



Fraternal Benefit Societies
Product Outline
(Last Updated 06/06/2013)

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Product Outline

(Last Updated 06/06/2013)

This outline is current as of June 6, 2013. Subsequent changes to statutes, regulations, circular letters, etc., may not be reflected in the outline. In case of any doubt, please contact the Life Bureau.

All citations herein are to the New York State Insurance Law unless otherwise stated.

I) Scope

This product outline applies to all individual life insurance certificates and annuity contracts delivered or issued for delivery in New York by a fraternal benefit society as defined in Section 4501(a). This outline is new. Please note that the unfair, unjust and inequitable standards of Section 3201 apply to every submission.

II) Filing Process

II.A) General Information

The general requirements for filings are set forth in the product outline relevant to the type of product, i.e., term life, whole life, universal life, etc., being submitted. Please consult the relevant outline when making your submission. This outline highlights the different statutory and regulatory provisions that apply to fraternal benefit societies.

II.B) Key References

B.1) Insurance Law. Article 45; §§ 3201, 3207, 3219, 4221, 4223.

B.2) Regulations. Regulation 19 (11 NYCRR 45), Regulation 22 (11 NYCRR 49).

B.3) Circular Letters. CL 4 (1963).

III) Insurance Benefits Authorized

Section 4505 sets forth the insurance benefits listed in Section 4501 that may be issued by a fraternal benefit society.

III.A) Life Insurance Benefits

A society may issue any form of life insurance including endowment insurance. Section 4501(h). *But see* section VIII of this Outline regarding those requiring special authority.

III.B) Annuity Benefits

A society may make periodical payments either immediate or deferred and continuing during the life or lives of an annuitant or annuitants or during the life or lives of an annuitant or annuitants and for a term of years certain, in an amount which shall not exceed fifteen thousand dollars (\$15,000.00) annually. Section 4501(l). See section VIII of this Outline for additional optional authority.

III.C) Total and Permanent Disability Benefits

A society may make payments in the case of total and permanent disability as the result of either disease or accident and which are contained in or supplemental to any life insurance or annuity obligation of the society in amounts which do not exceed the greater of five hundred dollars (\$500.00) a month or the amounts permitted by Section 3215(e). Section 4501(m).

NOTE: No benefits may be provided through group insurance. Section 4505(a).

IV) MembershipIV.A) Classes

Pursuant to Section 4506, fraternal benefit societies may have two classes of membership: insurance and social. Social members shall not be entitled to any of the insurance benefits prescribed by Section 4505 and shall have no voice or vote in the management of the insurance affairs of the society. They may be eligible to be elected as officers and as representatives of insurance members unless such eligibility is prohibited by the society's by-laws. Insurance members may be either adult members or juvenile members.

IV.B) Juvenile Members

Section 4507 sets forth the rules for juvenile members. Insurance on juvenile members is subject to the limits imposed by Section 3207.

V) Life Insurance

The following requirements apply to all life insurance certificates issued or delivered in New York State by fraternal benefit societies.

V.A) Life Insurance Benefits

- A.1) Fraternal benefit societies may pay life insurance benefits under any form of life insurance, including endowment, pursuant to Section 4501(h).
- A.2) To provide variable life insurance benefits, the fraternal benefit society must obtain optional authority in accordance with Section 4527(a)(2).

- A.3) Industrial life insurance policies may not be delivered or issued for delivery in New York State. Section 4505(d).
- A.4) Any benefit based on total and permanent disability must comply with Section 4505(c). *See also* Section 49.2 of Regulation 22.

V.B) Standard Contract Provisions

B.1) Entire Contract

- (a) Entire contract clause must comply with Section 4509: “The certificate, together with any riders or endorsements attached thereto, the articles of incorporation, constitution and by-laws of the society, and the application and declaration of insurability, if any, attached as aforesaid, shall constitute the entire contract.”
- (b) Except with respect to the society’s charter and by-laws, no incorporation by reference is permitted.
- (c) All statements made by the applicant in the application for insurance (or a declaration of insurability) shall be deemed representations and not warranties. Section 4509.

B.2) Open Contract

The certificate must comply with Section 4509. Any changes, additions or amendments to the society’s corporate documents after issuance of the certificate, other than a certificate or contract providing variable benefits pursuant to a separate account, shall bind the member and his or her beneficiaries, and shall thereafter govern the agreement. However, no such action shall destroy or diminish any benefits contracted at issue.

B.3) Maintenance of Solvency

The certificate must include a provision in accordance with Sections 4504(g) and 4510(a)(8) regarding what happens if the fraternal benefit society’s reserves become impaired. Typically, each contract would be assessed an equitable proportion of any deficiency, payable in cash and/or reduction of benefit. *See* Section 4519.

B.4) Suspension/Expulsion from Fraternal Benefit Society

- (a) Pursuant to Section 4510(a)(9), the certificate must contain a provision that, in case the by-laws of the society provide for expulsion or suspension of a member, any member so expelled or suspended, except for non-payment of a premium or contribution, or within the contestable period for material

misrepresentations in his or her application for membership, shall have the privilege of maintaining his insurance in force by continuing payment of the required premium or contribution payable under the certificates and of such other assessments as may be required of members holding certificates of the same class.

- (b) In accordance with Section 4510(c)(3), the certificate may not include any provision whereby the suspension or expulsion of the insured member, or change of occupation, or any other violation of the terms and conditions of the insurance contract shall result in the loss or reduction of the cash surrender value or other withdrawal equity, if any, available by the terms of such certificate.

B.5) Control of Certificate

The certificate must contain provisions governing ownership and control of the certificate. There are special rules for certificates on the lives of juvenile members. Sections 4507, 4508, and 3207.

B.6) Beneficiaries

- (a) Beneficiary provisions must comply with Section 4508.
- (b) The beneficiaries under contracts of insurance on the lives of children may be designated by the adult person authorized to make application for such insurance. Unless otherwise provided by the constitution or by-laws or the insurance certificate, any such member may, on or after attaining the age of sixteen years, change any such designation. Section 4508(b).
- (c) Any change in the owner or beneficiary designation must take effect on the date the notice of change is signed, subject to any actions taken by the society prior to receipt of this notice by the society. The change must not take effect only when recorded by the society since there could be substantial delays. The Department has found such administrative delays to be unfair, unjust, and inequitable in violation of Section 3201(c)(2).

B.7) Grace Period

The certificate must contain a grace period provision that complies with Section 4510(a)(1):

- (a) For certificates in which the amount and frequency of premiums may vary, a provision that, after payment of the first premium, the insured is entitled to a grace period of not less than sixty-one days, beginning on the day when the fraternal benefit society determines that the certificate's net cash surrender value is insufficient to pay the total charges necessary to keep the certificate in force for one month from that day, within which to pay sufficient premium to keep the certificate in force for three months from the date the insufficiency was determined. During such grace period the certificate shall continue in full force, but in case the certificate becomes a claim, on account of death, maturity or other benefit accrued during such grace period before an amount of premium sufficient to keep the certificate in force is paid, an amount of premium sufficient to keep the certificate in force until the day the certificate became a claim may be deducted from any amount payable in any settlement under the certificate.
- (b) For all other certificates, a provision that the insured is entitled to a grace period of not less than one month or thirty days within which the payment of any premium after the first may be made, and that during such grace period the certificate shall continue in full force, but in case the certificate becomes a claim, on account of death, maturity or other benefit accrued during such grace period before the overdue premiums are paid, the amount of such premium or premiums may be deducted from any amount payable in any settlement under the certificate.

B.8) Incontestability

The certificate must contain an incontestability clause complying with Section 4510(a)(2):

- (a) The certificate shall be incontestable after it has been in force during the lifetime of the insured member for a period of two years from its date of issue.
- (b) If a certificate provides that the death benefit provided by the certificate may be increased, or other certificate provisions changed, upon the application of the certificate holder and the production of evidence of insurability, it must contain a provision that the certificate with respect to each such increase or change

shall be incontestable after two years from the effective date of such increase or change.

- (c) It must provide that the incontestability provision does not apply to (i) non-payment of premiums and (ii) violation of the provisions of the certificate relating to military or naval service.
- (d) It may provide, at the option of the society, that it does not apply to (i) provisions relating to benefits in the event of total and permanent disability and/or (ii) provisions which grant additional insurance against death by accident or accidental means.

B.9) Loans

The certificate must contain a loan provision complying with Section 4510(a)(6). No certificate may contain any provision for forfeiture, lapse or termination of any certificate because of failure to repay any loan on the certificate or to pay interest on such loan, while the total unpaid amount of any loan or loans under such certificate, including interest, is less than the loan value thereof. Section 4510(c)(2).

B.10) Governing Law

If issued for delivery in this state by any authorized foreign or alien society, the certificate must include a provision that the rights or obligations of the insured member under such certificate or other evidence of such life insurance contract or of any person rightfully claiming thereunder shall be governed by the laws of this state. Section 4510(a)(10).

B.11) Exclusions - Generally

No certificate shall contain any exclusory or restrictive provisions relating to liability in the event of death caused in a certain specified manner except as set forth below in accordance with Section 4510(b) or provisions which, in the opinion of the Superintendent, are substantially the same or more favorable to the holders of such certificates or contracts.

If a certificate provides that the death benefit may be increased, or other certificate provisions changed, upon the application of the certificate holder and the production of evidence of insurability, the certificate may also provide that the two year exclusions permitted under Section 4510(b)(1)(C), (D) or (F) shall run from the date of issue of the certificate, except that it shall run from the effective date of each subsequent

increase or change with respect to each such increase or change. Section 4510(b)(5).

The rules relating to exclusions or restrictions on liability do not apply to any provision in a life insurance certificate for additional benefits in the event of death by accident or by accidental means. Section 4510(b)(4).

B.12) Suicide

- (a) A two-year suicide period pursuant to Section 4510(b)(1)(D) is permitted.
- (b) In the event of death as to which there is such an exclusion or restriction, the society shall pay the reserve on the face amount of the certificate, computed according to the mortality table and interest rate specified in the certificate, together with the reserve for any paid-up additions thereto, and any dividends standing to the credit of the certificate, less any indebtedness to the society on the certificate, including interest due or accrued. Section 4510(b)(3).
- (c) If the certificate shall have been in force for not more than two years, the society shall pay the amount of the gross premiums charged on the certificate less dividends paid in cash or used in the payment of premiums thereon and less any indebtedness to the society on the certificate; including interest due or accrued. Section 4510(b)(3).
- (d) Any suicide exclusion provision shall not include the words “while sane or insane.” Section II.I.1 of Circular Letter No. 4 (1963).
- (e) The suicide exclusion may not begin again upon reinstatement. Section 4510(a)(4) applies only to the incontestability provision.

B.13) Aviation

- (a) A society may exclude or restrict liability in the event of death caused by aviation under conditions specified in the certificate in accordance with Section 4510(b)(1)(E).
- (b) If a death occurs that is subject to an aviation exclusion or restriction, the society must pay the reserve on the face amount in accordance with Section 4510(b)(3) or, if the certificate has been in force for less than two years, the society shall pay the amount of the gross premiums charged on the certificate less

dividends paid in cash or used in the payment of premiums thereon and less any indebtedness to the society on the certificate; including interest due or accrued. Section 4510(b)(3).

B.14) Hazardous Occupations

- (a) A society may exclude or restrict liability in the event of death caused by hazardous occupations specified in the certificate, provided death occurs within two years from the issue date of the certificate. Section 4510(b)(1)(F).
- (b) The society shall pay the amount of the gross premiums charged on the certificate less dividends paid in cash or used in the payment of premiums thereon and less any indebtedness to the society on the certificate; including interest due or accrued. Section 4510(b)(3).

B.15) Resident of a Specified Foreign Country

- (a) A society may exclude or restrict liability in the event of death occurring while the insured is a resident of a specified foreign country or countries in accordance with Section 4510(b)(1)(F).
- (b) If death occurs while the insured is a resident of a specified foreign country or countries, the society must pay the reserve on the face amount in accordance with Section 4510(b)(3) or, if the certificate has been in force for less than two years, the society shall pay the amount of the gross premiums charged on the certificate less dividends paid in cash or used in the payment of premiums thereon and less any indebtedness to the society on the certificate; including interest due or accrued. Section 4510(b)(3).

NOTE: Section 2614 generally prohibits discrimination based on past lawful travel.

B.16) War

- (a) A society may exclude or restrict liability in the event of death as a result of:
 - (i) war or an act of war, if the cause of death occurs while the insured is serving in the military, naval or air forces of any country, international organization or combination of countries or in any civilian noncombatant unit serving with

- such forces, provided such death occurs while in such forces or units or within six months after termination of service in such forces or units;
(Section 4510(b)(1)(A).)
- (ii) the special hazards incident to service in the military, naval or air forces of any country, international organization or combination of countries or in any civilian non-combatant unit serving with such forces, if the cause of death occurs while the insured is serving in such forces or units and is outside the home area, provided such death occurs outside the home area or within six months after the insured's return to the home area while in such forces or units or within six months after the termination of service in such forces or units, whichever is earlier; or
(Section 4510(b)(1)(B).)
 - (iii) war or an act of war, within two years from the date of issue of the certificate, while the insured is not in such forces or units, if the cause of death occurs while the insured is outside the home area; provided such death occurs outside the home area or within six months after the insured's return to the home area.
(Section 4510(b)(1)(C).)
- (b) Any war exclusions must be drafted in accordance with the definitions listed in Section 4510(b)(2)(A).
 - (c) Such exclusions are not to be construed as exclusions because of status as a member of any armed forces or attached civilian units, or because of the presence of the insured as a civilian in a combat area. Such permissible exclusions shall not exclude deaths due to diseases or accidents which are common to the civilian population and are not attributable to special hazards to which a person serving in such forces is exposed in the line of duty. Section 4510(b)(2)(B).
 - (d) In the event of death as to which there is such an exclusion or restriction, the society shall pay the reserve on the face amount of the certificate, computed according to the mortality table and interest rate specified in the certificate, together with the reserve for any paid-up additions thereto, and any dividends standing to the credit of the certificate, less any indebtedness to the society

on the certificate, including interest due or accrued; provided that if the certificate shall have been in force for not more than two years the society shall pay the amount of the gross premiums charged on the certificate less dividends paid in cash or used in the payment of premiums thereon and less any indebtedness to the society on the certificate, including interest due or accrued. Section 4510(b)(3).

- (e) Any life insurance certificate or form containing a war or travel exclusion or restriction must have printed or stamped across the face page in red and in capital letters not smaller than twelve point type the following:

“Read your policy (certificate) carefully.
Certain (war, travel) risks are not assumed.

(state which or both)

In case of any doubt write your society for further explanation.”

Section 3201(c)(4).

NOTE: This notice requirement does not apply to war exclusions for disability benefits under Section 3215 or accidental death benefits provided either in the life insurance certificate itself or by rider to the certificate.

NOTE: In accordance with Section 336, a life insurer must notify the Superintendent prior to issuing life insurance policies which contain a war restriction or exclusion.

NOTE: An application to be used with a policy containing a war restriction must have a notice that a war restriction is included in the policy. Section 45.1 of Regulation 19.

NOTE: Section 4510(b)(1) provides for the only permissible exclusions. Exclusions from paying the death benefit due to medical conditions or terrorism are not permitted in New York State.

B.17) Limitation of Actions

No certificate may contain any provision limiting the time within which any action at law or in equity may be commenced to less than eighteen months after the cause of action accrues. Section 4510(c)(1).

B.18) Reinstatement

If the certificate provides for termination or lapse in the event of a default in making a regularly scheduled premium, then a reinstatement provision complying with Section 4510(a)(4) is required. The minimum reinstatement period is three (3) years. With respect to any reinstated certificate, the contestable period is based only on statements in the reinstatement application.

B.19) Participating in Surplus

The certificate must include a provision that the society shall annually ascertain and apportion any divisible surplus accruing on the certificate. Section 4510(a)(11).

B.20) Additional Amounts

Pursuant to Section 4510(a)(12), any certificate under which additional amounts may be credited pursuant to Section 4518 must include provisions stating:

- (a) the guaranteed factors of mortality, expense and interest, and the method used by the society in calculating actual certificate values;
- (b) that such additional amount shall be nonforfeitable after the effective date of their crediting except for any charges imposed under the certificate which are not greater than those allowed under Section 4221(n-1) or any market value adjustment made pursuant to Section 4221(n-2); and
- (c) that the society shall credit any such amounts no less frequently than annually during such period.

B.21) Misstatement of Age or Sex

Any misstatement of age or sex provision must comply with Section 4510(a)(3). *See also* Circular Letter No. 4 (1963) § II.H.8.

B.22) Incompatible Provisions in Charter, Constitution or By-Laws

If in the judgment of the Superintendent, the charter, constitution or by-laws of the society provide that the violation of any section or sections

thereof shall result in the reduction or termination of any benefit payable under the certificate, then the certificate must include a provision which either:

- (a) recites fully all such sections;
- (b) sets forth the substance of all such sections; or
- (c) states in substance that no section of the charter, constitution or by-laws shall be relied upon or be used to reduce or terminate any benefit payable under the certificate unless such section is specifically set forth or referred to in the certificate. Section 4510(a)(7).

B.23) Adjustments of Death Benefit

Except for single premium certificates and paid-up certificates, the certificate must have a provision that complies with Section 4510(a)(13):

- (a) If the death of the insured occurs within a period for which the premium has been paid, the society shall add to the certificate proceeds a refund of the pro rata portion of premium paid for any period beyond the end of the certificate month in which death occurred, provided such premium was not waived under any waiver of premiums benefit included in the certificate or attached thereto.
- (b) If the death of the insured occurs within a period for which the premium has not been paid, but within the grace period provided in the certificate, the society may deduct from the certificate proceeds that portion of overdue premium as applies to the period ending with the last day of the certificate month in which death occurred.

V.C) Nonforfeiture

- C.1) Pursuant to Section 4510(a)(5) with respect to certificates which cause, on a basis guaranteed in the certificate, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new certificate, there must be a provision specifying the mortality table, interest rate and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the certificate.
- C.2) In the case of all other certificates, there must be a provision specifying the nonforfeiture options available under the certificate in the event of default in a premium payment after premiums have been paid for a specified period, together with a table showing, in figures, the options so available, and also the loan values, if any, available during each of the first twenty years after the issuance of the certificate. Such options must conform to the requirements of Section 4511.

VI) Annuities

The following requirements apply to all annuities issued by fraternal benefit societies.

VI.A) Annuity Benefits

Annuity benefits may not exceed the dollar amount specified in Section 4501(l) (\$15,000.00 annually) unless the society obtains optional authority under Section 4527.

VI.B) Standard Annuity Provisions

- B.1) No certificate or other evidence of any annuity contract and no application or rider or endorsement for use in connection therewith, shall be delivered or issued for delivery in this state unless it conforms with reasonable rules and regulations prescribed by the Superintendent. Pursuant to the foregoing the Superintendent shall have power, from time to time to make, alter and supersede reasonable rules and regulations prescribing the required, optional and prohibited provisions in such contracts, and such rules and regulations shall conform, as far as practicable with the provisions of Section 3219. Section 4513.
- B.2) Annuity certificates issued or issued for delivery in this state by any fraternal benefit society must conform in all respects to Section 3219. Section 49.3 of Regulation 22. *See generally* Individual Fixed and/or

Variable Deferred Annuity Outline, which is available on the Department's website.

VI.C) Nonforfeiture

Pursuant to Section 4511(e), every annuity certificate shall be subject to the requirements and exceptions of Section 4223.

VII) Applicability of Other Provisions of the Insurance Law

Section 4525 identifies other provisions of the Insurance Law which are applicable to fraternal benefit societies.

VIII) Optional Authority and Regulation

VIII.A) Variable Life Insurance and Annuities

Subject to the requirements of Section 4527, a fraternal benefit society may provide variable life insurance and variable annuity benefits pursuant to a separate account. Section 4527(a)(2).

VIII.B) Annuity Benefits

Similarly, it may also seek authority to pay annuity benefits in excess of \$15,000.00 annually. Section 4527(a)(3).

VIII.C) Additional Regulation

A society that seeks authority to issue the aforementioned benefits must comply with the additional regulatory requirements set forth in Section 4527(b).