signed and dated by the applicant or policy owner and agent or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.
B.(1) If no illustration is used by an insurance agent or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the agent or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.
(2) If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.
C. If the basic illustration or revised illustration is sent to the applicant or policy owner by mail from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer's obligation under this subsection shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.
D. A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three (3) years after the policy is no longer in force. A copy need not be retained if no policy is issued.

Section 9. Annual Report; Notice to Policy Owners

A. In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain at least the following information:
(1) For universal life policies, the report shall include the following:
(a) The beginning and end date of the current report period;
(b) The policy value at the end of the previous report period and at the end of the current report period;
(c) The total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders);
(d) The current death benefit at the end of the current report period on each life covered by the policy;
(e) The net cash surrender value of the policy as of the end of the current report period;
(f) The amount of outstanding loans, if any, as of the end of the current report period; and
(g) For fixed premium policies:
If, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; or
(h) For flexible premium policies:

If, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.
(2) For all other policies, where applicable:
(a) Current death benefit;
(b) Annual contract premium;
(c) Current cash surrender value;
(d) Current dividend;
(e) Application of current dividend; and
(f) Amount of outstanding loan.
(3) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.
B. If the annual report does not include an in force illustration, it shall contain the following notice displayed prominently: "IMPORTANT POLICY OWNER NOTICE: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling [insurer's phone number], writing to [insurer's name] at [insurer's address] or contacting your agent. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department." The insurer may vary the sequential order of the methods for obtaining an in force illustration.
C. Upon the request of the policy owner, the insurer shall furnish an in force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of Sections 5A, 5B, 6A and 6E. No signature or other acknowledgment of receipt of this illustration shall be required.
D. If an adverse change in non guaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change prominently displayed.

Section 10. Annual Certifications

A. The board of directors of each insurer shall appoint one or more illustration actuaries.
B. The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the Actuarial Standard of Practice for Compliance with the NAIC Model Regulation on Life Insurance Illustrations promulgated by the Actuarial Standards Board, and that the illustrated scales used in insurer authorized illustrations meet the requirements of this regulation.
C. The illustration actuary shall:
(1) Be a member in good standing of the American Academy of Actuaries;
(2) Be familiar with the standard of practice regarding life insurance policy illustrations;
(3) Not have been found by the Director, following appropriate notice and hearing to have:
(a) Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as an illustration actuary;
(b) Been found guilty of fraudulent or dishonest practices;
(c) Demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or
(d) Resigned or been removed as an illustration actuary within the past five (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;
(4) Not fail to notify the Director of any action taken by a Director of another state similar to that under Paragraph (3) above;
(5) Disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five (5) years and within the scope of the certification

has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in force policies, this must be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in force policies are not consistent with the nonguaranteed elements actually being paid, charged or credited to the same or similar forms, this must be disclosed in the annual certification; and

(6) Disclose in the annual certification the method used to allocate overhead expenses for all illustrations:

(a) Fully allocated expenses;

(b) Marginal expenses; or

(c) A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the NAIC or the Director.

D.(1) The illustration actuary shall file a certification with the board and with the Director:

(a) Annually for all policy forms for which illustrations are used; and

(b) Before a new policy form is illustrated.

(2) If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the Director promptly.

E. If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the Director promptly of his or her inability to certify.

F. A responsible officer of the insurer, other than the illustration actuary, shall certify annually:

(1) That the illustration formats meet the requirements of this regulation and that the scales used in insurer authorized illustrations are those scales certified by the illustration actuary; and

(2) That the company has provided its agents with information about the expense allocation method used by the company in its illustrations and disclosed as required in Subsection C(6) of this section.

G. The annual certifications shall be provided to the Director each year by a date determined by the insurer.

H. If an insurer changes the illustration actuary responsible for all or a portion of the company's policy forms, the insurer shall notify the Director of that fact promptly and disclose the reason for the change.

Section 11. Penalties

In addition to any other penalties provided by the laws of this state, an insurer or agent that violates a requirement of this regulation shall be guilty of a violation of South Carolina Code Ann. Section 38-2-10 et seq., and shall be subject to administrative penalties as set forth in South Carolina Code Ann. Section 38-2-10.

Section 12. Separability

If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the regulation and its application to other persons or circumstances shall not be affected.

Section 13. Effective Date

This regulation shall become effective July 1, 1997, and shall apply to policies sold on or after the effective date. This regulation shall apply to non term group certificates issued on or after the anniversary date immediately following the effective date.

(Publication page references are not available for this document.)

SOUTH CAROLINA INSURANCE BULLETINS AND RELATED MATERIALS
BULLETINS

Bulletin **3-64**
June 23, 1964

FROM: Charles W. Gambrell
Chief Insurance Commissioner

DATE: June 23, 1964

RE: EFFECTIVE DATE OF CONTRACT AND INCONTESTABILITY CLAUSE

The Department has considered several forms of life policies which contain the following provision:

"1. Policy in Effect:--No obligation is assumed by the Company prior to the date of delivery of this Policy, nor unless on the said date the first payment has been duly made, and the Insured is alive and in sound health. Should the proposed insured not be alive and in sound health on the date hereof, any amount paid to the Company as premiums hereon shall be returned.

"4. Incontestability and Contract:--This policy shall be incontestable for the amount due after it has been in force during the lifetime of the Insured for one year from the date hereof, except for nonpayment of premiums and misstatement of age. The policy constitutes the entire contract between the parties hereto."

In order to clarify the fact that the company's rights regarding the health of the insured are subject to the provisions of paragraph No. 4 regarding incontestability, a statement substantially as follows should be added to paragraph No. 1 in all forms of life policies hereafter filed with similar terminology regarding the health of the insured:

"This paragraph shall be subject to paragraph No. 4 'Incontestability and Contract.'"

The phrase "during the lifetime of the insured" should be eliminated from paragraph No. 4 in all forms of life policies hereafter filed, since this phrase conflicts with the provisions of 38-9-250 of the Code, which applies to each life policy.

In connection with the foregoing, reference is made to the South Carolina case of Blackwell vs. United Insurance Company of America, 92 SE2d 702 (1957).

Insurance Product Line: General, Life

A-to-Z Index Terms:

LIFE INSURANCE

LIFE INSURANCE - Incontestability

POLICY

POLICY - Effective date

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Bulletin 1989-1

FROM: John G. Richards
Chief Insurance Commissioner

DATE: January 31, 1989

RE: EFFECTIVE DATE OF CONTRACT AND INCONTESTABILITY CLAUSE

Group policies issued outside of this state which extend coverage to residents of this state

South Carolina Code SECTIONS 38-65-60 and 38-71-750 set out the requirements for group life and group accident and health insurance policies, respectively, issued outside of South Carolina which extend coverage to residents in South Carolina. These statutes clearly provide that while such policies need not receive approval to be used in South Carolina, they must nevertheless conform to South Carolina's requirements for group life, accident and health insurance and must be made available to the Department on an informational basis.

Effective immediately, all group life, accident and health insurance policies and certificates, other than "mass marketed" policies and certificates as defined under SECTIONS 38-65-50 and 38-71-740, issued outside of this State which cover residents of this State must be filed in duplicate with the South Carolina Department of Insurance on an informational basis. All such filings, whether pending or new filings, must be accompanied by a sworn certification executed by an officer of the insurer that the policy forms fully comply with SECTION 38-65-210 in the case of group life insurance or with Article 5 of Chapter 71 of Title 38 in the case of group accident and health insurance. The certification should also state that the insurer will comply with the requirements of this State relating to advertising and to claims settlement practices with respect to the insurance. A postage paid return envelope should also be enclosed with the filing. All "mass-marketed" forms must be filed for approval prior to use in this State.

If it is determined, notwithstanding the certification as required in the second paragraph of this Bulletin, that the policy form does not comply with South Carolina's group life, accident and health insurance laws, appropriate disciplinary action will be instituted.

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MARK SANFORD
Governor

ERNST N. CSISZAR
Director of Insurance

BULLETIN NUMBER 2003-13

(Issued Upon November 24, 2003)

To: All Insurers Licensed to Transact Life and/or Accident and Health Insurance Business within the State of South Carolina and All South Carolina Licensed Health Maintenance Organizations

From: Ernst N. Csiszar
Director of Insurance

Re: List of "Exempt" Policy Forms, Filing Procedures for "Exempt" and "Prior Approval" Forms and Rate Filings, Establishing Audit Procedures and Withdrawal of Bulletin 93-2

I. PURPOSE

The purpose of this bulletin is to streamline the exemption standards and procedures for filing life, accident and health insurance policy forms. This bulletin does not exempt rates that are subject to prior approval from prior approval. Accordingly, the exemption standards and filing procedures previously established by this Department have been revised. Specifically, this bulletin will:

1. List the "exempt" policy forms from the requirements of prior approval in accordance with S.C. Code Ann. §38-61-20 (D);
2. Establish filing procedures for filing "Exempt" and "Prior Approval" Forms and Rate Filings;
3. Establish audit procedures for "Exempt" filings; and
4. Withdraw and replace Bulletin 93-2.

II. LIST OF "EXEMPT" POLICY FORMS

Section 38-61-20(D), as amended, permits the Director of Insurance or his designee to exempt from prior approval those policy forms for which, in his opinion, prior approval is not necessary to protect the public. Accordingly, the Department has carefully reviewed the forms currently subject to prior approval to determine which are appropriate for exemption. Based upon this review the following categories of forms have been exempted from prior approval because policy language is somewhat standard and the

Department receives few, if any, consumer complaints related to these policy forms. Until further notice, the following types of forms are hereby exempt from prior approval by this Department unless the circumstances warranting their exemption change:

1. Individual life insurance policies. This applies to both fixed and variable life.
2. Individual annuity policies. This applies to both fixed and variable annuities.
3. Group life insurance policies. Mass-marketed policies as defined in S.C. Code § 38-65-50 will be subject to prior approval as outlined in S.C. Code § 38-65-60 (3).
4. Group annuity policies. This applies to both fixed and variable annuities. (NOTE: Group annuity policies/certificates etc are exempted from filing under any filing procedure including the annual exemption list.)
5. Individual accident and health insurance policies [other than health insurance coverage as defined in Section 38-71-670 (6) (i.e. policies subject to HIPAA of 1996), long term care insurance policies, and Medicare Supplement insurance policies].
6. Group accident and health insurance policies [other than health insurance as defined in Section 38-71-840 (14) (i.e. policies subject to HIPAA of 1996), long term care insurance policies, and Medicare Supplement insurance policies.] Mass-marketed policies as defined in S.C. Code § 38-71-740 will be subject to prior approval as outlined in S.C. Code § 38-71-750 (3).
7. Certificates, applications, riders, endorsements and amendments issued in conjunction with 1 through 6 above.

III. FILING REQUIREMENTS FOR "EXEMPT" FILING (S)

Although the forms specified above are exempt from prior approval, insurers must continue to file such forms with the Department and must continue to follow the procedures outlined in Section IV of this bulletin. The cover letter of each filing (SERFF and paper) must be prominently captioned to indicate the exempt status of the filing and must state that the forms filed are exempt from prior approval. In addition, all forms contained within the filing must be listed in the cover letter or in a separate attachment. If the filing contains certificates, applications, riders, endorsements and/or amendments, the cover letter must state the specific types of policies with which these forms will be used.

Upon the insurer's receipt of an "Exempt" status from the Department, the insurer may issue or sell the forms in the State. If the filing contains the information required by this bulletin, including the certification required by Section IV (10) below, the Department will, for paper filings, stamp the cover letter "Exempt" and return a copy to the insurer. For SERFF filings, the Department will send a final "Closed Exempt" disposition to the insurer indicating that the forms included in the cover letter are "Exempt". See Section V of this bulletin for audit procedures.

Each insurer shall submit to the Department an annual list including all the policy forms it issues or sells in South Carolina and which had been accepted as "Exempt" from having to be filed and approved by the Director or his designee. The annual list should cover a 12-month period of filings, as determined by the insurer (example: a January 1 to December 31 period or a July 1 to June 30 period, etc.). The annual list must be submitted to the Department as soon as reasonably possible after the end of the reporting period elected by the insurer. An officer of the insurer shall certify to the best of his knowledge and belief that all policy forms comply fully with the applicable statutes, regulations, and bulletins of the State of South Carolina.

NOTE: Domestic insurers may request a formal full review of "Exempt" filings in order to provide proof of domiciliary approval to other states. Please request this exception via the cover letter.

IV. FILING PROCEDURES FOR "EXEMPT" and "PRIOR APPROVAL" FORMS AND RATE FILINGS

In general the only forms subject to prior approval are individual and group Long Term Care insurance policies, Medicare Supplement insurance policies and health insurance coverage as defined in Sections 38-71-670 (6) and 38-71-840 (14). Mass marketed policies as defined in Section 38-65-50 and 38-71-740 are also subject to prior approval.

1. All paper filings must be directed to the attention of the Life, Accident and Health Section. The submission should include two copies of the cover letter and only one copy of the forms. For SERFF filings, one copy of the cover letter and one copy of the form must be submitted.

2. All submissions must include one self-addressed, stamped return envelope large enough to return the filing(s). This does not apply to SERFF filings.

3. The cover letter must be prominently captioned to indicate the status of the filing (i.e., filing for approval, exempt from prior approval). In addition, all form numbers contained within the filing must be listed on the cover letter or in a separate attachment. The cover letter must describe the filing, including the type of forms, any unusual aspects of the forms, and how and to whom the forms will be marketed. If the filing contains certificates, applications, riders, endorsements and/or amendments, the cover letter must state the specific types of policies with which these forms will be used.

4. All forms must be accompanied by a Certificate of Readability signed by an officer of the insurer as required under Regulation 69-5.1, except those forms excluded under SECTION C of that regulation.

5. A Form SCID 1504 must be furnished with all individual accident and health insurance forms and rate filings pursuant to Bulletin #8-84.

6. All individual accident and health and group Medicare supplement filings must include the premium rates and supporting actuarial memorandum.

7. If a detailed statement of the method of computation of reserves, nonforfeiture values and benefits available under the policy is not incorporated in each life policy submitted for approval, such a statement must accompany the submitted form.

8. Life and annuity filings must include all applicable disclosure materials such as the Statement of Policy Cost and Benefit Information required for individual life policies under Regulation 69-30, the Contract Summary required for individual annuities under Regulation 69-39 and Life Insurance Illustrations required under Regulation 69-40. If the policy is illustrated in accordance with Regulation 69-40, insurers do not need to furnish the Statement of Policy Cost and Benefit Information.

9. Group life and group accident and health insurance policies (other than long term care insurance as provided in Section 38-72-50) issued outside of this State that extend coverage to residents of this State must also be filed for informational purposes only in accordance with Bulletin 89-1. This does not apply to group annuity filings. Upon the insurer's receipt of an "Exempt" status from the Department, the insurer may issue or sell the forms in the State. All exempt form filings may be subject to audit.

10. To ensure that insurers review their forms prior to submission and to ascertain their compliance with South Carolina statutes, regulations and bulletins, the filing must include the following certification by an officer of the insurer:

> "I have reviewed or supervised the review of the policy forms contained in this filing and hereby certify to the best of my knowledge and belief that they are in compliance with the applicable statutes, regulations and bulletins of the State of South Carolina. I further certify that the forms will be revised and/or discontinued as appropriate in the event of future changes in the statutes, regulations or bulletins."

V. AUDIT PROCEDURES FOR "EXEMPT" FILING (S)

All forms that are exempt from prior approval may be subject to audit by this Department. SCDOI checklists and supplemental checklists will be used to conduct audits of policy forms and certificates.

Life, Accident and Health Analysts will be required to utilize a statute, regulation, bulletin, and/or a legal opinion with every criteria point and should not submit disapproval points that cannot be referenced by the aforementioned.

If a form is found to be in violation of South Carolina statutes, regulations or bulletins, the insurer must, within fifteen calendar days of notification of the violation, advise the Department if the form has been issued or sold in South Carolina:

- If the form has not been issued, the insurer may revise the form to be in compliance with South Carolina statutes, regulations and bulletins and resubmit the form to the Department in accordance with this Bulletin. If the insurer does not wish to resubmit the form, the insurer must notify the Department within fifteen calendar days from the date it is notified of the violation that it is withdrawing the form.

- If the form has been issued, the insurer should:

  - Submit a plan to the Department within thirty calendar days of date of the violation notification letter detailing the action plan that will be taken to correct the violations. The action plan should address whether steps are necessary to notify current insureds of the revisions to their coverage. These steps may include issuing revised forms and/or explanation letters.
  - Submit any forms necessary to correct the violation(s).
  - The Department will review the action plan and any forms to redress the violations within 30 calendar days of receipt. If acceptable, the cover letter will be stamped "Exempt" and the insurer must implement the action plan within 30 calendar days.

If a filed form is certified to be in compliance with South Carolina statutes, regulations and bulletins, and the director or his designee finds that not to be the case, he may disqualify that insurer from using the "Exempt" certification process provided under this bulletin.

VI. WITHDRAWAL OF BULLETIN 93-2

Bulletin 93-2 previously issued by this Department is hereby withdrawn. This bulletin supersedes and replaces any and all bulletins addressing exemption standards and procedures for filing Life, Accident and Health Insurance Policy Forms, except Bulletin 89-1.

VII. EFFECTIVE DATE

This Bulletin is effective upon the issuance date of November 17, 2003.

VIII. QUESTIONS

Please direct any questions that you may have about this bulletin to the attention of June DuBard, Manager, Life, Accident and Health Section at (803) 737-6230 or jdubard@doi.state.sc.us.

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MARK SANFORD
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ERNST N CSISZAR
Director of Insurance

BULLETIN NUMBER 2004-04
(Issued on April 9, 2004)

To: All Insurers Transacting Life Insurance Business within the State of South Carolina

From: Ernst N. Csiszar
Director

Re: Modification of Bulletin #2003-06 Guidelines for Graded or Delayed Life Insurance Policies

Date: April 9, 2004

I. Purpose

The purpose of this Bulletin is to modify Bulletin #2003-06 by deleting the guaranteed issue requirement and modifying the interest rate provision of Bulletin 2003-06.[1] Accordingly, this Bulletin supersedes and replaces Bulletin 2003-06. What follows is the modified language.

II. Revised Guidelines for Graded and Delayed Life Insurance Policies

In order for a policy described above to be considered for approval, it must meet the following conditions:

(1) The benefit during the modified or deferred period must be at least equal to the premiums paid plus 3% interest.[2]

(2) (a) If the policy provides only for a return of premium plus interest during any year of the modified period, the following wording must appear on the face of the policy in bold, conspicuous print 4 point sizes greater than the type used in the remainder of the form:
"Reduced death benefit for "x years" or "x months";
"No life insurance for 'x' years"; "Life insurance delayed for 'x' years;" or "life insurance deferred for 'x' years."

[1] These requirements are being eliminated because graded or delay life insurance products are primarily sold within the individual life insurance market. This action is consistent with action taken by a number of states.
[2] The Department reserves the right to review this rate periodically to determine whether it can be eliminated or needs to be indexed should interest rates substantially improve.

(b) If the death benefit is more than return of premium plus interest for all years of the modified period, the following wording must appear on the cover in bold, conspicuous print 4 point sizes greater than the type used in the remainder of the form: "Graded life insurance for the first 'x' years; not in full benefit until 'x' years."

(3) The application, any advertisement and any sales brochure specific to a graded or delayed life policy must all contain a warning similar to those described in (1) above, and a brief description or title to the policy which must contain a reference to the policy not being in full benefit for 'x' years.

(4) The forms must otherwise comply with applicable provisions of South Carolina insurance law.

III. Questions and Instructions regarding existing policies, certificates etc.

Revisions to existing applications, policies, certificates, etc., in compliance with the revised guidelines of the bulletin is optional and may be submitted via an informational filing to the attention of the undersigned.

Any questions or concerns about this Bulletin should be addressed to the attention of:

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