

## **Part 4**

### **Life Insurance and Annuities**

#### **31A-22-400 Scope of part.**

This Part 4, Life Insurance and Annuities, applies to all life insurance policies and contracts, including:

- (1) an annuity contract;
- (2) a credit life contract;
- (3) a franchise contract;
- (4) a group contract; and
- (5) a blanket contract.

Amended by Chapter 90, 2004 General Session

#### **31A-22-401 Prohibited life insurance policy provisions.**

No life insurance company may issue or deliver any life insurance policy subject to this chapter under Section 31A-21-101 which contains any provision:

- (1) forfeiting the policy for failure to repay any loan on the policy or to pay interest on the loan while the total indebtedness on the policy is less than its loan value, and in ascertaining the indebtedness due upon policy loans, the interest, if not paid when due, may be added to the principal of those loans and may bear interest at the same rate as the principal;
- (2) claiming that the policy was issued or became effective more than one year before the original application for the insurance is executed, if the insured would then be rated at an age more than one year younger than his age at the date of his application, unless the aggregate amount of the annual premiums for the whole term of the back-dated period is paid in cash; or
- (3) allowing assessments or calls to be made upon policyholders.

Amended by Chapter 204, 1986 General Session

#### **31A-22-402 Grace period.**

- (1)
  - (a) Every life insurance policy other than a group policy shall contain a provision entitling the policyholder to a grace period within which the payment of any premium may be made after the first payment of any premium.
  - (b) During the grace period described in Subsection (1)(a), the policy continues in full force.
- (2) The grace period required by Subsection (1) may not be less than:
  - (a) 31 days; or
  - (b) four weeks for policies whose premiums are payable more frequently than monthly.
- (3) The insurer may impose an interest charge during the grace period not in excess of the interest rate:
  - (a) set by the policy for policy loans; or
  - (b) in the absence of a provision described in Subsection (3)(a), a rate set by the commissioner by rule.
- (4) If a claim arises under the policy during the grace period, an insurer may deduct from the policy proceeds:
  - (a) the amount of any premium due or overdue;
  - (b) interest at the rate provided in this section; and

- (c) any deferred installment of the annual premium.
- (5) The insurer shall send written notice of termination of coverage:
  - (a) to the policyholder's last-known address; and
  - (b) at least 30 days before the date that the coverage is terminated.

Amended by Chapter 308, 2002 General Session

**31A-22-403 Incontestability.**

- (1) This section does not apply to group policies.
- (2)
  - (a) Except as provided in Subsection (3), a life insurance policy is incontestable after the policy has been in force for a period of two years from the policy's date of issue:
    - (i) during the lifetime of the insured; or
    - (ii) for a survivorship life insurance policy, during the lifetime of the surviving insured.
  - (b) A life insurance policy shall state that the life insurance policy is incontestable after the time period described in Subsection (2)(a).
- (3)
  - (a) A life insurance policy described in Subsection (2) may be contested for nonpayment of premiums.
  - (b) A life insurance policy described in Subsection (2) may be contested as to:
    - (i) provisions relating to accident and health benefits allowed under Section 31A-22-609; and
    - (ii) additional benefits in the event of death by accident.
  - (c) If a life insurance policy described in Subsection (2) allows the insured, after the policy's issuance and for an additional premium, to obtain a death benefit that is larger than when the policy was originally issued, the payment of the additional increment of benefit is contestable:
    - (i) until two years after the incremental increase of benefits; and
    - (ii) based only on a ground that may arise in connection with the incremental increase.
- (4)
  - (a) A reinstated life insurance policy may be contested:
    - (i) for two years following reinstatement on the same basis as at original issuance; and
    - (ii) only as to matters arising in connection with the reinstatement.
  - (b) Any grounds for contest available at original issuance continue to be available for contest until the policy has been in force for a total of two years:
    - (i) during the lifetime of the insured; and
    - (ii) for a survivorship life insurance policy, during the lifetime of the surviving insured.
- (5)
  - (a) The limitations on incontestability under this section:
    - (i) preclude only a contest of the validity of the policy; and
    - (ii) do not preclude the good faith assertion at any time of defenses based upon provisions in the policy that exclude or qualify coverage, whether or not those qualifications or exclusions are specifically excepted in the policy's incontestability clause.
  - (b) A provision on which the contestable period would normally run may not be reformulated as a coverage exclusion or restriction to take advantage of this Subsection (5).
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules to implement this section.

Amended by Chapter 382, 2008 General Session

**31A-22-404 Suicide.**

- (1)
  - (a) Suicide is not a defense to a claim under a life insurance policy that is in force for two years from the date of issuance of the later of:
    - (i) the policy; or
    - (ii) the certificate.
  - (b) Subsection (1)(a) applies whether:
    - (i) the insured's death by suicide is voluntary or involuntary; or
    - (ii) the insured is sane or insane.
  - (c) If a suicide occurs within the two-year period described in Subsection (1)(a), the insurer shall pay to the beneficiary an amount not less than the premium paid less the following:
    - (i) a dividend paid;
    - (ii) an indebtedness; and
    - (iii) a partial withdrawal.
- (2)
  - (a) If after a life insurance policy is in effect the policy allows the policyholder to purchase a death benefit that is larger than when the policy was originally effective for an additional premium, the payment of the additional increment of benefit may be limited in the event of a suicide within a two-year period beginning on the day on which the increment increase takes effect.
  - (b) If a suicide occurs within the two-year period described in Subsection (2)(a), the insurer shall pay to the beneficiary an amount not less than the additional premium paid for the additional increment of benefit.
- (3) For a survivorship life insurance policy, this section applies when within two years from the day on which the survivorship life insurance policy is issued:
  - (a) the death of all insureds results from suicide; or
  - (b) the death of the surviving insured results from suicide.
- (4) This section does not apply to:
  - (a) a policy insuring against death by accident only; or
  - (b) an accident or double indemnity provision of an insurance policy.

Amended by Chapter 349, 2009 General Session

**31A-22-405 Misstated age or gender.**

- (1) Subject to Subsection (2), if the age or gender of the person whose life is at risk is misstated in an application for a policy of life insurance, and the error is not adjusted during the person's lifetime, the amount payable under the policy is what the premium paid would have purchased if the age or gender had been stated correctly.
- (2) If the person whose life is at risk was, at the time the insurance was applied for, beyond the maximum age limit designated by the insurer, the insurer shall refund at least the amount of the premiums collected under the policy.

Amended by Chapter 308, 2002 General Session

**31A-22-406 Table of installments.**

Any life insurance policy which provides that the proceeds may be payable in installments, which are determinable at the issue of the policy, shall provide in the policy a table showing the amounts and intervals of the guaranteed installments.

Enacted by Chapter 242, 1985 General Session

**31A-22-407 Reinstatement.**

- (1) Except as provided under Subsection (2), life insurance policies, other than group policies, shall be reinstated upon written application made within three years, or within two years in the case of policies with face amounts under \$5,000, from the date of premium default. The applicant shall produce evidence of insurability satisfactory to the insurer, pay all premiums in arrears, and pay or reinstate any other indebtedness to the insurer upon the policy, all with interest, compounded annually, at a rate not exceeding the rate set by the policy for policy loans compounded annually. If no rate is set in the policy, the commissioner shall adopt a rule which sets the rate the same as under Section 31A-22-402.
- (2) Subsection (1) does not apply if any of these conditions exist:
  - (a) The policy has been surrendered for its cash surrender value.
  - (b) The policy's cash surrender value has been exhausted.
  - (c) The paid-up term insurance, if any, has expired.

Enacted by Chapter 242, 1985 General Session

**31A-22-408 Standard Nonforfeiture Law for Life Insurance.**

- (1)
  - (a) This section is known as the "Standard Nonforfeiture Law for Life Insurance."
  - (b) This section does not apply to group life insurance.
  - (c) As used in this section, "operative date of the valuation manual" means the same as that term is described in Subsection 31A-17-514(2).
- (2) In the case of policies issued on or after July 1, 1961, no policy of life insurance, except as stated in Subsection (8), 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 commissioner are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements specified in this section, and are essentially in compliance with Subsection (8):
  - (a) That, in the event of default in any premium payment, after premiums have been paid for at least one full year the company will grant, upon proper request not later than 60 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 is specified in this section. In lieu of that stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than 60 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.
  - (b) That, upon surrender of the policy within 60 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 company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as is specified in this section.
  - (c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default.

- (d) That, if the policy shall have been paid by the 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 company will pay upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value in the amount specified in this section.
  - (e) 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 other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 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 company on the policy.
  - (f) 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 company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated in the policy, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.
  - (g) 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.
  - (h) The company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy with the consent of the commissioner; provided, however, that the policy shall remain in full force and effect until the insurer has made the payment.
- (3)
- (a) 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 Subsection (2), shall 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:
    - (i) the then present value of the adjusted premiums as defined in Subsections (5) and (6), corresponding to premiums which would have fallen due on and after such anniversary; and
    - (ii) the amount of any indebtedness to the company on the policy.
  - (b) Provided, however, that for any policy issued on or after the operative date of Subsection (6)(d) as defined in Subsection (6)(d), 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 Subsection (3)(a) shall be an amount not less than the sum of the cash surrender value as defined in Subsection (3)

- (a) for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in Subsection (3)(a) for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.
- (c) Provided, further, that for any family policy issued on or after the operative date of Subsection (6)(d) as defined in Subsection (6)(d), 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 71, the cash surrender value referred to in Subsection (3)(a) shall be an amount not less than the sum of the cash surrender value as defined in Subsection (3)(a) for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in Subsection (3)(a) for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.
- (d) Any cash surrender value available within 30 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 Subsection (2) shall 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 company on the policy.
- (4) Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be 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 section in the absence of the condition that premiums shall have been paid for at least a specified period.
- (5)
- (a)
- (i) This Subsection (5) does not apply to policies issued on or after the operative date of Subsection (6)(d) as defined in Subsection (6)(d).
- (ii) Except as provided in Subsection (5)(c), the adjusted premiums for any policy shall be calculated on an annual basis and shall be such 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 shall be equal to the sum of:
- (A) the then present value of the future guaranteed benefits provided for by the policy;
- (B) 2% of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount if the amount of insurance varies with duration of the policy;
- (C) 40% of the adjusted premium for the first policy year; and
- (D) 25% 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.
- (iii) Provided, however, that in applying the percentages specified in Subsections (5)(a)(ii)(C) and (D), no adjusted premium shall be considered to exceed 4% of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this Subsection (5) shall be the date as of which the rated age of the insured is determined.
- (b) 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 Subsection (5) shall be 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 date of issue as the benefits under the policy; provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy before the attainment of age 10 were the amount provided by such policy at age 10.

(c)

(i) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to the sum of:

(A) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits; and

(B) during the period for which premiums for such term insurance benefits are payable, the adjusted premiums for such term insurance.

(ii) The foregoing items (A) and (B) of Subsection (5)(c)(i) being calculated separately and as specified in Subsections (5)(a) and (b) except that, for the purposes of (B), (C), and (D) of Subsection (5)(a)(ii), the amount of insurance or equivalent uniform amount of insurance used in calculation of the adjusted premiums referred to in (B) of Subsection (5)(a)(ii) shall 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 (A) of Subsection (5)(c)(i).

(d) Except as otherwise provided in Subsection (6), all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioner's 1941 Standard Ordinary Mortality Table, provided that 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 three years younger than the actual age of the insured and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding 3-1/2% per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Provided, however, that 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 130% of the rates of mortality according to such applicable table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

(6)

(a) This Subsection (6)(a) does not apply to ordinary policies issued on or after the operative date of Subsection (6)(d) as defined in Subsection (6)(d). In the case of ordinary policies issued on or after the operative date of Subsection (6)(a) as defined in Subsection (6)(b), all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioner's 1958 Standard Ordinary Mortality Table and the rate of interest as specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest may not exceed 3-1/2% per annum for policies issued before June 1, 1973, 4% per annum for policies issued on or after May 31, 1973, and before April 2, 1980, and the rate of interest may not exceed 5-1/2% per annum for policies issued after April 2, 1980, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6-1/2% per annum may be used, and provided that 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. Provided, however, that 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 Commissioner's 1958 Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

- (b) Any company may file with the commissioner a written notice of its election to comply with the provisions of Subsection (6)(a) after a specified date before January 1, 1966. After filing such notice, then upon such specified date, which is the operative date of Subsection (6)(a) for such company, this Subsection (6)(a) shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of Subsection (6)(a) for such company is January 1, 1966.
- (c)
- (i) This Subsection (6)(c) does not apply to industrial policies issued after the operative date of Subsection (6)(d) as defined in Subsection (6)(d). In the case of industrial policies issued on or after the operative date of this Subsection (6)(c) as defined in this Subsection (6)(c), all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioner's 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest may not exceed 3-1/2% per annum for policies issued before June 1, 1973, 4% per annum for policies issued after May 31, 1973, and before April 2, 1980, and 5-1/2% per annum for policies issued after April 2, 1980, except that for any single premium whole life or endowment insurance policy issued after April 2, 1980, a rate of interest not exceeding 6-1/2% per annum may be used. Provided, however, that 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 Commissioner's 1961 Industrial Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.
- (ii) Any company may file with the commissioner a written notice of its election to comply with the provisions of this Subsection (6)(c) after a specified date before January 1, 1968. After filing such notice, then upon that specified date, which is the operative date of this Subsection (6)(c) for such company, this Subsection (6)(c) shall become operative with respect to the industrial policies thereafter issued by such company. If a company makes no such election, the operative date of this Subsection (6)(c) for such company shall be January 1, 1968.
- (d)
- (i) This Subsection (6)(d) applies to all policies issued on or after the operative date of this Subsection (6)(d) as defined in this Subsection (6)(d). Except as provided in Subsection (6)(d)(vii), the adjusted premiums for any policy shall be calculated on an annual basis and shall 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 policy, of all adjusted premiums shall be equal to the sum of:

- (A) the then present value of the future guaranteed benefits provided for by the policy;
  - (B) 1% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and
  - (C) 125% of the nonforfeiture net level premium as defined in Subsection (6)(d)(iii), except that in applying the percentage specified in this Subsection (6)(d)(i)(C), no nonforfeiture net level premium shall be considered to exceed 4% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years.
- (ii) The date of issue of a policy for the purpose of this Subsection (6)(d) shall be the date as of which the rated age of the insured is determined.
  - (iii) The nonforfeiture net level premium shall 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 such policy on which a premium falls due.
  - (iv) 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 change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption 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 shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.
  - (v) Except as otherwise provided in Subsection (6)(d)(viii), the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts 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 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 time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall 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.
  - (vi) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of:
    - (A) 1% of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years subsequent to the change over the average amount of insurance before the change at the beginning of each of the first 10 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
    - (B) 125% of the increase, if positive, in the nonforfeiture net level premium.

- (vii) The recalculated nonforfeiture net level premium shall be equal to:
  - (A) the sum of:
    - (I) the nonforfeiture net level premium applicable before 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; divided by
  - (B) 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.
- (viii) Notwithstanding any other provision of this Subsection (6)(d) 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, such 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 such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.
- (ix) Any adjusted premiums and present values referred to in this section shall:
  - (A) for policies of ordinary insurance be calculated on the basis of:
    - (I) the Commissioner's 1980 Standard Ordinary Mortality Table; or
    - (II) at the election of the company for any one or more specified plans of life insurance, the Commissioner's 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors;
  - (B) for all policies of industrial insurance be calculated on the basis of the Commissioner's 1961 Standard Industrial Mortality Table; and
  - (C) 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 Subsection (6)(d)(xi), for policies issued in that calendar year.
- (x) Notwithstanding Subsection (6)(d)(ix):
  - (A) At the option of the company, 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 Subsection (6)(d)(xi), 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 Subsection (2), shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.
  - (C) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including 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 Commissioner's 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioner's 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) For a policy issued before the operative date of the valuation manual, a Commissioner's Standard Ordinary Mortality Tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rules adopted by the commissioner for use in determining the minimum nonforfeiture standard, may be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table. For a policy issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioner's Standard Mortality Table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table. If the commissioner approves by rule any Commissioner's Standard Ordinary Mortality Table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.
- (G) For a policy issued before the operative date of the valuation manual, any Commissioner's Standard Industrial Mortality Tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rules adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1961 Industrial Extended Term Insurance Table. For a policy issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioner's Standard Mortality Table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's 1961 Industrial Extended Term Insurance Table. If the commissioner approves by rule any Commissioner's Standard Industrial Mortality Table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.
- (xi) The nonforfeiture interest rate is defined in this Subsection (6)(d)(xi):
- (A) for a policy issued before the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125% of the calendar year statutory valuation interest rate for such policy as defined in the Standard Valuation Law, rounded to the nearest one-fourth of 1%, except that the nonforfeiture interest rate may not be less than 4%; and
- (B) for a policy issued on and after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.
- (xii) Notwithstanding any other provision in this title to the contrary, 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.
- (xiii) After the effective date of this Subsection (6)(d), any company may, at any time before January 1, 1989, file with the commissioner a written notice of its election to comply with the provisions of this subsection with regard to any number of plans of insurance after a specified date before January 1, 1989, which specified date shall be the operative date of

this Subsection (6)(d) for the plan or plans, but if a company elects to make the provisions of this subsection operative before January 1, 1989, for fewer than all plans, the company shall comply with rules adopted by the commissioner. There is no limit to the number of times this election may be made. If the company makes no such election, the operative date of this subsection for such company shall be January 1, 1989.

- (7) 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 insurance company based on the estimates of future experience, or in the case of any plan of life insurance which is of such nature that minimum values cannot be determined by the methods described in Subsection (2), (3), (4), (5), (6)(a), (6)(b), (6)(c), or (6)(d), then:
- (a) the insurer shall demonstrate to the satisfaction of the commissioner that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by Subsection (2), (3), (4), (5), (6)(a), (6)(b), (6)(c), or (6)(d);
  - (b) the plan of life insurance shall satisfy the commissioner that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds; and
  - (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 Standard Nonforfeiture Law for Life Insurance, as determined by rules adopted by the commissioner.
- (8)
- (a)
    - (i) 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, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary.
    - (ii) All values referred to in Subsections (3), (4), (5), and (6) may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death.
    - (iii) 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.
  - (b) Notwithstanding the provisions of Subsection (3), additional benefits specified in Subsection (8)(c) and premiums for all such additional benefits shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.
  - (c) Additional benefits referred to in Subsection (8)(b) include benefits payable:
    - (i) in the event of death or dismemberment by accident or accidental means;
    - (ii) in the event of total and permanent disability;
    - (iii) as reversionary annuity or deferred reversionary annuity benefits;
    - (iv) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply;
    - (v) 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 such term insurance expires before the child's age is 26, if 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
    - (vi) as other policy benefits additional to life insurance endowment benefits.
- (9)
- (a) This Subsection (9), in addition to all other applicable subsections of this section, applies to all policies issued on or after January 1, 1985. Any cash surrender value available under the

policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than  $\frac{2}{10}$  of 1% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years, from the sum of:

- (i) the greater of zero and the basic cash value specified in Subsection (9)(b); and
  - (ii) the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.
- (b) The basic cash value shall 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 defined in Subsection (9)(c), corresponding to premiums which would have fallen due on and after such anniversary. Provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in Subsection (3) or (5), whichever is applicable, shall be the same as are the effects specified in Subsection (3) or (5), whichever is applicable, on the cash surrender values defined in that subsection.
- (c) The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in Subsection (5) or (6)(d), whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage:
- (i) shall be the same percentage for each policy year between the second policy anniversary and the later of:
    - (A) the fifth policy anniversary; and
    - (B) 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  $\frac{2}{10}$  of 1% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and
  - (ii) shall be such that no percentage after the later of the two policy anniversaries specified in Subsection (9)(a) may apply to fewer than five consecutive policy years.
- (d) Provided, that no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in Subsection (5) or Subsection (6)(d), whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic value.
- (e) All adjusted premiums and present values referred to in this Subsection (9) shall 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 subsections of this nonforfeiture law. The cash surrender values referred to in this Subsection (9) shall include any endowment benefits provided for by the policy.
- (f) 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 shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in Subsections (2), (3), (4), (5), (6), and (8). 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 Subsection (8)(c) shall conform with the principles of this Subsection (9).
- (10)
- (a) This section does not apply to any of the following:

- (i) reinsurance;
  - (ii) group insurance;
  - (iii) pure endowment;
  - (iv) an annuity or reversionary annuity contract;
  - (v) a term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy;
  - (vi) a term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in Subsections (5) and (6), 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 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy;
  - (vii) a 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 Subsections (3), (4), (5), and (6) exceeds 2-1/2% of the amount of insurance at the beginning of the same policy year; or
  - (viii) a policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy.
- (b) For purposes of determining the applicability of this section, the age of expiry for a joint term insurance policy shall be the age of expiry of the oldest life.
- (11) The commissioner may adopt rules interpreting, describing, and clarifying the application of this nonforfeiture law to any form of life insurance for which the interpretation, description, or clarification is considered necessary by the commissioner, including unusual and new forms of life insurance.

Amended by Chapter 163, 2016 General Session

**31A-22-409 Standard Nonforfeiture Law for Individual Deferred Annuities.**

- (1) This section is known as the "Standard Nonforfeiture Law for Individual Deferred Annuities."
- (2) This section does not apply to:
- (a) reinsurance;
  - (b) a group annuity purchased under a retirement plan or plan of deferred compensation:
    - (i) established or maintained by:
      - (A) an employer, including a partnership or sole proprietorship;
      - (B) an employee organization; or
      - (C) both an employer and an employee organization; and
    - (ii) other than a plan providing individual retirement accounts or individual retirement annuities under Section 408, Internal Revenue Code;
  - (c) a premium deposit fund;
  - (d) a variable annuity;
  - (e) an investment annuity;
  - (f) an immediate annuity;
  - (g) a deferred annuity contract after annuity payments have commenced;
  - (h) a reversionary annuity; or
  - (i) a contract that is delivered outside this state through an agent or other representative of the company issuing the contract.

- (3)
- (a) If a policy is issued after this section takes effect as set forth in Subsection (15), a contract of annuity, except as stated in Subsection (2), may not be delivered or issued for delivery in this state unless the contract of annuity contains in substance:
    - (i) the provisions described in Subsection (3)(b); or
    - (ii) provisions corresponding to the provisions described in Subsection (3)(b) that in the opinion of the commissioner are at least as favorable to the contractholder, governing cessation of payment of consideration under the contract.
  - (b) Subsection (3)(a)(i) requires the following provisions:
    - (i) the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such a value as specified in Subsections (7), (8), (9), (10), and (12):
      - (A) upon cessation of payment of consideration under a contract; or
      - (B) upon a written request of the contract owner;
    - (ii) if a contract provides for a lump-sum settlement at maturity, or at any other time, upon surrender of the contract at or before the commencement of any annuity payments, the company shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in Subsections (7), (8), (10), and (12);
    - (iii) a statement of the mortality table, if any, and interest rates used in calculating any of the following that are guaranteed under the contract:
      - (A) minimum paid-up annuity benefit;
      - (B) cash surrender benefit; or
      - (C) death benefit;
    - (iv) sufficient information to determine the amounts of the benefits described in Subsection (3)(b)(iii);
    - (v) 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 a statute of the state in which the contract is delivered; and
    - (vi) an explanation of the manner in which a benefit described in Subsection (3)(b)(v) is altered by the existence of any:
      - (A) additional amounts credited by the company to the contract;
      - (B) indebtedness to the company on the contract; or
      - (C) prior withdrawals from or partial surrender of the contract.
  - (c) Notwithstanding the requirements of this Subsection (3), a deferred annuity contract may provide that if no consideration is received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from consideration paid before the period would be less than \$20 monthly:
    - (i) the company may at the company's option terminate the contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table specified in the contract, if any, and the interest rate specified in the contract for determining the paid-up annuity benefit; and
    - (ii) the payment described in Subsection (3)(c)(i), relieves the company of any further obligation under the contract.
  - (d) A company may reserve the right to defer the payment of cash surrender benefit for a period not to exceed six months after demand for the payment of the cash surrender benefit with surrender of the contract.
- (4) For a policy issued before June 1, 2006, the minimum values as specified in Subsections (7), (8), (9), (10), and (12) of any paid-up annuity, cash surrender, or death benefits available under

an annuity contract shall be based upon minimum nonforfeiture amounts as established in this Subsection (4).

(a)

(i) With respect to a contract providing for flexible considerations, the minimum nonforfeiture amount at any time at or before the commencement of any annuity payments shall be equal to an accumulation up to such time, at a rate of interest of 3% per annum of percentages of the net considerations paid prior to such time:

(A) decreased by the sum of:

(I) any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of 3% per annum; and

(II) the amount of any indebtedness to the company on the contract, including interest due and accrued; and

(B) increased by any existing additional amounts credited by the company to the contract.

(ii) For purposes of this Subsection (4)(a), the net consideration for a given contract year used to define the minimum nonforfeiture amount shall be:

(A) an amount not less than zero; and

(B) equal to the corresponding gross considerations credited to the contract during that contract year less:

(I) an annual contract charge of \$30; and

(II) a collection charge of \$1.25 per consideration credited to the contract during that contract year.

(iii) The percentages of net considerations shall be:

(A) 65% of the net consideration for the first contract year; and

(B) 87-1/2% of the net considerations for the second and later contract years.

(iv) Notwithstanding Subsection (4)(a)(iii), the percentage shall be 65% of the portion of the total net consideration for any renewal contract year that 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 65%.

(b)

(i) Except as provided in Subsections (4)(b)(ii) and (iii), with respect to a contract providing for fixed scheduled consideration, minimum nonforfeiture amounts shall be:

(A) calculated on the assumption that considerations are paid annually in advance; and

(B) defined as for contracts with flexible considerations that are paid annually.

(ii) The portion of the net consideration for the first contract year to be accumulated shall be equal to an amount that is the sum of:

(A) 65% of the net consideration for the first contract year; and

(B) 22-1/2% of the excess of the net consideration for the first contract year over the lesser of the net considerations for:

(I) the second contract year; and

(II) the third contract year.

(iii) The annual contract charge shall be the lesser of \$30 or 10% of the gross annual consideration.

(c) With respect to a contract providing for a single consideration payment, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that:

(i) the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to 90%; and

(ii) the net consideration shall be the gross consideration less a contract charge of \$75.



- (5) For a policy issued on or after June 1, 2006, the minimum values as specified in Subsections (7), (8), (9), (10), and (12) of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as established in this Subsection (5).
- (a) The minimum nonforfeiture amount at any time at or before the commencement of any annuity payments shall be equal to an accumulation up to such time, at rates of interest as indicated in Subsection (5)(b), of 87-1/2% of the gross considerations paid before such time decreased by the sum of:
- (i) any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in Subsection (5)(b);
  - (ii) an annual contract charge of \$50, accumulated at rates of interest as indicated in Subsection (5)(b);
  - (iii) any premium tax paid by the company for the contract, accumulated at rates of interest as indicated in Subsection (5)(b); and
  - (iv) the amount of any indebtedness to the company on the contract, including interest due and accrued.
- (b)
- (i) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of:
    - (A) 3% per annum; and
    - (B) the five-year Constant Maturity Treasury Rate reported by the Federal Reserve, rounded to the nearest 1/20th of 1%, as of a date or average over a period no longer than 15 months prior to the contract issue date or redetermination date under Subsection (5)(b)(iii):
      - (I) reduced by 125 basis points; and
      - (II) where the resulting interest rate is not less than 1%.
  - (ii) The interest rate shall apply for an initial period and may be redetermined for additional periods.
- (iii)
- (A) If the interest rate will be reset, the contract shall state:
    - (I) the initial period;
    - (II) the redetermination date;
    - (III) the redetermination basis; and
    - (IV) the redetermination period.
  - (B) The basis is the date or average over a specified period that produces the value of the five-year Constant Maturity Treasury Rate to be used at each redetermination date.
- (c)
- (i) During the period or term that a contract provides substantive participation in an equity indexed benefit, the reduction described in Subsection (5)(b)(i)(B)(I) may be increased by up to an additional 100 basis points to reflect the value of the equity index benefit.
  - (ii) The present value of the additional reduction at the contract issue date and at each redetermination date may not exceed the market value of the benefit.
- (iii)
- (A) The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit.
  - (B) If the demonstration required under Subsection (5)(c)(iii)(A) is not made to the satisfaction of the commissioner, the commissioner may disallow or limit the additional reduction.
- (6) Notwithstanding Subsection (4), for a policy issued on or after June 1, 2004 and before June 1, 2006, at the election of a company, on a contract form-by-contract form basis, the minimum

values as specified in Subsections (7), (8), (9), (10), and (12) of any paid-up annuity, cash surrender, or death benefits available under an annuity contract may be based upon minimum nonforfeiture amounts as established in Subsection (5).

- (7)
- (a) A paid-up annuity benefit available under a contract shall be such that the contract's present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date.
  - (b) The present value described in Subsection (7)(a) shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.
- (8)
- (a) For a contract that provides cash surrender benefits, the cash surrender benefits available before maturity may not be less than the present value as of the date of surrender of that portion of the cash surrender value that would be provided under the contract at maturity arising from considerations paid before the time of cash surrender:
    - (i) decreased by the amount appropriate to reflect any prior withdrawals from or partial surrender of the contract;
    - (ii) decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued; and
    - (iii) increased by any existing additional amounts credited by the company to the contract.
  - (b) For purposes of this Subsection (8), the present value is to be calculated on the basis of an interest rate not more than 1% higher than the interest rate specified in the contract for accumulating the net considerations to determine the maturity value.
  - (c) In no event shall a cash surrender benefit be less than the minimum nonforfeiture amount at that time.
  - (d) The death benefit under a contract described in Subsection (8)(a) shall be at least equal to the cash surrender benefit.
- (9)
- (a) For a contract that does not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity may not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid before the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity increased by any existing additional amounts credited by the company to the contract.
  - (b) For purposes of Subsection (9)(a), the present value for the period prior to the maturity date is to be calculated on the basis of the interest rate specified in the contract for accumulating the net considerations to determine maturity value.
  - (c) For a contract that does not provide a death benefit before commencement of any annuity payments, the present values shall be calculated on the basis of the interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit.
  - (d) In no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.
- (10)
- (a) For the purpose of determining the benefits calculated under Subsections (8) and (9), the maturity date shall be considered to be:
    - (i) in the case of an annuity contract issued on or before May 5, 2002, under which an election may be made to have an annuity payment commence at an optional maturity date, the latest

date for which an election is permitted by the contract, except that it may not be considered to be later than the later of:

- (A) the anniversary of the contract next following the day on which the annuitant becomes 70 years of age; or
- (B) the tenth anniversary of the contract; or
- (ii) in the case of an annuity contract issued on or after May 6, 2002, the latest date permitted by the contract, except that it may not be considered to be later than the later of:
  - (A) the anniversary of the contract next following the day on which the annuitant becomes 70 years of age; or
  - (B) the tenth anniversary of the contract.
- (b) In the case of an annuity contract issued on or after May 6, 2002:
  - (i) for a contract that provides cash surrender benefits, the cash surrender value on or past the maturity date shall be equal to the amount used to determine the annuity benefit payments; and
  - (ii) a surrender charge may not be imposed on or past maturity.
- (11) A contract that does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount before the commencement of any annuity payments shall include a statement in a prominent place in the contract that these benefits are not provided.
- (12) A paid-up annuity, cash surrender, or death benefit available at any time, other than on the contract anniversary under a contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.
- (13)
  - (a) For a contract that provides, within the same contract by rider or supplemental contract provisions, 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:
    - (i) be equal to the sum of:
      - (A) the minimum nonforfeiture benefits for the annuity portion; and
      - (B) the minimum nonforfeiture benefits, if any, for the life insurance portion; and
    - (ii) computed as if each portion were a separate contract.
  - (b)
    - (i) Notwithstanding Subsections (7), (8), (9), (10), and (12), additional benefits payable, as described in Subsection (13)(b)(ii), and consideration for the additional benefits payable, shall be disregarded in ascertaining, if required by this section:
      - (A) the minimum nonforfeiture amounts;
      - (B) paid-up annuity;
      - (C) cash surrender; and
      - (D) death benefits.
    - (ii) For purposes of this Subsection (13), an additional benefit is a benefit 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.
    - (iii) The inclusion of the additional benefits described in this Subsection (13) may not be required in any paid-up benefits, unless the additional benefits separately would require:
      - (A) minimum nonforfeiture amounts;

- (B) paid-up annuity;
  - (C) cash surrender; and
  - (D) death benefits.
- (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may adopt rules necessary to implement this section, including:
- (a) ensuring that any additional reduction under Subsection (5)(c) is consistent with the requirements imposed by Subsection (5)(c); and
  - (b) providing for adjustments in addition to the adjustments allowed under Subsection (5)(c) to the calculation of minimum nonforfeiture amounts for:
    - (i) a contract that provides substantive participation in an equity index benefit; and
    - (ii) a contract for which the commissioner determines adjustments are justified.
- (15)
- (a) After this section takes effect, a company may file with the commissioner a written notice of its election to comply with this section after a specified date before July 1, 1988.
  - (b) This section applies to annuity contracts of a company issued on or after the date the company specifies in the notice.
  - (c) If a company makes no election under Subsection (15)(a), the operative date of this section for such company is July 1, 1988.

Amended by Chapter 345, 2008 General Session

Amended by Chapter 382, 2008 General Session

**31A-22-410 Trustee and deposit agreements.**

- (1) An insurer may hold as a part of its general assets the proceeds of any life insurance policy or annuity under a trust or other agreement, upon the terms and restrictions as to revocation by the policyholder and control by the beneficiary, and with the exemptions from the claims of creditors of the beneficiary as the insurer and the policyholder agree to in writing and as are otherwise recognized by law.
- (2) An insurer may also receive funds in amounts and upon conditions which the insurer and the policyholder agree to in writing:
  - (a) as premiums in advance upon life insurance policies or annuities; or
  - (b) to accumulate for the purchase of future life insurance policies or annuities.

Enacted by Chapter 242, 1985 General Session

**31A-22-411 Insurance policies providing variable benefits.**

- (1) An insurance policy that provides for payment of a benefit in a variable amount shall contain a statement of the essential features of the procedure to be followed by the insurer in determining the dollar amount of the variable benefits.
- (2) A variable insurance policy shall contain:
  - (a) an appropriate nonforfeiture benefit in lieu of those required by either Section 31A-22-408 or 31A-22-409;
  - (b) an appropriate reinstatement provision in lieu of those required by Section 31A-22-407; and
  - (c) a grace period provision appropriate to that type of insurance policy in lieu of those required by Section 31A-22-402.
- (3) An individual insurance policy and a certificate issued under a group insurance policy shall conspicuously state on its first page that:
  - (a) the dollar amount may decrease or increase according to investment experience; and

- (b) a benefit under the insurance policy is payable on a variable basis.
- (4) A life insurance or annuity policy with a variable benefit issued under a separate account shall, on either the application or the insurance policy, state that the insurer's liabilities with respect to a variable benefit under the insurance policy are subject to satisfaction only out of the insurer's variable account assets.
- (5)
  - (a) A variable insurance policy shall state whether it may be amended as to:
    - (i) investment policy;
    - (ii) voting rights; and
    - (iii) conduct of the business and affairs of a separate account.
  - (b) Subject to any preemptive provision of federal law, an amendment of the type described in this Subsection (5) is subject to:
    - (i) filing under Section 31A-21-201; and
    - (ii) approval by a majority of the policyholders in the separate account.

Amended by Chapter 10, 2010 General Session

### **31A-22-412 Assignment of life insurance rights**

- (1) Except as provided under Subsection (3), the owner of any rights in a life insurance policy or annuity contract may assign any of those rights, including any right to designate a beneficiary and the rights secured under Sections 31A-22-517 through 31A-22-521 and any other provision of this title. An assignment, valid under general contract law, vests the assigned rights in the assignee, subject, so far as reasonably necessary for the protection of the insurer, to any provisions in the insurance policy or annuity contract inserted to protect the insurer against double payment or obligation.
- (2) The rights of a beneficiary under a life insurance policy or annuity contract are subordinate to those of an assignee, unless the beneficiary was designated as an irrevocable beneficiary prior to the assignment.
- (3) Assignment of insurance rights may be expressly prohibited by an annuity contract which provides annuities as retirement benefits related to employment contracts.
- (4) When a life insurance policy or annuity is, after July 1, 1986, assigned in writing as security for an indebtedness, the insurer shall, in any case in which it has received written notice of the assignment, the name and address of the assignee, and a request for cancellation notice by the assignee, mail to the assignee a copy of any cancellation notice sent with respect to the policy. This notice shall be sent, postage prepaid, and addressed to the assignee's address filed with the insured. The notice shall be mailed not less than 10 days prior to the final termination of the policy and each time the insured has failed or refused to transmit a premium payment to the insurer before the commencement of the policy's grace period. The insurer may charge the insured directly or charge against the policy the reasonable cost of complying with this section, but in no event to exceed \$5 for each notice. As used in this section, "final termination of the policy" means the date after which the policy will not be reinstated by the insurer without requiring evidence of insurability or written application.
- (5) In lieu of providing notices to assignees of final termination of the policy under Subsection (4), an insurer may provide an assignee with an identical copy of all notices sent to the owner of the life insurance policy, provided these notices comply with the other requirements of this title.

Amended by Chapter 204, 1986 General Session

**31A-22-413 Designation of beneficiary.**

- (1) Subject to Subsection 31A-22-412(2), no life insurance policy or annuity contract may restrict the right of a policyholder or certificate holder:
- (a) to make an irrevocable designation of beneficiary effective immediately or at some subsequent time; or
  - (b) if the designation of beneficiary is not explicitly irrevocable, to change the beneficiary without the consent of the previously designated beneficiary. Subsection 75-6-201(1)(c) applies to designations by will or by separate writing.
- (2)
- (a) An insurer may prescribe formalities to be complied with for the change of beneficiaries, but those formalities may only be designed for the protection of the insurer. Notwithstanding Section 75-2-804, the insurer discharges its obligation under the insurance policy or certificate of insurance if it pays the properly designated beneficiary unless it has actual notice of either an assignment or a change in beneficiary designation made pursuant to Subsection (1)(b).
  - (b) The insurer has actual notice if the formalities prescribed by the policy are complied with, or if the change in beneficiary has been requested in the form prescribed by the insurer and delivered to an agent representing the insurer at least three days prior to payment to the earlier properly designated beneficiary.

Amended by Chapter 264, 2013 General Session

**31A-22-414 Evidence as to death.**

The rules relating to determination of death under Section 75-1-107 are applicable to life insurance.

Amended by Chapter 30, 1992 General Session

**31A-22-415 Simultaneous death.**

Section 75-2-702 applies to all policies of life and accident and health insurance.

Amended by Chapter 116, 2001 General Session

**31A-22-416 Reserved.**

Enacted by Chapter 242, 1985 General Session

**31A-22-417 Physical examination and autopsy.**

A life insurer may, at its own expense, examine the body of the insured when and as often as the insurer reasonably requires during the pendency of a claim, and it may make an autopsy in case of death where it is reasonably necessary and not forbidden by law.

Enacted by Chapter 242, 1985 General Session

**31A-22-418 Participating and nonparticipating policies.**

- (1)
- (a) A stock insurer and a mutual insurer may issue both participating and nonparticipating life insurance policies and annuity contracts, subject to this section.

- (b) A fraternal insurer issuing life insurance policies in this state may only issue participating policies, except for the following nonparticipating policies:
  - (i) paid-up, temporary, pure endowment insurance, and annuity settlements provided in exchange for lapsed, surrendered, or matured policies;
  - (ii) annuities beginning within one year of the making of the contract; and
  - (iii) those term insurance policies which the commissioner exempts by rule.
- (2) Every participating policy shall by its terms give its holder full right to participate annually in the surplus accumulations from the participating business of the insurer that are distributed.
- (3) Every insurer issuing both participating and nonparticipating policies shall separately account for the two classes of business.
- (4)
  - (a) No life insurance policy or certificate may be issued in which the accounting, apportionment, and distribution of surplus is deferred for a period longer than three years.
  - (b) Every insurer doing a participating business shall annually ascertain the surplus over required reserves and other liabilities. After setting aside the contingency reserves it considers necessary and as are required by law, the reasonable nondistributable surplus needed to permit orderly growth, making provision for the payment of reasonable dividends upon capital stock and those sums as are required by prior contracts to be held for deferred dividend policies, the remaining surplus shall be equitably apportioned and returned as a dividend to the participating policyholders or certificate-holders entitled to share in the dividend. A dividend may be conditioned on the payment of the succeeding year's premium only on the first and second anniversaries of the policy.

Amended by Chapter 204, 1986 General Session

**31A-22-419 Insurer's purchase of and loans on policies.**

Any life insurer may purchase for its own benefit any policy of insurance or other obligation of the company and any claim of its policyholders. The insurer may also lend to the holders of policies of the company a sum which does not exceed the sum of the cash value of the policies and the surplus or dividend additions to the policies. The policies and all additions to them shall be security for payment of the loan. An insurer's security interest in a policy under this section need not be filed under Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, to be perfected.

Amended by Chapter 252, 2000 General Session

**31A-22-420 Policy loans.**

- (1) This section applies to all life insurance policies and annuity contracts, including certificates issued by fraternal insurers, which contain policy loan provisions. A "policy loan" includes any arrangement by which a premium is paid to the life insurer after the normal due date.
- (2) As used in this section, "published monthly average" means:
  - (a) The monthly average of the composite yield on Moody's Corporate Bond Yield Average--Monthly Average Corporates, as published by Moody's Investors Service, Inc., or any successor to that publication; or
  - (b) in the event that Moody's Corporate Bond Yield Average--Monthly Average Corporates is no longer published, a substantially similar average, established by the commissioner by rule.
- (3)
  - (a) Policies issued on or after May 12, 1981, shall provide for policy loan interest rates by:

- (i) a provision permitting a maximum interest rate of not more than 8% per annum; or
  - (ii) a provision permitting an adjustable maximum interest rate calculated under this section.
  - (b) The rate of interest charged on a policy loan made under Subsection (3)(a)(ii) may not exceed the higher of:
    - (i) the published monthly average for the calendar month ending two months before the date on which the rate is determined; or
    - (ii) the rate used to compute cash surrender values under the policy during the same period, plus 1% per annum.
  - (c) If the maximum rate of interest is determined under Subsection (3)(a)(ii), the policy shall contain a provision setting forth the frequency at which the rate is to be determined for that policy.
  - (d) The maximum rate under Subsection (3)(a)(ii) for each policy shall be determined at regular intervals at least once every 12 months, but not more frequently than once in any three-month period. At the intervals specified in the policy:
    - (i) the rate being charged may be increased whenever the increase determined under Subsection (3)(b) would increase that rate by 1/2% or more per annum; and
    - (ii) the rate being charged shall be reduced whenever the reduction determined under Subsection (3)(b) would decrease that rate by 1/2% or more per annum.
  - (e) Every life insurer shall:
    - (i) notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan;
    - (ii) 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 after making the initial loan, but notice need not be given to the policyholder when a further premium loan is added, except as provided in Subsection (3)(e)(iii);
    - (iii) send to policyholders with loans, reasonable advance notice of any increase in the rate; and
    - (iv) include in the notices required by Subsection (3)(e)(i), (ii), and (iii) the substance of the pertinent provisions of Subsections (3)(a) and (c).
  - (f) No policy may terminate during a policy year solely because of a change in the interest rate during that policy year. Coverage shall continue during that policy year until it would have terminated if there had been no change in interest rate during that policy year.
  - (g) The pertinent provisions of Subsections (3)(a) and (c) shall be set forth in the policies to which they apply.
- (4) This section applies to an insurance policy issued before May 12, 1981, only if the policyholder agrees to its application in writing, after receiving explicit disclosure of the provisions regarding premiums, dividends, and nonforfeiture cash values of the existing and amended insurance policies prior to execution of the written agreement. No other rights of the policyholder under the insurance policy are affected by this agreement.
- (5) The policy shall contain a provision permitting the insurer, upon the commissioner's approval, to defer granting a policy loan for up to six months after application for the loan. Policy loans for the payment of premium to the insurer may not be deferred under this subsection.

Amended by Chapter 204, 1986 General Session

**31A-22-421 Facility of payment under certain life insurance policies.**

A life insurance policy with a face value of \$5,000 or less may provide that if the beneficiary designated in the policy does not make a claim under the policy or does not surrender the policy with due proof of death within a period stated in the policy, which may not be less than 30 days



after the death of the insured, or if the beneficiary is the estate of the insured, or is a minor, or dies before the insured, or is not legally competent to give a valid release, then the insurer may make any payment under the policy to the executor or administrator of the insured, or to any relative of the insured by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled to the payment by reason of having incurred expense for the maintenance, medical attention, or burial of the insured, or for other reasons. The policy may also include a similar provision applicable to any other payment due under the policy.

Enacted by Chapter 242, 1985 General Session

**31A-22-422 Conditional coverage.**

Conditional or binding receipts or other documents issued by a life insurer, whatever they are named, which conditionally grant life insurance coverage prior to physical delivery of the policy are subject to the form filing requirements under Section 31A-21-201.

Enacted by Chapter 242, 1985 General Session

**31A-22-423 Policy and annuity examination period.**

- (1)
- (a) Except as provided under Subsection (2), a life insurance policy, life insurance certificate, annuity contract, or annuity certificate shall contain a notice prominently printed on or attached to the cover or front page of the policy, contract, or certificate stating that the policyholder, contract holder, or certificate holder has the right to return the policy, contract, or certificate for any reason on or before:
    - (i) 10 days after the day on which the policy, contract, or certificate is delivered; or
    - (ii) in case of a replacement policy, contract, or certificate, 30 days after the day on which the replacement policy, contract, or certificate is delivered.
  - (b) For purposes of this section, "return" means a writing that:
    - (i) the policy, contract, or certificate is being returned for termination of coverage;
    - (ii) is:
      - (A) a written statement on the policy, contract, or certificate; or
      - (B) a writing that accompanies the policy, contract, or certificate; and
    - (iii) is delivered to or mailed first class to the insurer or the insurer's agent.
  - (c) A policy, contract, or certificate returned under this section is void from the date of issuance.
  - (d) A policyholder, contract holder, or certificate holder returning a policy or certificate is entitled to a refund of any premium paid.
- (2) This section does not apply to:
- (a) group term life insurance issued under Section 31A-22-502;
  - (b) a group master policy;
  - (c) a noncontributory certificate;
  - (d) a credit life insurance certificate; and
  - (e) other classes of life insurance policies that the commissioner specifies by rule after finding that a right to return those life insurance policies would be impracticable or unnecessary to protect the policyholder's interests.

Amended by Chapter 307, 2007 General Session

**31A-22-424 Documents constituting entire life insurance policy.**

- (1) A life insurance policy shall contain a provision that defines the documents and agreements that constitute the entire contract between the parties.
- (2) Except as permitted by Section 31A-21-106, all documents and agreements defined under Subsection (1) shall be attached to the policy.

Enacted by Chapter 116, 2001 General Session

**31A-22-425 Rulemaking authority for standards related to life insurance and annuities.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules to establish standards for any of the following:

- (1) if used in connection with the solicitation or sale of life insurance policies and contracts:
  - (a) a buyer's guide;
  - (b) a disclosure;
  - (c) an illustration;
  - (d) a policy summary; or
  - (e) a recommendation; and
- (2) in a life insurance policy, annuity contract, or life insurance or annuity certificate:
  - (a) a definition of a term;
  - (b) a disclosure;
  - (c) an exclusion; or
  - (d) a limitation.

Amended by Chapter 382, 2008 General Session

**31A-22-426 Coverage description.**

- (1) Each life insurance policy, annuity contract, and certificate of life insurance shall contain a brief description printed on the cover page.
- (2) The description shall include:
  - (a) the type of insurance;
  - (b) whether it is participating or nonparticipating;
  - (c) a significant limitation stated or included in the filed policy, contract, or certificate; and
  - (d) a significant specific feature stated or included in the filed policy, contract, or certificate.

Enacted by Chapter 125, 2005 General Session

**31A-22-427 Life insurance and annuity policy records.**

A life insurer, and its successors, shall maintain all records that affect the legal effect of a life insurance policy, annuity contract, or certificate of life insurance for the term of the insurance plus five years.

Enacted by Chapter 125, 2005 General Session

**31A-22-428 Interest payable on life insurance proceeds.**

- (1) For a life insurance policy delivered or issued for delivery in this state on or after May 5, 2008, the insurer shall pay interest on the death proceeds payable upon the death of the insured.
- (2)

- (a) Except as provided in Subsection (4), for the period beginning on the date of death and ending the day before the day described in Subsection (3)(b), interest under Subsection (1) shall accrue at a rate no less than the greater of:
    - (i) the rate applicable to policy funds left on deposit; and
    - (ii) the Two Year Treasury Constant Maturity Rate as published by the Federal Reserve.
  - (b) If there is no rate applicable to policy funds on deposit as stated in Subsection (2)(a)(i), then the Two Year Treasury Constant Maturity Rates as published by the Federal Reserve applies.
  - (c) The rate described in Subsection (2)(a) or (b) is the rate in effect on the day on which the death occurs.
  - (d) Interest is payable until the day on which the claim is paid.
- (3)
- (a) Unless the claim is paid and except as provided in Subsection (4), beginning on the day described in Subsection (3)(b) and ending the day on which the claim is paid, interest shall accrue at the rate in Subsection (2) plus additional interest at the rate of 10% annually.
  - (b) Interest accrues under Subsection (3)(a) beginning with the day that is 31 days from the latest of:
    - (i) the day on which the insurer receives proof of death;
    - (ii) the day on which the insurer receives sufficient information to determine:
      - (A) liability;
      - (B) the extent of the liability; and
      - (C) the appropriate payee legally entitled to the proceeds; and
    - (iii) the day on which:
      - (A) legal impediments to payment of proceeds that depend on the action of parties other than the insurer are resolved; and
      - (B) the insurer receives sufficient evidence of the resolution of the legal impediments described in Subsection (3)(b)(iii)(A).
- (4) A court of competent jurisdiction may require payment of interest from the date of death to the day on which a claim is paid at a rate equal to the sum of:
- (a) the rate specified in Subsection (2); and
  - (b) the legal rate identified in Subsection 15-1-1(2).

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session

**31A-22-429 Producer's duties related to replacement of life insurance or annuity.**

- (1) In connection with or as part of each application for life insurance or annuities, the applicant shall complete and the producer shall submit to the insurer the statements required by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as to:
    - (a) whether the applicant has existing policies or contracts; and
    - (b) whether the proposed life insurance or annuity will replace, discontinue, or change an existing policy or contract.
  - (2) If an applicant for life insurance or an annuity answers "yes" to the question regarding replacement, discontinuance, or change of an existing policy or contract referred to in Subsection (1), the producer shall present to the applicant, not later than at the time of taking the application, the notice regarding replacements in the form adopted by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or other substantially similar document filed with the commissioner.
- (3)

- (a) The notice described in Subsection (2) shall:
  - (i) list each existing policy or contract contemplated to be replaced, properly identified by name of insurer, the insured or annuitant, and policy or contract number if available; and
  - (ii) include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing for the new policy or contract.
- (b) If a policy or contract number has not been issued by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.
- (4) In connection with a replacement transaction, the producer shall leave with the applicant by no later than at the time of policy or contract delivery the original or a copy of all printed sales material. With respect to electronically presented sales material, it shall be provided to the policy or contract holder in printed form no later than at the time of policy or contract delivery.
- (5) Except as provided in rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in connection with a replacement transaction, the producer shall submit to the insurer to which an application for a policy or contract is presented:
  - (a) a copy of each document required by this section;
  - (b) a statement identifying any preprinted or electronically presented company approved sales materials used; and
  - (c) copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.

Enacted by Chapter 319, 2013 General Session