

**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