

Sec. 38a-433-4. Insurance policy requirements

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

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

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

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

(b) **Mandatory policy benefit and design requirements:** Variable life insurance policies delivered or issued for delivery in this state shall comply with the following minimum requirements:

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

(2) For scheduled premium policies, a minimum death benefit shall be provided in an amount at least equal to the initial face amount of the policy so long as premiums are duly paid.

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

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

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

(6) The cash value of each variable insurance policy shall be determined at least monthly. The method of computation of cash values and other non-forfeiture benefits, as described either in the policy or in a statement filed with the Commissioner of the state in which the policy is delivered, or issued for delivery, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not to be limited to, a guarantee that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the policy at all times from the date of issue had been equal to the assumed investment rate.

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

(c) **Mandatory policy provisions:** Every variable life insurance policy filed for approval in this state shall contain at least the following:

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

(A) a prominent statement in either contrasting color or in boldface type that the amount or duration of death benefit may be variable or fixed under specified conditions;

(B) a prominent statement in either contrasting color or in boldface type that cash values may increase or decrease in accordance with the experience of the separate account subject to any specified minimum guarantees;

(C) a statement describing any minimum death benefit required pursuant to section 38a-433-4 (b) (2);

(D) the method, or a reference to the policy provision which describes the method, for determining the amount of insurance payable at death;

(E) to the extent permitted by state law, a captioned provision that the policyholder may return the variable life insurance policy within 10 days of receipt of the policy by the policyholder, and receive a refund equal to the sum of (a) the difference between the premiums paid including any policy fees or other charges and the amounts allocated to any separate accounts under the policy and (b) the value of the amounts allocated to any separate accounts under the policy, on the date the returned policy is received by the insurer or its agent. Until such time as state law authorizes the return of payments as calculated in the preceding sentence, the amount of the refund shall be the total of all premium payments for such policy; and

(F) such other items as are currently required for fixed benefit life insurance policies and which are not inconsistent with this regulation.

(2) For scheduled premium policies, a provision for a grace period of not less than thirty-one days from the premium due date which shall provide that where the premium is paid within the grace period, policy values will be the same, except for the deduction of any overdue premium, as if the premium were paid on or before the due date.

(3) For flexible premium policies, a provision for a grace period beginning on the policy processing day when the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amounts available under the policy to pay such charges in accordance with the terms of the policy. Such grace period shall end on a date not less than 61 days after the mailing date of the report of policyholders required by section 38a-433-9 (c).

The death benefit payable during the grace period will equal the death benefit in effect immediately prior to such period less any overdue charges. If the policy processing days occur monthly, the insurer may require the payment of not more than 3 times the charges which were due on the policy processing day on which the amounts available under the policy were insufficient to pay all charges authorized by the policy that are necessary to keep such policy in force until the next policy processing day.

(4) For scheduled premium policies, a provision that the policy will be reinstated at any time within two years from the date of default upon the written application of the insured and evidence of insurability including good health, satisfactory to the insurer, unless the cash surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with accrued interest thereon to the date of

reinstatement and payment of an amount not exceeding the greater of:

(A) all overdue premiums and any other indebtedness in effect at the end of the grace period following the date of default with interest at the rate permitted by section 38a-444 of the General Statutes; or

(B) 110% of the increase in cash value resulting from reinstatement.

(5) a full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy;

(6) a provision designating the separate account to be used and stating that:

(A) the assets of such separate account shall be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account arising under the variable life insurance policies supported by the separate account; and

(B) the assets of such separate account shall be valued at least as often as any policy benefits vary but at least monthly.

(7) A provision that at any time during the first eighteen months of the variable life insurance policy, the owner may exchange the policy for a policy of permanent fixed benefit insurance for the same initial amount of insurance as the variable life insurance policy, provided that the new policy:

(A) shall bear the same date of issue and age at issue as the original variable life insurance policy;

(B) is issued on any plan of permanent insurance offered by the insurer or an affiliate on the date of issue of the variable life insurance policy and premium rates in effect on that date for the same class of insurance;

(C) Includes such riders and incidental insurance benefits as were included in the original policy if such riders and incidental insurance benefits are issued with the fixed benefit policy. If the conversion results in an increase or decrease in cash value, such increase or decrease will be payable to the insurer or the insured as the case may be.

(D) Must apply as an advance premium on the new policy any excess of the accrued premium on the original variable life insurance policy from the date of issue to the date of request for exchange over the corresponding accrued premium on the new fixed benefit policy, except that any portion of such excess which is less than a regular mode premium on the new policy may either be applied as an advance premium or refunded in cash at the option of the insurer.

(E) Shall not require evidence of insurability for this exchange.

(8) A provision specifying what documents constitute the entire insurance contract;

(9) A designation of the officers of the insurer who are empowered to make an agreement or representation on behalf of the insurer and an indication that statements by the insured, or on his behalf, shall be considered as representations and not warranties;

(10) an identification of the owner of the insurance contract;

(11) a provision setting forth conditions or requirements as to the designation, or change of designation, of a beneficiary and a provision for disbursement of benefits in the absence of a beneficiary designation;

(12) a statement of any conditions or requirements concerning the assignment of the policy;

(13) A description of any adjustments in policy values to be made in the event of misstatement of age or sex of the insured;

(14) A provision that the policy shall be incontestable by the insurer after it has been in force for two years during the lifetime of the insured, provided, however, that any increase in the amount of the policy's death benefits subsequent to the policy issue date, which increase occurred upon a new application or request of the owner and was subject to satisfactory proof of the insured's insurability, shall be incontestable after any such increase has been in force, during the lifetime of the insured, for two years from the date of issue of such increase;

(15) A provision stating that the investment policy of the separate account shall not be changed without the approval of the Insurance Commissioner of the state of domicile of the insurer, and that the approval process is on file with the Commissioner of this state;

(16) A provision that payment of variable death benefits in excess of any minimum death benefits, cash values, policy loans, or partial withdrawals (except when used to pay premiums) or partial surrenders may be deferred:

(A) for up to six months from the date of request; or

(B) for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such payment impractical.

(17) If settlement options are provided, at least one such option shall be provided on a fixed basis only;

(18) A description of the basis for computing the cash value and the surrender value under the policy shall be included.

(19) Premiums or charges for incidental insurance benefits shall be stated separately;

(20) Any other policy provisions required by this regulation;

(21) Such other items as are currently required for fixed benefit life insurance policies and are not inconsistent with this regulation.

(22) A provision for non-forfeiture insurance benefits.

The insurer may establish a reasonable minimum cash value below which any non-forfeiture insurance options will not be available.

(d) **Policy loan provisions:** Every variable life insurance policy, other than term insurance policies and pure endowment policies, delivered or issued for delivery in this state shall contain provisions which are not less favorable to the policyholder than the following:

(1) A provision for policy loans which provides the following:

(A) At least 75% of the policy's cash surrender value may be borrowed;

(B) The amount borrowed shall bear interest at a rate not to exceed that permitted by Section 38a-444 of the General Statutes.

(C) Any indebtedness shall be deducted from the proceeds payable on death.

(D) Any indebtedness shall be deducted from the cash surrender value upon surrender or in determining any non-forfeiture benefit.

(E) For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within thirty-one days after the date of mailing of such notice.

For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next following policy processing day exceed the amounts available under the policy to pay such charges, a report must be sent to the policyholder containing the information specified by Section 38a-433-9 (c).

(F) The policy may provide that if, at any time, so long as premiums are duly paid, the variable death benefit is less than it would have been if no loan or withdrawal had ever been made, the policyholder may increase such variable death benefit up to what it would have been if there had been no loan or withdrawal by paying an amount not exceeding 110% of the corresponding increase in cash value and by furnishing such evidence of insurability as the insurer may request.

(G) The policy may specify a reasonable minimum amount which may be borrowed at any time but such minimum shall not apply to any automatic premium loan provision.

(H) No policy loan provision is required if the policy is under the extended insurance non-forfeiture option.

(I) The policy loan provisions shall be constructed so that variable life insurance policyholders who have not exercised such provision are not disadvantaged by the exercise thereof.

(J) Amounts paid to the policyholders upon the exercise of any policy loan provision shall be withdrawn from the separate account and shall be returned to the separate account upon repayment except that a stock insurer may provide the amounts for policy loans from the general account.

(e) **Other policy provisions:** The following provisions may in substance be included in a variable life insurance policy or related form delivered or issued for delivery in this state:

(1) An exclusion for suicide within 2 years of the issue date of the policy; provided, however, that to the extent of the increased death benefits only, the policy may provide an exclusion for suicide within two years of any increase in death benefits which results from an application of the owner subsequent to the policy issue date;

(2) Incidental insurance benefits may be offered on a fixed or variable basis;

(3) Policies issued on a participating basis shall offer to pay dividend amounts in cash. In addition, such policies may offer the following options:

(A) The amount of the dividend may be credited against premium payments;

(B) The amount of the dividend may be applied to provide paid-up amounts of additional fixed or variable benefit life insurance;

(C) The amount of the dividend may be deposited in the general account at a specified minimum rate of interest;

(D) The amount of the dividend may be applied to provide paid-up amounts of fixed benefit one-year term insurance;

(E) The amount of the dividend may be deposited as a variable deposit in a separate account.

(4) A provision allowing the policyholder to elect in writing in the application for the policy or thereafter an automatic premium loan on a basis not less favorable than that required of policy loans or partial withdrawals under this section, except that a restriction that no more than two consecutive premiums can be paid under this provision may be imposed.

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- (5) A provision allowing the policyholder to make partial withdrawals;
- (6) Any other policy provision approved by the commissioner.

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