



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

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**Individual Whole Life and Endowment Product Outline
(Last Updated December 8, 2014)**

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Product Outline: Individual Whole Life and Endowment Policies (Last updated December 8, 2014)

This outline is current as of December 8, 2014. 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.

I) Scope

This product outline applies to all individual whole life insurance policies and endowment policies delivered or issued for delivery in New York. This product outline does not apply to term life, universal life, or variable universal life insurance products. This outline replaces the Individual Whole Life Product Outline last updated December 20, 2012.

For purposes of this outline, a whole life insurance policy remains in force for the lifetime of the insured or to the end of the mortality table that is being used, builds a cash value, and provides payment of the face amount upon the insured's death regardless of when death occurs. Premiums generally remain at the same level throughout the premium payment period.

For purposes of this outline, the term "endowment policy" refers to a policy that pays out a specified amount based on the insured's survival to a specified time. The specified amount may be disclosed either as a dollar amount or as a description (e.g., "return of premiums paid" or "10 units of insurance").

II) Filing Process

II.A) General Information

A.1) Prior Approval Requirement

Section 3201(b)(1) provides that no policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the Superintendent as conforming to the requirements of the Insurance Law (standard and generally applicable provisions) and not inconsistent with law (federal and state statutory, regulatory and decisional law).

A.2) Discretionary Authority for Disapproval

Sections 3201(c)(1) and (2) permit the Superintendent to disapprove any policy form that contains provisions that are misleading, unfair, unjust, or inequitable or if its issuance would be prejudicial to the interests of policyholders or members.

A.3) No filing fee required.

II.B) Types of Filings

B.1) Prior Approval

Policy forms submitted under Section 3201(b)(1) are subject to the submission rules noted herein, especially Circular Letter Nos. 6 (1963) and 14 (1997).

B.2) Alternative Approval Procedure

- (a) Section 3201(b)(6) and Circular Letter No. 2 (1998) provide for an expedited approval procedure designed to prevent delays by deeming forms to be approved or denied if the Department or insurer fails to act in a timely manner.
- (b) Circular Letter No. 2 (1998) provides that the certification of compliance should make reference to any law or regulation that specifically applies or is unique to the type of policy form submitted. An alternative would be to submit a certification of compliance with the applicable laws and regulations cited in this product outline. A statement that the filing is in compliance with all applicable laws and regulations is not acceptable.

B.3) Prior Approval With Certification Procedure

- (a) Circular Letter No. 6 (2004) provides for an expedited approval procedure based on an appropriate certification of compliance signed by an officer of the insurer in the format provided by Circular Letter No. 6 (2004). Certifications that have altered or otherwise modified the language of the certification will not be accepted.
- (b) The original signed certification must be provided. The form number of each form and the memorandum of variable material for each form must be listed in the body of the certification, rather than in an attached list. For a certification pertaining to a large number of forms, the list may begin in the body of the certification and continue in list form on the second page.
- (c) The submission letters for paper submissions and the Filing Description for submissions made via the System for Electronic Rate and Form Filing (SERFF) must comply with applicable circular letter and product outline guidance.
- (d) Substitution filings and follow-up correspondence with post-approval form changes requested prior to initial issuance of forms will not be permitted for Circular Letter No. 6 (2004) filings.

B.4) Filing of Non-English Versions of Forms

- (a) The English version of the form must be approved before the non-English version will be approved. The submission letter must identify, by form number, date of approval and Department file number, the previously approved form that is being translated into a non-English version.
- (b) The non-English version must have a different form number to distinguish it from the English version. For example, the Spanish version of form WL-123 could be WL-123-S.
- (c) An original certification by a translator must be provided indicating that the text of the form is an accurate and complete translation of the English version of the form. The certification must reference the specific form numbers of both the English and non-English forms and must reference the memorandum of variable material. The

certification may not use qualifying language such as “to the best of my knowledge and belief.”

- (d) An original certification by an officer of the insurer must be provided indicating that the officer has exercised due diligence in choosing a competent translator or translation service. The certification must reference the specific form numbers of both the English and non-English forms. The certification must state that the underlying English language policy form achieves a minimum Flesch score of 45 in accordance with Section 3102(c)(1)(D). Section 3102(b)(3).
- (e) If the approval of the English version of the form was subject to any conditions or limitations, then the non-English language version of the form will be subject to the same conditions or limitations.
- (f) If the non-English version of the form contains variable material, a memorandum of variable material must be provided. The exact language of any non-English alternate text must be set forth.

B.5) Filings for Out-of-State Delivery

The Department no longer requires the filing of policy forms to be delivered out of state by domestic insurers (except unallocated group annuity contracts, funding agreements or any other policy form specified by the superintendent pursuant to regulation). Section 3201(b)(2). Domestic insurers are required to annually file a list of policy forms issued by the insurer for delivery out of state. Section 3201(c)(6)(b).

II.C) Preparation of Forms

C.1) Duplicates

Filings, except for SERFF, must be made in duplicate. Section I.E.7. of Circular Letter No. 6 (1963).

C.2) Form Numbers

Form numbers must appear in the lower left corner of the cover page of the form. Section I.D. of Circular Letter No. 6 (1963). The lower left corner of the subsequent pages of the form must either contain the same form number as the cover page or be left blank. The subsequent pages may not contain form numbers that differ from the form number on the cover page. However, the data page of the policy may be separately approved as a different form with a different form number.

C.3) Hypothetical Data

All blank spaces for policy forms, except applications, must be filled in with hypothetical data. Section I.E.1. of Circular Letter No. 6 (1963).

C.4) Application

- (a) The application to be used with the policy form must be an approved form. When submitting a policy form to which a copy of the application will be attached when issued, the form number and Department file number of the previously approved application must be supplied. If the application has not been approved, the application form must be submitted with the policy forms for approval. If the application is already pending approval, please provide the Department file number. Section I.E.4. of Circular Letter No. 6 (1963).
- (b) The insurer must retain information in its records concerning which approved application is being used or has been used with the policy and the type of underwriting utilized. Such information must be available upon Department request. See Regulation 152.
- (c) The application to be used with an endowment policy that does not qualify as life insurance under the Internal Revenue Code must include language just above the signature line in bold print stating: **IMPORTANT: The increase in cash value of this endowment policy will eventually create annual taxable income for the policy owner.**
- (d) The application to be used with an indeterminate premium policy must include language to the effect that the initial or current premiums may change and the maximum guaranteed premiums may be charged. If the language does not appear in the application, a separate signed notice may be used and must be submitted for approval.

C.5) Final Format

Policy forms submitted for formal approval must be submitted in the form intended for actual issue. Section I.F.1. of Circular Letter No. 6 (1963). Revisions to font style, paper, weight and ink color are permitted provided that the forms continue to comply with all applicable laws, including but not limited to Insurance Law Sections 3102 and 3201(c)(4).

C.6) Submissions Made on Behalf of the Insurer

If the filing is made on behalf of the insurer by another party, a letter authorizing the third party to act on behalf of the insurer must be provided. The letter must be:

- (a) on company letterhead or include the company name in the subject line of the letter;
- (b) specifically addressed to the New York State Department of Financial Services;
- (c) properly executed by an authorized officer of the insurer;
- (d) dated; and
- (e) either
 - (i) specific to the file submitted for approval by including form number(s); or

- (ii) generally applicable to all policy forms filed on behalf of the insurer as long as a copy of such authorization is included in each submission.

It is the insurer's responsibility to ensure that their authorizations are accurate and reflect their current relationship with the third party filer.

C.7) Circular Letter No. 14 (1997)

Filings that are incomplete or do not comply with laws and regulations will be closed and returned. See Circular Letter No. 14 (1997). Note that if a product does not comply with a specific product outline requirement or is considered substantively non-compliant with applicable law, then the file may be closed.

II.D) Submission Letter Requirements/SERFF Submissions

For SERFF submissions, the Life Bureau no longer requires a separate signed cover letter to be included with submissions. Instead, any information that would ordinarily be included in the signed cover letter must be in the Filing Description under General Information. Inclusion of “please see cover letter” or phrases of similar intent will not meet this requirement.

Note: References in this outline to submission letter content requirements are also requirements for SERFF General Information unless otherwise noted.

D.1) Caption Requirement

For paper submissions, the “re” or caption of the submission letter must identify each of the forms that is being submitted for approval or filed for informational purposes and must be in compliance with Circular Letter No. 8 (1999). Section 3201(b)(6) (“Deemer”) filings must be identified in the “re” or caption. Circular Letter No. 6 (2004) filings must be identified in bold print in the “re” of the submission letter.

Please see the Department’s guidance for SERFF filings available on the Department’s website at <http://www.dfs.ny.gov/insurance/serflife.htm>.

D.2) Compliance with Section I.G. of Circular Letter No. 6 (1963)

- (a) Submit in duplicate, except for SERFF filings.
- (b) The submission letter must be signed by a representative of the insurer authorized to submit forms for filing or approval for the insurer.
- (c) Identify form number of each form submitted.
- (d) State the type of coverage provided.
- (e) Indicate whether (1) the form is replacing a previously approved form (provide the form number and date of approval); (2) the form will be issued in addition to other similar

forms and/or benefits (provide form numbers and dates of approval); or (3) the form is a new form unlike any previously approved form.

- (f) If the form is other than a policy (i.e. rider, endorsement, or insert page), give the form number of the policy form or forms with which it will be used, or, if for more general use, describe the type or group of such forms as well as whether the pending forms will be used with new and/or previously issued/delivered policies.
- (g) If there are similar forms (i.e., other individual whole life insurance policy forms similar to the submitted form) not being replaced, identify those forms and indicate why they are not being replaced.
- (h) If a form is intended to replace a very recently approved form because of an error found in the approved form and the approved form has not been issued, the insurer may request to make a substitution of the approved form using the regular prior approval process. The substitution request letter must confirm that the form has not been issued and identify the changes made to the corrected form. The insurer may, under these circumstances, use the same form number on the corrected form being submitted. If the original form was approved in paper format the insurer must also return the stamped original of the approved form to the Department. The substitution option is not available for policy forms approved under the Circular Letter No. 6 (2004) procedure.

Note: If the form has been issued, the substitution option is not available and the insurer must place a new form number on the corrected form and file the form as a new submission under any of the filing options.

D.3) Whole Life Plans

If the policy is to be approved for use with more than one whole life plan (for example, 10 pay or payment to age 65), the submission letter must describe each previously approved and/or pending whole life plan. The submission should include a separate set of specification pages, with a unique form number, for each whole life plan being submitted for approval.

D.4) Explanation of Unique Features and Markets

- (a) Submission letters must identify any special market intended (e.g., Section 3205(d) COLI market, mail-order, Section 403(b), pre-need etc.).
- (b) Submission letters must fully explain any product or feature that has not been previously approved by the Department for the insurer or is new to the marketplace in New York.

D.5) COLI Market

If the policy will be issued in the COLI market, please refer to Section 3205 and the COLI Product Outline on the Department's website.

D.6) Sex-Distinct/Unisex

Submission letters must advise whether the policy is sex-distinct or unisex (a policy may not be both sex-distinct and unisex). If sex-distinct, the letter must confirm that the policy will not be issued in any employer-employee situation subject to the Norris decision and/or Title VII of the Civil Rights Act of 1964. For employer-employee groups subject to the Norris decision, the insurer must submit either a unisex endorsement or a separate unisex policy to be used in such cases. If a previously approved unisex endorsement will be used with the policy for Norris or Title VII situations, the submission letter should so state (provide the form number and date of approval).

D.7) Noncompliance Explanation

If the policy form does not comply with a specific product outline provision, the submission letter must identify the provision and provide a complete explanation of the insurer's position on the issue. Such submissions may not be submitted through the Circular Letter No. 6 (2004) certified process unless the Department has given permission.

D.8) Informational Filings

- (a) An informational filing must be identified in the "Re" of the submission letter. All informational filings will be acknowledged by the Department indicating that the information submitted has been placed on file with the Department for informational purposes only. The insurer should wait for the acknowledgement from the Department that the information has been filed prior to its use.
- (b) For the submission of an informational filing through SERFF, the company should use a SERFF TOI of "Life – Informational", a SERFF Sub-TOI of "Form or Rate Related", a SERFF Filing Type of "Form", and a SERFF requested Filing Mode of "Informational".

D.9) Resubmissions

If the policy has been previously submitted to the Department and the file was closed, any resubmission of the policy to the Department must reference the file number of the previously closed file and address all outstanding issues in the new submission letter. The submission must be complete and may not incorporate previously submitted material by reference.

II.E) Attachments

E.1) Readability Certification

Provide a Flesch score certification signed by an officer of the insurer in accordance with Section 3102. The Flesch score must be at least 45. Please refer to the Department's February 18, 1982 letter, available on the Department's website, for a sample certification. Please note that the Memorandum of Variable Material for each form must be listed separately in the Flesch score certification.

E.2) Policy Illustration

The submission letter must state whether the policy form is to be marketed with or without an illustration. Section 53-3.1(b) of Regulation 74. If the policy will be marketed with an illustration, submit the certification required by Section 53-3.7(d) of Regulation 74.

E.3) Statement of Self-Support

Provide a statement of self-support in compliance with Section 4228(h) for each form in the submission except application forms and forms accompanied by a statement signed by the actuary that the form provide supplementary benefits which in the opinion of the actuary are de minimis. The statement of self-support must state that it is valid for any combination of variable material submitted for approval. Each plan of insurance must be self-supporting on its own.

E.4) Actuarial Nonforfeiture Certification

Provide a certification signed and dated by an actuary who is a member in good standing of the American Academy of Actuaries or the Society of Actuaries that the policy form is in compliance with the nonforfeiture requirements of the New York Insurance Law and regulations applicable to individual whole life insurance. The certification must also indicate that the actuary has read the forms, statements of variable material and all supporting actuarial material submitted with the file that is related to nonforfeiture.

Note: The nonforfeiture certification is not required for submissions made pursuant to Circular Letter 6 (2004). The general certification required by Circular Letter 6 (2004) eliminates the need for this separate certification.

E.5) Variable Material

The submission must include a separate detailed statement of variability for any variable material other than hypothetical data. The statement of variability is subject to approval and must comply with the filing guidance on the Department's website.

E.6) Statement on the Method of Computation of Values

If a detailed statement of the method of computation of the cash surrender values and paid-up nonforfeiture benefits shown in the policy is not stated therein, such detailed statement must be filed with the submission. Section 4221(a)(6) and Sections 42-2.7(c) and (d) of Regulation 149. See Section III.E.2 of this outline.

E.7) Federal Income Tax Disclosure for Endowment Policies

If the policy form is an endowment policy that does not qualify as life insurance under the Internal Revenue Code, submit a federal income tax disclosure form and a federal income tax withholding election form for informational purposes. Also, provide tax counsel certification that the disclosures to the applicant, the policy calculations, and the insurer's administration of the policy are in compliance with the Internal Revenue Code.

II.F) Key References

- F.1) Insurance Law: Sections 3102, 3105, 3201, 3203, 3204, 3205, 3206, 3207, 3209, 3210, 3212, 3214, 3220, 3227, 4221, 4222, 4228, 4231.
- F.2) Regulations: Regulation 34-A, Regulation 60, Regulation 74, Regulation 112, Regulation 113, Regulation 149.
- F.3) Circular Letters: CL 4 (1963), CL 6 (1963), CL 16 (1993), CL 14 (1997), CL 2 (1998), CL 8 (1999), CL 6 (2004), CL 21 (2008), CL 27 (2008).
- F.4) Federal Law: Internal Revenue Code Section 403(b).

III) Individual Whole Life

III.A) Cover Page

A.1) Insurer Name and Address

- (a) The licensed New York insurer's name must appear on the cover page (front or back) as well as the cover page of each rider.
- (b) The full street address of the insurer's Home Office must appear on the cover page, front or back, and should be bracketed or underlined to reflect possible future changes. For changes applicable to new business, an informational filing is required. For changes applicable to existing business, an endorsement setting forth the new address must be submitted for approval and sent to all holders of in-force policies. Please refer to guidance available on the Department's website.
- (c) In addition to the home office address, the full street address of the administrative or service office, if different than the home office address, may be set forth on the cover page, front or back. The administrative or service office address, if any, should be bracketed or underlined to reflect possible future changes. An informational filing is required for such changes.
- (d) If the name of another entity is included on the cover page (insurance group designation, name of the licensed parent company or licensed affiliate, etc.) or if a logo, trademark or other device is included, such name or device shall not be displayed in a manner that would have a tendency to mislead or deceive as to the true identity of the insurer, or create the impression that someone other than the insurer would have any responsibility for the financial obligations under the policy. Section 3201(c)(1). The name of the issuing insurer must be clearly disclosed and must be at least as prominent as any other entity mentioned. This paragraph applies to applications as well.
- (e) No unlicensed insurer name may appear anywhere on the form. Section 3201(c)(1).

- (f) No marketing name may appear in the policy including any riders. Note, a marketing name may be used in the application form for the policy, but only if it appears in addition to a generic description of the policy. Section 3201(c)(1).

A.2) Endowment Policy Disclosure

If the policy is an endowment policy that does not qualify as life insurance under the Internal Revenue Code, a prominent disclosure must appear on both the front and back cover pages stating that the increase in cash value of this endowment policy will eventually create annual taxable income for the policy owner.

A.3) Free Look Provision

A Free Look Period of not less than 10 nor more than 30 days from policy delivery whereby the policyholder may receive a full refund is required in accordance with Section 3203(a)(11). A 30 day Free Look Period is required for mail order situations. A 60 day Free Look Period is required in replacement situations. Section 51.6(d) of Regulation 60.

A.4) Form Identification Number

A form identification number (consisting of numerical digits, letters, or both) must appear in the lower left corner in accordance with Section I.D. of Circular Letter No. 6 (1963).

A.5) Brief Description of Policy

- (a) A description of the policy must appear in accordance with Section I.A. of Circular Letter No. 4 (1963). The word “Individual” must appear as part of the policy description, or for joint life forms, include either Death Benefit payable at First Death or Death Benefit payable at Second Death.
- (b) The description must include whether the policy is participating or non-participating in accordance with Section II.F.1. of Circular Letter No. 4 (1963).
- (c) Policies described as “Whole Life” must operate to provide coverage on a guaranteed basis for life or to the last age of the mortality table that underlies the nonforfeiture values in the policy. Section 3201(c)(1).

A policy that pays out an endowment equal to the face amount at the end of the last age of the mortality table may be referred to as either “Whole Life” or Endowment at that age.

- (d) If the policy provides that the death benefit is not available in a lump sum, the cover page must prominently disclose this information.

A.6) Officers’ Signatures

- (a) The signature of at least one officer of the insurer in order to execute the contract is required as a matter of contract law.

(b) Signatures should be underlined or bracketed to denote variable material.

III.B) Specifications Page

- B.1) All hypothetical data must appear on the specifications page. Section I.E.1. of Circular Letter No. 6 (1963).
- B.2) The policy specifications page for participating policies must state that dividends are not guaranteed and the insurer has the right to change the amount of dividend to be credited to the policy which may result in lower dividend cash values than were illustrated, or, if applicable, require more premiums to be paid than were illustrated. Section 3203(a)(15).
- B.3) The minimum guaranteed interest rate used to determine the guaranteed policy values must be specified. Section 3203(a)(17). This rate may not be variable.
- B.4) If the policy offers modal premium payments which result in a higher annual premium than an annual premium payment, there must be disclosure on the specifications page. The specifications page must:
 - (a) set forth the amount of the premium payment for each premium mode offered. For example, the specifications page would show the amount due for a monthly premium payment, a quarterly premium payment, a semi-annual premium payment and an annual premium payment, if each of these premium modes was available under the policy; or
 - (b) include a narrative disclosure to the effect that if payments are made more frequently than annually, the total annual premium will be higher than a single annual premium payment, together with sufficient information, such as the modal premium factor, that will allow the policyholder to calculate the modal premium amounts. Section 3201(c)(1).
- B.5) For indeterminate premium policies:
 - (a) The maximum guaranteed premium scale must be shown on the specifications page. See Section 3203(a)(4) and Section 3204.
 - (b) If the initial current premiums are shown, the guaranteed maximum premiums must be given at least equal prominence. See Section 3201(c)(1).
 - (c) Any level premium period on either a current or guaranteed basis must be disclosed. See Section 3201(c)(2).

III.C) Table of Contents

A table of contents or index is required for policies that are over 3,000 words or more than 3 pages regardless of the number of words in accordance with Section 3102(c)(1)(G).

III.D) Standard Provisions

D.1) Entire Contract

- (a) The policy shall state that the policy, together with the application if a copy of such application is attached to the policy when issued, shall constitute the entire contract between the parties. Policy language must be in compliance with Section 3203(a)(4) and Section 3204.
- (b) The application must be attached to the policy if it is to be part of the entire contract. Section 3203(a)(4).
- (c) Nothing can be incorporated by reference unless a copy is endorsed upon or attached to the contract. Section 3204(a)(1).
- (d) All statements made by, or by the authority of, the applicant for the issuance, reinstatement or renewal of any such policy shall be deemed representations and not warranties. Sections 3105 and 3204(c).
- (e) The entire contract provision may not include the words “in the absence of fraud.” Section II.H.7. of Circular Letter No. 4 (1963).
- (f) The contract may not be modified, nor may any rights or requirements be waived, except in writing signed by a person specified by the insurer in the policy. Section 3204(a)(3).
- (g) The policy form must not include a unilateral amendment provision that grants the insurer the right to change the terms and conditions of the policy, except where such change or amendment is required to conform the policy with applicable New York and federal law. Any such change or amendment may not be effective without prior approval of the Department. Prior written consent of the policyholder is required if such change diminishes the rights and/or benefits under a previously issued policy in any manner. Section 3204.

D.2) Grace Period

- (a) The policy must provide for a grace period of 31 days or one month. Coverage continues in full force during the grace period. Section 3203(a)(1).
- (b) The policy must state that if the death of the insured occurs within the grace period, the insurer may deduct the portion of any unpaid premium applicable to the period ending with the last day of the policy month in which such death occurred. If death occurs during a period for which premium has been paid, the insurer must add to the policy proceeds a refund of any premium actually paid for any period beyond the policy month in which the death occurred. Section 3203(a)(2). Interest may not be added to any overdue premium.

- (c) For indeterminate premium policies, the grace period provision must refer to the premium due (i.e., the current premium) rather than the maximum guaranteed premium stated in the policy. Section 3201(c)(2).

D.3) Incontestability

- (a) Policy language must be in compliance with Section 3203(a)(3) which provides that a policy is incontestable after it has been in force during the lifetime of the insured for a period of no greater than two years from the date of issue.
- (b) Contests must be based on material misrepresentations in accordance with Section 3105(b).
- (c) Regarding a policy issued as a result of a conversion option from term insurance, either provide in the policy that the incontestable period for the converted amount does not start anew but is effective as of the date the original term policy was issued, or provide the form number, approval date and Department file number of the endorsement to be attached to the conversion policy stating that the incontestability period will run from the date the original term policy was issued. Section II.H.6 of Circular Letter No. 4 (1963).
- (d) Exceptions to the incontestability provision are permitted for non-payment of premium, violation of policy conditions as relating to service in the armed forces and, at the option of the insurer, provisions relating to benefits for total and permanent disability and additional benefits for accidental death. Section 3203(a)(3). An exception to the incontestability provision for fraud is not authorized under Section 3203(a)(3).

D.4) Reinstatement

A policy that provides for scheduled premium payments must provide for a minimum reinstatement period of three years from the date of default. The reinstatement provision must be in compliance with Section 3203(a)(10).

D.5) Incontestability After Reinstatement

Upon reinstatement, a policy shall be incontestable after the same period following reinstatement with the conditions and exceptions provided in the policy with respect to incontestability. Section 3210. Any contest may only be based on material misrepresentations in the application for reinstatement.

D.6) Exclusions

- (a) Resident of a Specified Foreign Country
 - (i) An insurer 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 3203(b)(1).

- (ii) If death occurs while the insured is a resident of a specified foreign country or countries, the insurer must pay the reserve on the face amount in accordance with Section 3203(b)(3) or if the policy has been in force for less than two years, the insurer shall pay the amount of the gross premiums charged on the policy less dividends paid and less any indebtedness, including interest due or accrued.

(b) Suicide

- (i) An insurer may exclude or restrict liability in the event of death caused by suicide within two years from the issue date of the policy in accordance with Section 3203(b)(1)(B).
- (ii) The insurer shall pay the amount of the gross premiums charged on the policy less dividends paid and less any indebtedness, including interest due or accrued. Section 3203(b)(3).
- (iii) Any suicide exclusion provision shall not include the words “while sane or insane.” Section II.I.1. of Circular Letter No. 4 (1963).
- (iv) The suicide exclusion may not begin again upon reinstatement. Section 3210 applies only to the incontestability provision.
- (v) It must be clearly stated that the suicide provision will begin again only for “applied for” increases and will be applicable only to the “applied for” amount.
- (vi) Regarding a policy issued as a result of a conversion option from term insurance, either provide in the policy that the suicide period does not start anew but is effective as of the date the original term policy was issued, or provide the form number, approval date and Department file number of the endorsement to be attached to the conversion policy stating that the suicide period will run from the date the original term policy was issued. Section II.H.6 of Circular Letter No. 4 (1963). See Section 3220(a)(6) for conversion from group to individual insurance.

(c) Aviation

- (i) An insurer may exclude or restrict liability in the event of death caused by aviation under conditions specified in the policy in accordance with Section 3203(b)(1)(C).
- (ii) If a death occurs that is subject to an aviation exclusion or restriction, the insurer must pay the reserve on the face amount in accordance with Section 3203(b)(3) or if the policy has been in force for less than two years, the insurer shall pay the amount of the gross premiums charged on the policy less dividends and less any indebtedness, including interest due or accrued.

(d) Hazardous Occupations

- (i) An insurer may exclude or restrict liability in the event of death caused by hazardous occupations specified in the policy, provided death occurs within two years from the issue date of the policy. Section 3203(b)(1)(D).
 - (ii) The insurer shall pay the amount of the gross premiums charged on the policy less dividends paid and less any indebtedness, including interest due or accrued. Section 3203(b)(3).
- (e) War
- (i) An insurer 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 any armed forces or attached civilian unit and death occurs no later than six months after the termination of such service (Section 3203(c)(1)(A));
 - (II) The special hazards incident to service in any armed forces or attached civilian unit, if the cause of death occurs during the period of such service while the insured is outside the home area, and if death occurs outside the home area or within six months after the insured's return to the home area while in such service or within six months after the termination of such service, whichever is earlier (Section 3203(c)(1)(B));
 - (III) War or act of war, within two years from the date of issue of the policy, if the cause of death occurs while the insured is outside the home area but is not serving in any armed forces or attached civilian unit, and death occurs outside the home area or within six months after the insured's return to the home area (Section 3203(c)(1)(C)).
 - (ii) Any war exclusions must be drafted in accordance with the definitions listed in Section 3203(c)(3).
 - (iii) 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 3203(c)(4).
 - (iv) Any such war exclusion shall terminate six months after the end of the war in which the insured was engaged or the war in which the insured was likely to engage in at the time of application for the policy, after the discharge, release or separation of the insured from active military service, after the demobilization of the insured, or after the insured permanently leaves the war area, whichever occurs first. Section 3203(c)(5). This termination requirement does not apply to war exclusions for disability benefits under Section 3215 or accidental death benefits provided either in the life insurance policy itself or by rider to the policy.

- (v) If a death occurs that is subject to an exclusion or restriction pursuant to Section 3203(c)(1)(A) or (B), the insurer must pay the reserve on the face amount in accordance with Section 3203(b)(3) or, if the policy has been in force for less than two years, the insurer shall pay the amount of the gross premiums charged on the policy less dividends and less any indebtedness, including interest due or accrued. If a death occurs that is subject to an exclusion or restriction pursuant to Section 3203(c)(1)(C), the insurer shall pay the amount of the gross premiums charged on the policy less dividends paid and less any indebtedness, including interest due or accrued. Section 3203(b)(3).
- (vi) Any life insurance policy 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 carefully.
Certain (war, travel) risks are not assumed.

(state which or both)

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

Section 3201(c)(4).

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 policy itself or by rider to the policy.

Note: In accordance with Section 336, the 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 state that a war restriction is included in the policy. Section 45.1 of Regulation 19.

- (f) Sections 3203(b) and (c) provide for the only permissible exclusions. Exclusions from paying the death benefit due to medical conditions or terrorism are not permitted.

D.7) Policy Loans

- (a) A policy loan provision is required pursuant to Section 3203(a)(8)(A).
- (b) Loan value is defined as the cash surrender value at the end of the current policy year. Section 4222. The insurer may reduce the loan value by any unpaid premium balance for the current policy year and any loan interest payable in advance. Sections 3203(a)(8)(D) and 3203(a)(8)(E).
- (c) The loan interest rate must be:
 - (i) a fixed interest rate not to exceed either 7.4% (payable in advance) or 8% (payable in arrears),

- (ii) an adjustable interest rate up to a maximum cap of 8%, or
- (iii) an adjustable interest rate with no cap but subject to the maximum limits of Section 3206.

Sections 3203(a)(8)(F) and 3206.

- (d) For adjustable rate loans (whether subject to the maximum cap of 8% or the maximum limits of Section 3206), the policy must specify the frequency of adjustment which must be at least once every 12 months, but not more frequently than once in any three month period. Section 3203(a)(8)(F).
- (e) The adjustable interest rate with no cap or a cap greater than 8% but subject to the maximum limits of Section 3206 must comply with the following requirements:
 - (i) Adjustable maximum loan rate shall not exceed the greater of:
 - (I) Published Monthly Average for the calendar month ending two months previous, or
 - (II) Cash Surrender Value rate plus 1%
 - (ii) Adjustments made on regular intervals
 - (I) may be increased when rate increases by $\frac{1}{2}\%$ or more
 - (II) must be decreased when rate declines by $\frac{1}{2}\%$ or more
 - (iii) The published monthly average is the Moody's Corporate Bond Yield Averages – Monthly Average Corporates.
 - (iv) The loan provision for policies providing for an adjustable rate must indicate that the policy cannot lapse as a result of a change in the policy loan interest rate during the policy year of such change. Section 3206(e).

Note: The insurer must comply with the notice requirements for adjustable rate loans in Section 3206(d).

- (f) Based on Section 3203(a)(8)(G) the policy may provide:
 - (i) that if the interest on the loan is not paid when due, it shall be added to the existing loan, and bear interest at the applicable rate or rates payable on the loan in accordance with the terms of the policy; and
 - (ii) Subject to the Section 3206(e) requirement for adjustable loan provisions that no policy shall terminate in a policy year as the sole result of a change in the interest rate, when the total indebtedness on the policy including interest due or accrued, equals or exceeds the amount of the policy's loan value and if at least thirty days' prior notice shall have been given in the manner provided in Section 3211, then the policy shall terminate and become void.

- (g) The sole security for the loan shall be assignment or pledge of the policy. Section 3203(a)(8)(B).
- (h) Policy shall state that the insurer reserves the right to defer payment of the loan value, except to pay premiums, for 6 months after receipt of the loan application. Section 4222.
- (i) A required minimum loan amount is not authorized by statute. Section 3203(a)(8)(A).
- (j) An insurer may not restrict the number of loans taken out by the policyholder except that the total indebtedness cannot exceed the policy's loan value. The insurer may require repayment of the previous loan with the new loan proceeds so that only one outstanding loan exists at a time. Section 3203(a)(8)(A).
- (k) Any indebtedness may be deducted from the cash surrender value upon surrender or in determining any extended term nonforfeiture benefit. Reduced paid-up nonforfeiture benefits may be determined with or without indebtedness.
- (l) If the policy is in force under a paid-up nonforfeiture option (other than extended term), the policy loan provision must still be in effect.
- (m) Any automatic premium loan provision shall indicate that it is effective only if affirmatively elected and that such election is subject to revocation. The policy shall clearly indicate how the provision will apply if the loan value is insufficient to pay the stated premium due and the disposition of any sums not used to pay premiums. The provision must be separately captioned and not included under or with the nonforfeiture provisions. Section II.E.2. of Circular Letter No. 4 (1963).
- (n) An insurer may not charge or assess a fee for the application, processing, disbursement, or repayment of any policy loan. Section 3201(c)(2).

D.8) Participating Policies

- (a) Section 3203(a)(6) requires the policy to state that the insurer annually ascertains and apportions any divisible surplus accruing on the policy.
- (b) Policy language regarding participation in surplus must be in compliance with Section 4231.
- (c) The following dividend options must be made available: cash, reduction in premium payments (if there are premiums), accumulation at interest and purchase of paid-up additions. Section 4231(b)(1). Available dividend options must be stated in the policy. Section 3204. The Department has approved one-year term additions as an additional dividend option.
- (d) The automatic dividend option when none is elected is paid-up additions. Section 4231(b)(4). This automatic option must be stated in the policy. Section 3204.

- (e) Whenever one year term insurance is purchased by dividends in connection with a policy, it shall provide for an equitable adjustment in the event of termination of the policy (other than by death) prior to the expiration of such one year term insurance. Section II.F.2. of Circular Letter No. 4 (1963).
- (f) Any additional supplemental benefits attached to a participating policy, whether or not considered in determining surplus earnings, may not be specially labeled or described as non-participating. Section II.F.3. of Circular Letter No. 4 (1963).
- (g) If dividends are not expected to be paid, the policy should so state.

D.9) Misstatement of Age or Sex

- (a) A Misstatement of Age provision is required to be in the policy and shall state that if the age of the insured has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age. Section 3203(a)(5).
- (b) If the premiums, benefits or values differ depending upon the sex of the insured, the misstatement of age may include a provision for adjustment in the event of misstatement of sex. Section II.H.8. of Circular Letter No. 4 (1963).

D.10) Issues Regarding the End of the Mortality Table and Tax Consequences

- (a) Policy premiums cannot continue for attained ages beyond the last age in the mortality table that underlies the nonforfeiture values in the policy.
- (b) The cash values after the last age in the mortality table underlying the nonforfeiture values must increase annually at an interest rate not less than a reasonable current interest rate (i.e., the settlement option interest rate, the interest rate paid on death claims). The Department would also find acceptable the use of an interest rate not less than the maximum nonforfeiture interest rate in effect at the time the policy was issued.
- (c) The death benefit cannot be less than the cash value at the time of death.
- (d) The policy may not place any restrictions on any rights or benefits required by statute (i.e., making or repaying loans) for attained ages beyond the end of the mortality table that underlies the nonforfeiture values in the policy.
- (e) The policy may state: "There may be tax consequences to either surrendering the policy on or after Age ___ [fill in appropriate age] or continuing the policy past Age ___ [fill in appropriate age]. A tax advisor should be consulted to determine which choice best meets your needs." As of the date of this outline, due to the Internal Revenue Code, Age 100 is the appropriate age to complete the above brackets. The Department would also approve Age 121. See IRS Revenue Procedure 2010-28.

D.11) Settlement Options

- (a) If death benefit proceeds can be paid out in installment or annuity payments and a static annuity table is used, there must be a table in the policy. The guaranteed interest rate and mortality table being utilized for the tables must be identified in the policy for disclosure purposes. See Section 3203(a)(9). If a non-static (dynamic) mortality table is used, see section (b) below.
- (b) If death benefit proceeds will be paid using a dynamic mortality table such as the 2012 Individual Annuity Reserving (“IAR”) Table, no table of annuity or installment payments is required in the policy, however:
 - (i) The policy must describe the guaranteed purchase rates by reference to interest and mortality assumptions; and
 - (ii) The policy must provide the insurer’s contact information for the policyholder to obtain more detailed information, including a purchase rate quote. The contact information should provide more than just the company’s website address in view of policyholders who may not have access to the internet (i.e. a telephone number);

Note: We recommend that additional information be provided in the policy, such as a set of illustrative guaranteed purchase rates or a list of the guaranteed purchase rates for a specific age and for specific birth years in 10 year increments.

- (c) If any life income settlement option with a period certain provides for installment payments of the same amount at some ages for different periods certain, the policy must state that the insurer will deem an election to have been made for the longest period certain which could have been elected for such age and amount. For example, if at age 45 the life income option with 10 years certain paid \$50 per month for 10 years certain per \$1000 of proceeds and the life income option with 20 years certain paid \$50 per month for 20 years certain per \$1000 of proceeds, the life option with 20 years certain would be deemed chosen. Section II.J.1. of Circular Letter No. 4 (1963).
- (d) Policy language may not refer to the placement of death proceeds into a checking or other type of account since this would relate only to the manner of distribution. Section 3201(a).
- (e) Settlement options need not appear in the policy. However, in light of Circular Letter 4 of 2012, in order for insurers to be able to offer other settlement options to the policyholder or beneficiary in addition to the payment of the full life insurance proceeds in a single check to the beneficiary, language must be included in the policy forms that indicates that additional options may be made available. The Department would consider the following language acceptable and would consider alternatives on a case-by-case basis:
 - (i) “Unless otherwise elected by the policyholder or beneficiary, benefits will be paid in a single lump sum check. We may make other options available in addition to the single check option.”

- (ii) “When the benefit is payable, we will pay it in a single lump sum check, unless another method of payment is requested by the policyholder or beneficiary and agreed to by us.”

D.12) Additional Standard Provisions for Indeterminate Premium Policies

- (a) Policy captions and provisions describing the premium adjustment must characterize such adjustment as a change in initial or current premium, rather than a reduction in premium from the maximum guaranteed premium. Section 3201 (c)(2) and Section 3204.
- (b) The maximum guaranteed premiums must be shown for all years.
- (c) The grace period must refer to the premium due (i.e., the current premium) and not the guaranteed maximum premium stated in the policy. Section 3201(c)(2).
- (d) If the initial premium scale appears in the policy, then the policy shall set forth in equal prominence the maximum guaranteed premium and the initial premium scale.
- (e) If any year-end nonforfeiture values are based on the initial current premium scale, then such scale must appear in the policy. Section 42-2.6(c) of Regulation 149.

D.13) Additional Standard Provisions for Endowment Policies that do not Qualify as Life Insurance Under the Internal Revenue Code

- (a) The manner in which the insurer may withhold tax in connection with the policy (i.e., policy loan provision) must be stated.
- (b) Disclosure requirements are outlined in Sections II.C.4(c), II.E.7 and III.A.2 of this outline.

III.E) Nonforfeiture Provisions

E.1) Interest and Mortality Tables

- (a) The policy must specify the mortality table and interest rate used in calculating the cash surrender values and any paid-up nonforfeiture benefits under the policy. Section 4221(a)(5).

Note: If the numerical value of the interest rate appears only in the specification page and is referred to elsewhere as “the interest rate shown in the specification page,” then only the specification page needs re-filing in the case of an interest rate change.

- (b) The mortality table description must be complete (e.g., sex distinct or unisex, smoker - nonsmoker or composite, Age Last Birthday or Age Nearest Birthday, etc.). Section 42-2.7(a) of Regulation 149.

- (c) A rider based on the 2001 CSO table can be attached to a policy based on the 1980 CSO table if the rider is ignored in the nonforfeiture calculation (Section 4221(m)(3)) or if the rider is supplemental (i.e., nonforfeiture values are calculated separately (Section 4221(c)(2))). Note that Internal Revenue Code Section 7702 tax implications may arise and the insurer should consult tax counsel.
- (d) If a rating class within a plan of insurance does not have separate premiums for smokers and non-smokers, non-smoker mortality tables are not available to determine minimum cash surrender values and smoker mortality tables are not available to determine minimum paid-up nonforfeiture benefits for that rating class. Regulation 113.
- (e) The interest rate stated in the policy for determining cash surrender values cannot exceed the nonforfeiture interest rate of Sections 4221(k)(9) and (10).
- (f) The use of male mortality tables (100% male, 0% female blended table) for unisex policies with unisex premiums is permissible.
- (g) The mortality tables in Appendix 25 of Regulation 179 are the tables on which minimum nonforfeiture values are based.

E.2) Calculation of Numerical Values

- (a) The policy must contain a table showing the cash surrender values, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter. Values and benefits are to be calculated assuming that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy. Section 4221(a)(5).
- (b) The policy must have a statement of the method used in calculating the cash surrender values and paid-up nonforfeiture benefits for policy anniversaries not shown in the table, including, if applicable, those policy anniversaries beyond the last age of the mortality table. Section 4221(a)(6). The statement of the method shall include whether curtate or continuous factors are used. Section 42-2.7(b) of Regulation 149. An alternative to stating the method in the policy is to show the values for all ages (durations) to the end of the mortality table and file the description with the Department. The detailed statement must include the method for determining values available between policy anniversaries unless such statement is provided in the actuarial memorandum included in the policy form filing and the policy states that the method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered. Section 42-2.7(d) of Regulation 149.
- (c) Any detailed statement of the nonforfeiture method must be complete. If the statement is not in the policy, then the policy must have a statement to the effect that “the method of computation of values and benefits of the policy has been filed with the insurance supervisory official of the state in which the policy is delivered.” Section 4221(a)(6). If nonforfeiture factors are shown in the policy, the policy or actuarial memorandum must describe the method used to determine the nonforfeiture factors. If the method used to

determine the nonforfeiture factors is not in the policy, then the above statement is needed in the policy.

- (d) The complete description of the mortality table and nonforfeiture method must permit the policyholder to calculate anniversary values using the information in the policy and published data for the years after the values are shown in the table. Section 42-2.7(a) of Regulation 149.
- (e) Acceptable statements of the nonforfeiture method include, but are not limited to:
 - (i) the minimum nonforfeiture method;
 - (ii) the net level premium method; and
 - (iii) the present value of guaranteed benefits provided for by the policy less the present value of the nonforfeiture factors for each year after the date of determination for which a premium is due. If using nonforfeiture factors, the nonforfeiture factors needed for calculations must appear in the policy.

Section 42-2.7(c) of Regulation 149.

Note: The Commissioners' reserve valuation method is also an acceptable statement of the nonforfeiture method.

E.3) Minimum Cash Surrender Values

- (a) Cash surrender values, in general, must not be less than the present value of benefits less the present value of adjusted premiums as calculated according to Section 4221(k). Section 4221(c)(1). Patterns of premiums or benefits as described in Section 4221(l) may need Superintendent approval and may not be submitted under the Circular Letter No. 6 (2004) certified approval process.
- (b) The policy fee must be stated in the policy if the policy fee is excluded from the gross premiums in the nonforfeiture calculation. Nonforfeiture adjusted premiums are required to be a uniform percentage of the corresponding gross premiums. Section 4221(k)(2).
- (c) Extra premiums to cover special hazards or impairments must be stated in the policy if the extra premiums are excluded from the gross premiums in the nonforfeiture calculation. Nonforfeiture adjusted premiums are required to be a uniform percentage of the corresponding gross premiums. Section 4221(k)(2).
- (d) The policy must provide that, if the policy becomes paid-up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary, the insurer will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value not less than the present value, on such anniversary, of the future guaranteed benefits, including any existing paid-up additions, decreased by any policy indebtedness on the day of surrender. See Sections 4221(a)(4) and 4221(c)(4).

- (e) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available 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. Section 4221(k)(9)(B)(ii).
- (f) For policies that provide additional benefits through rider or supplemental provision, the cash surrender value cannot be less than the sum of the cash surrender value for the base policy and the cash surrender value for the additional benefit. Section 4221(c)(2).
- (g) Minimum nonforfeiture values may be rounded to the nearest dollar. Section 42-2.4 of Regulation 149. For example, if the actual minimum required cash value for a given class at a specific anniversary is \$12.12 per \$1,000 then the cash value of a \$4,000 policy could be shown as \$12 per thousand (\$48.48 rounded to \$48), but the cash value of a \$5,000 policy could not be shown as \$12 per thousand (\$60.60 can be rounded to \$61.00 but not to \$60.00).

E.4) Paid-Up Benefits

- (a) The policy must specify a paid-up nonforfeiture benefit (extended term insurance or reduced paid-up benefit) upon default of any premium payment. Section 4221(a)(1). Nonforfeiture benefits in addition to the specified option may be provided.
- (b) The policy must provide that, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, the cash surrender value. Section 4221(a)(2).
- (c) The policy must provide that the specified paid-up nonforfeiture benefit shall become effective unless another available option is elected not later than sixty days after the due date of the premium in default. Section 4221(a)(3). Unless the cash surrender value is provided or an optional nonforfeiture benefit is chosen, the specified paid-up nonforfeiture benefit is in effect from the end of the grace period until the end of the sixty-day period.
- (d) The present value of any paid up nonforfeiture benefit on a premium due date cannot be less than the cash surrender value on such date. Section 4221(d).
- (e) The amount of any paid-up nonforfeiture benefit must be calculated using an interest rate no lower than that used to determine cash surrender values. Section 4221(k)(9)(B)(iii).
- (f) The policy must provide that, if the policy becomes paid-up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary, the insurer will pay, upon surrender of the policy within thirty days after any policy anniversary, the cash surrender value on such anniversary. Section 4221(a)(4).

E.5) Required Disclosures

- (a) The policy must have a statement that "the cash surrender values and paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by any statute of the state in which the policy is delivered." Section 4221(a)(6). The statement must refer to both the cash surrender values and paid-up nonforfeiture benefits.
- (b) The policy must explain how nonforfeiture benefits are affected by paid-up additions and indebtedness. Section 4221(a)(6).
- (c) The policy must state that insurer reserves the right to defer payment of cash surrender values for 6 months from date of request. Do not restrict this right, for example, by requiring the approval of the Superintendent. See the paragraph following Section 4221(a)(8).

E.6) Special Considerations

- (a) Products that provide both guaranteed cash values and also allow for the payment of excess interest (or other credits) are subject to Section 4232(b) and therefore must comply with the nonforfeiture requirements of Section 4221(n-1). An example of this type of product is interest sensitive whole life. The Individual Universal Life Insurance Product Outline must be used instead of this outline.
- (b) A permanent life policy with a cash surrender value subject to a market value adjustment must comply with Regulation 136 and Section 4221(a)(5-b).
- (c) Joint Life Policies
 - (i) Minimum nonforfeiture values are based on the exact joint life mortality using mortality tables that would be required for each single life and assuming that the mortality of the joint lives are independent. Section 42-2.5 of Regulation 149.
 - (ii) For second-to-die policies, minimum nonforfeiture values and policy disclosures may be based on the use of joint life mortality throughout the lifetime of the policy. Minimum nonforfeiture values and policy disclosures on each possible status of the lives under the terms of the policy is also acceptable if the disclosures and minimum value requirements of the Insurance Law are met for each possible status. For example, if the status of a second to die policy is based on a single life status after the first death, then the required disclosures under Section 4221(a)(5) must be shown in the policy for each possible status of joint or single life. Section 42-2.5 of Regulation 149.
- (d) Indeterminate Premium Policies
 - (i) Section 42-2.6 of Regulation 149 requires the minimum nonforfeiture value at the end of any policy year to be the greater of:

- (I) the minimum nonforfeiture value required for that year based on the guaranteed gross premium scale; and
 - (II) the minimum nonforfeiture value required for that year based on the initial current premium scale.
- (ii) If any year-end nonforfeiture values for indeterminate premium policies are based on the initial current premium scale, then such scale must appear in the policy. Section 42-2.6(c) of Regulation 149.
- (e) If death benefits are not level between policy anniversaries, minimum values must comply with Section 42-2.8 of Regulation 149. The present value of the future guaranteed death benefits may be determined by substituting, for the death benefits payable during any year, a time and amount weighted average of the death benefits provided as payable at the end of the year. As an example, for a death benefit of \$100,000 on an anniversary that increases after 8 months to \$160,000, a death benefit of \$120,000 payable at the end of the year may be substituted.
 - (f) Minimum values at times other than policy anniversaries must comply with Section 42-2.9 of Regulation 149.

III.F) Other Provisions

F.1) Interest on Surrenders and Policy Loans

Policy language, if any, regarding a deferral period on payment of surrenders or policy loans (other than the 6-month deferral pursuant to Section 4222 or the paragraph following Section 4221(a)(8)) must comply with Section 3227. Interest is payable if the amount of interest is at least \$25 and if the funds are not mailed or delivered by the insurer within 10 working days after receipt of the documentation necessary to complete the transaction. Interest shall be computed at the rate of interest currently paid by the insurer on proceeds left under the interest only settlement option. Sections 3227(a) and 3214(c). The policy may state that the interest rate will be at least equal to the rate required by the state in which the policy was delivered. However, “rate required by law” language is not permitted.

F.2) Interest on Death Proceeds

Policy language, if any, must be in compliance with Section 3214. If no action has been commenced, interest shall be computed daily at the rate of interest currently paid by the insurer on proceeds left under the interest only settlement option from the date of death. The policy may state that the interest rate will be at least equal to the rate required by the state in which the policy was delivered. However, “rate required by law” language is not permitted.

F.3) Owner and Beneficiary Provisions

- (a) The policy must describe how contingent owner and joint owner provisions operate if such options are made available. Required for disclosure purposes. See Sections 3203(a)(4) and 3204.

- (b) For disclosure purposes, the policy must describe how primary, secondary, and multiple beneficiary designations operate if such options are made available. See Sections 3203(a)(4) and 3204.
- (c) If the policy provides for an automatic survivorship provision in the event of simultaneous death, the provisions must include the phrase “unless otherwise provided” so that the policy owner may choose another alternative.
- (d) 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 insurer prior to receipt of this notice by the insurer. The change should not take effect only when recorded by the insurer since there could be substantial delays. The Department has found such delays to be unfair, unjust and inequitable in violation of Section 3201(c)(2).
- (e) For disclosure purposes, if irrevocable beneficiaries are expressly permitted in the policy, the beneficiary provision must clearly explain that such beneficiaries cannot be changed without the written consent of the irrevocable beneficiaries as compared to the revocable beneficiary designations. See Sections 3203(a)(4) and 3204.

F.4) Assignments

- (a) Life insurance policies are freely assignable unless otherwise restricted under the policy for tax qualification purposes.
- (b) The insurer’s procedures on assignments (i.e. must be in writing, filed with the insurer, etc.) should be described in the policy for disclosure purposes. See Sections 3203 (a)(4) and 3204.
- (c) An assignment must take effect on the date the assignment is signed subject to any actions taken by the insurer prior to receipt of the assignment. The assignment should not take effect only when recorded by the insurer 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).

F.5) Claims of Creditors

Certain life insurance proceeds may be exempt from claims of creditors. Policy language, if any, must be in compliance with Section 3212.

F.6) Proof of Loss

The policy may indicate that due proof of death (i.e., a copy of the death certificate) and information reasonably necessary to process the death claim (i.e., beneficiary identification) must be provided to the insurer.

F.7) Arbitration

Binding mandatory arbitration provisions are not permitted.

III.G) Dividend Recognition Issues

If a policy provides that loans may affect the amount of dividends payable, there must be language to that effect in the policy loan provision, in the dividend provision and in the sales illustrations. See Section 3201(c)(2).

III.H) Policies For The Section 403(b) Market

H.1) Compliance with Circular Letter No. 16 (1993).

H.2) Neither the policy loan provision of Section 3203(a)(8) nor the nonforfeiture provision of Section 4221 applies to any policy qualified for special tax treatment under Section 403(b) of the Internal Revenue Code to the extent that such application would prevent such tax qualification. Sections 3203(a)(8)(J) and 4221(q).

H.3) Policy loan provisions should not be deleted but must be revised to comply with Section 72(p) of the Internal Revenue Code.

H.4) The disclosure form required by Section 3209 (j) must be provided at or prior to the time of application and must be submitted to the Department for approval.

H.5) The insurer must provide tax counsel certification that the policy is in compliance with the Internal Revenue Code.

H.6) The policy must be issued on a unisex basis or used with a unisex endorsement if the employer-employee group is subject to the Norris decision.

III.I) Minors

I.1) Policies issued on the lives of minors (under the age of 14 ½) must be in compliance with the monetary limitations of Section 3207. Such limitations must be set out in the policy or in an endorsement to be attached to the policy when the policy provides for coverage on the life of a minor. Section III.B.1. of Circular Letter No. 4 (1963).

I.2) Section 3207(c) provides an exception to the monetary limitations when the person seeking to effectuate (and pay the premiums for) the insurance has an insurable interest in the child, and the minor is not dependent on this person for support and maintenance.