

CHAPTER 61A

LIFE INSURANCE

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61A.072 ACCELERATED BENEFITS.

Subdivision 1. **Definitions.** (a) "Accelerated benefits" covered under this section are benefits payable under the life insurance contract:

(1) to a policyholder or certificate holder, during the lifetime of the insured, in the anticipation of death or upon the occurrence of a specified life-threatening or catastrophic condition as defined by the policy or rider;

(2) that reduce the death benefit otherwise payable under the life insurance contract; and

(3) that are payable upon the occurrence of a single qualifying event that results in the payment of a benefit amount fixed at the time of acceleration.

(b) "Qualifying event" means one or more of the following:

(1) a medical condition that would result in a drastically limited life span as specified in the contract;

(2) a medical condition that has required or requires extraordinary medical intervention, such as, but not limited to, major organ transplant or continuous artificial life support without which the insured would die;

(3) a condition that usually requires continuous confinement in an eligible institution as defined in the contract if the insured is expected to remain there for the rest of the insured's life;

(4) a medical condition that would, in the absence of extensive or extraordinary medical treatment, result in a drastically limited life span. Such conditions may include, but are not limited to, one or more of the following:

(i) coronary artery disease resulting in an acute infarction or requiring surgery;

(ii) permanent neurological deficit resulting from cerebral vascular accident;

(iii) end stage renal failure;

(iv) Acquired Immune Deficiency Syndrome; or

(v) other medical conditions that the commissioner shall approve for any particular filing; or

(5) other qualifying events that the commissioner approves for a particular filing.

Subd. 2. **Type of product.** Accelerated benefit riders and life insurance policies with accelerated benefit provisions are primarily mortality risks rather than morbidity risks. They are life insurance benefits subject to this chapter.

Subd. 3. **Assignee or beneficiary.** Before paying the accelerated benefit, the insurer is required to obtain from an assignee or irrevocable beneficiary a signed acknowledgment of concurrence for payout. If the insurer making the accelerated benefit is itself the assignee under the policy, no acknowledgment is required.

Subd. 4. **Criteria for payment.** (a) Contract payment options shall include the option to take the benefit as a lump sum. The benefit shall not be made available as an annuity contingent upon the life of the insured.

(b) No restrictions are permitted on the use of the proceeds.

(c) If any death benefit remains after payment of an accelerated benefit, the accidental death benefit provision, if any, in the policy or rider shall not be affected by the payment of the accelerated benefit.

Subd. 5. **Disclosures.** (a) The terminology “accelerated benefit” shall be included in the descriptive title. Products regulated under this section shall not be described or marketed as long-term care insurance or as providing long-term care benefits.

(b) A disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents.

(c)(1) A written disclosure including, but not necessarily limited to, a brief description of the accelerated benefit and definitions of the conditions or occurrences triggering payment of the benefits shall be given to the applicant. The description shall include an explanation of any effect of the payment of a benefit on the policy’s cash value, accumulation account, death benefit, premium, policy loans, and policy liens.

(i) In the case of agent-solicited insurance, the agent shall provide the disclosure form to the applicant prior to or concurrently with the application. Acknowledgment of the disclosure shall be signed by the applicant and writing agent.

(ii) In the case of a solicitation by direct response methods, the insurer shall provide the disclosure form to the applicant at the time the policy is delivered, with a notice that a full premium refund shall be received if the policy is returned to the company within the free look period.

(iii) In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the certificate holder.

(2) If there is a premium or cost of insurance charge, the insurer shall give the applicant a generic illustration numerically demonstrating any effect of the payment of a benefit on the policy’s cash value, accumulation account, death benefit, premium, policy loans, and policy liens.

(i) In the case of agent-solicited insurance, the agent shall provide the illustration to the applicant prior to or concurrently with the application.

(ii) In the case of a solicitation by direct response methods, the insurer shall provide the illustration to the applicant at the time the policy is delivered.

(iii) In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the certificate holder.

(3) Disclosure of premium charge.

(i) An insurer with financing options other than as described in subdivision 9, paragraph (a), clauses (2) and (3), shall disclose to the policy owner any premium or cost of insurance charge for the accelerated benefit. The insurer shall make a reasonable effort to assure that the certificate holder is aware of any additional premium or cost of insurance charge if the certificate holder is required to pay a charge.

(ii) An insurer shall furnish an actuarial demonstration to the state insurance department when filing the product disclosing the method of arriving at its cost for the accelerated benefit.

(4) The insurer shall disclose to the policy owner any administrative expense charge. The insurer shall make a reasonable effort to assure that the certificate holder is aware of any administrative expense charge if the certificate holder is required to pay the charge.

(d) When a policy owner or certificate holder requests an acceleration, the insurer shall send a statement to the policy owner or certificate holder and irrevocable beneficiary showing any effect that the payment of the accelerated benefit will have on the policy’s cash value, accumulation account, death benefit, premium, policy loans, and policy liens. The statement

shall disclose that receipt of accelerated benefit payments may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlements. In addition, receipt of an accelerated benefit payment may be taxable and assistance should be sought from a personal tax advisor. When a previous disclosure statement becomes invalid as a result of an acceleration of the death benefit, the insurer shall send a revised disclosure statement to the policy owner or certificate holder and irrevocable beneficiary. When the insurer agrees to accelerate death benefits, the insurer shall issue an amended schedule page to the policy holder or notify the certificate holder under a group policy to reflect any new reduced in-force face amount of the contract.

Subd. 6. Effective date of accelerated benefits. The accelerated benefit provision shall be effective for accidents on the effective date of the policy or rider. The accelerated benefit provision shall be effective for illness no more than 30 days following the effective date of the policy or rider.

Subd. 7. Waiver of premiums. The insurer may offer a waiver of premium for the accelerated benefit provision in the absence of a regular waiver of premium provision being in effect. At the time the benefit is claimed, the insurer shall explain any continuing premium requirement to keep the policy in force.

Subd. 8. Discrimination. An insurer shall not unfairly discriminate among insureds with differing qualifying events covered under the policy or among insureds with similar qualifying events covered under the policy. An insurer shall not apply further conditions on the payment of the accelerated benefits other than those conditions specified in the policy or rider.

Subd. 9. Actuarial standards. (a) The issuer may use the following financing options:

(1) requiring a premium charge or cost of insurance charge for the accelerated benefit. This charge shall be based on sound actuarial principles. In the case of group insurance, the additional cost may also be reflected in the experience rating;

(2) paying a present value of the face amount. The calculation shall be based on any applicable actuarial discount appropriate to the policy design. The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles and disclosed in the contract or actuarial memorandum. The maximum interest rate used shall be no greater than the greater of:

- (i) current yield on 90-day treasury bills; or
- (ii) current maximum statutory adjustable policy loan interest rate;

(3) accruing an interest charge on the amount of the accelerated benefits. The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles and disclosed in the contract or actuarial memorandum. The maximum interest rate shall be no greater than the greater of:

- (i) current yield on 90-day treasury bills; or
- (ii) current maximum statutory adjustable policy loan interest rate.

The interest rate accrued on the portion of the lien that is equal in amount to the cash value of the contract at the time of the benefit acceleration shall be no more than the policy loan interest rate stated in the contract.

(b)(1) Except as provided in clause (2), when an accelerated benefit is payable, there shall be no more than a pro rata reduction in the cash value based on the percentage of death benefits accelerated to produce the accelerated benefit payment.

(2) Alternatively, the payment of accelerated benefits, any administrative expense charges, any future premiums, and any accrued interest can be considered a lien against the death benefit of the policy or rider and the access to the cash value may be restricted to any excess of the cash value over the sum of any other outstanding loans and the lien. Future access to additional policy loans could also be limited to any excess of the cash value over the sum of the lien and any other outstanding policy loans.

(c) When payment of an accelerated benefit results in a pro rata reduction in the cash value, the payment may not be applied toward repaying an amount greater than a pro rata portion of any outstanding policy loans.

Subd. 10. Actuarial disclosure and reserves. (a) A qualified actuary should describe the accelerated benefits, the risks, the expected costs, and the calculation of statutory reserves in an actuarial memorandum accompanying each state filing. The insurer shall maintain in its files descriptions of the bases and procedures used to calculate benefits payable under these provisions. These descriptions shall be made available for examination by the commissioner upon request.

(b)(1) When benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves shall be determined in accordance with the Standard Valuation Law. All valuation assumptions used in constructing the reserves shall be determined as appropriate for statutory valuation purposes by a member in good standing of the American Academy of Actuaries. Mortality tables and interest currently recognized for life insurance reserves by the National Association of Insurance Commissioners (NAIC) may be used as well as appropriate assumptions for the other provisions incorporated in the policy form. The actuary shall follow both actuarial standards and certification for good and sufficient reserves. Reserves in the aggregate should be sufficient to cover:

- (i) policies upon which no claim has yet arisen; and
- (ii) policies upon which an accelerated claim has arisen.

(2) For policies and certificates that provide actuarially equivalent benefits, no additional reserves need to be established.

(3) Policy liens and policy loans, including accrued interest, represent assets of the company for statutory reporting purposes. For a policy on which the policy lien exceeds the policy's statutory reserve liability, the excess shall be held as a nonadmitted asset.

Subd. 11. Filing requirement. The filing and prior approval of forms containing an accelerated benefit is required.

History: 2007 c 104 s 2

61A.092 CONTINUATION OF COVERAGE FOR LIFE INSURANCE.

[For text of subs 1 to 5, see M.S.2006]

Subd. 6. Application. This section applies to a policy, certificate of insurance, or similar evidence of coverage issued to a Minnesota resident or issued to provide coverage to a Minnesota resident. This section does not apply to: (1) a certificate of insurance or similar evidence of coverage that meets the conditions of section 61A.093, subdivision 2; or (2) a group life insurance policy that contains a provision permitting the certificate holder, upon termination or layoff from employment, to retain the coverage provided under the employer's group policy or another group policy offered by the insurer by paying premiums directly to the insurer, provided that the employer shall give the employee notice of the employee's and each related certificate holder's right to continue the insurance by paying premiums directly to the insurer. The insurer may reserve the right to increase premium rates after the first 18 months of continued coverage provided for under clause (2). A related certificate holder is an insured spouse or dependent child of the employee. Upon termination of this group policy or at the option of the insured who has continued coverage under clause (2), each covered employee, spouse, and dependent child is entitled to have issued to them a life conversion policy as prescribed in section 61A.09, subdivision 1, paragraph (h).

History: 2007 c 104 s 3

61A.25 STANDARD VALUATION LAW.

[For text of subs 1 to 3b, see M.S.2006]

Subd. 4. Reserve valuation of life insurance and endowment benefits; modified premiums. (a) Except as otherwise provided in paragraph (b) and subdivisions 4a and 7, re-

serves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value at the date of valuation of future guaranteed benefits provided for by the policies over the then present value of any future modified net premiums therefor. The modified net premiums for a policy shall be the uniform percentage of the respective contract premiums for the benefits that the present value, at the date of issue of the policy, of all the modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the policy and the excess of clause (1) over clause (2) as follows:

(1) a net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value at the date of issue of an annuity of one per annum payable on the first and each subsequent anniversary of the policy on which a premium falls due; but the net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of the policy;

(2) a net one year term premium for the benefits provided for in the first policy year.

(b) For a life insurance policy issued on or after January 1, 1985, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, the reserve according to the commissioners reserve valuation method as of a policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium shall, except as otherwise provided in subdivision 7, be the greater of the reserve as of the policy anniversary calculated as described in paragraph (a) and the reserve as of the policy anniversary calculated as described in that paragraph, but with the value defined in clause (1) of that paragraph being reduced by 15 percent of the amount of the excess first year premium; all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date; the policy being assumed to mature on that date as an endowment; and the cash surrender value provided on that date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in subdivisions 3 and 3b shall be used.

(c) Reserves according to the commissioners reserve valuation method for (1) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (2) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including but not limited to a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as amended, (3) disability and accidental death benefits in all policies and contracts, and (4) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of paragraphs (a) and (b), except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

(d) For a universal life insurance policy that guarantees coverage to remain in force as long as the accumulation of premiums paid satisfies a secondary guarantee requirement, reserves according to the commissioners reserve valuation method may be calculated using a lapse assumption only in accordance with and in the circumstances described in the National Association of Insurance Commissioners' accounting practices and procedures manual for policies issued on or after January 1, 2007, and on or before December 31, 2010.

[For text of subs 4a to 9, see M.S.2006]

History: 2007 c 104 s 4

61A.257 PREFERRED MORTALITY TABLES FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES.

Subdivision 1. **Definitions.** (a) For the purposes of this section only, the following terms have the meanings given them.

(b) “2001 CSO Mortality Table” means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002) and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined in paragraph (c). Unless the context indicates otherwise, the “2001 CSO Mortality Table” includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age–nearest–birthday and age–last–birthday bases of the mortality tables. Mortality tables in the 2001 CSO Mortality Table include the following:

(1) “2001 CSO Mortality Table (F)” means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table;

(2) “2001 CSO Mortality Table (M)” means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table;

(3) “composite mortality tables” means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers; and

(4) “smoker and nonsmoker mortality tables” means mortality tables with separate rates of mortality for smokers and nonsmokers.

(c) “2001 CSO Preferred Class Structure Mortality Table” means mortality tables with separate rates of mortality for Super Preferred Nonsmokers, Preferred Nonsmokers, Residual Standard Nonsmokers, Preferred Smokers, and Residual Standard Smoker splits of the 2001 CSO Nonsmoker and Smoker Tables as adopted by the NAIC at the September 2006 national meeting and published in the NAIC Proceedings (3rd Quarter 2006). Unless the context indicates otherwise, the “2001 CSO Preferred Class Structure Mortality Table” includes both the ultimate form of that table and the select and ultimate form of that table, the smoker and nonsmoker mortality tables, both the male and female mortality tables and the gender composite mortality tables, and both the age–nearest–birthday and age–last–birthday bases of the mortality table.

(d) “Statistical agent” means an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

Subd. 2. 2001 CSO Preferred Class Structure Mortality Table. At the election of the insurer, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this section, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard under section 61A.25 for policies issued on or after January 1, 2007. No such election must be made until the insurer demonstrates at least 20 percent of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this section, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to section 61A.25 and Minnesota Rules, chapter 2748.

Subd. 3. **Conditions.** (a) For each plan of insurance with separate rates for preferred and standard nonsmoker lives, an insurer may use the Super Preferred Nonsmoker, Preferred Nonsmoker, and Residual Standard Nonsmoker Tables to substitute for the Nonsmoker Mortality Table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the Residual Standard Nonsmoker Table, the appointed actuary shall certify that:

(1) the present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class; and

(2) the present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

(b) For each plan of insurance with separate rates for preferred and standard smoker lives, an insurer may use the Preferred Smoker and Residual Standard Smoker Tables to substitute for the Smoker Mortality Table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the Preferred Smoker Table, the appointed actuary shall certify that:

(1) the present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker Valuation Basic Table corresponding to the valuation table being used for that class; and

(2) the present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker Valuation Basic Table corresponding to the valuation table being used for that class.

(c) Unless exempted by the commissioner, every authorized insurer using the 2001 CSO Preferred Class Structure Table shall annually file with the commissioner, the NAIC, or a statistical agent designated by the NAIC and acceptable to the commissioner, statistical reports showing mortality and such other information as the commissioner may deem necessary or expedient for the administration of the provisions of this section. The form of the reports shall be established by the commissioner or the commissioner may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC and acceptable to the commissioner.

History: 2007 c 104 s 5

61A.70 APPLICABILITY AND SCOPE.

Sections 61A.70 to 61A.745 apply to all group and individual life insurance policies and certificates except:

(1) variable life insurance;

(2) individual and group annuity contracts;

(3) credit life insurance; or

(4) life insurance policies with no illustrated death benefits on any individual exceeding \$10,000.

History: 2007 c 104 s 6

61A.705 DEFINITIONS.

For the purposes of sections 61A.70 to 61A.745:

(a) "Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

(b) "Contract premium" means the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.

(c) "Currently payable scale" means a scale of nonguaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next 95 days.

(d) "Disciplined current scale" means a scale of nonguaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. Further guidance in determining the disciplined current scale as contained in standards established by the Actuarial Standards Board may be relied upon if the standards:

(1) are consistent with all provisions of sections 61A.70 to 61A.745;

(2) limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;

(3) do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and

(4) do not permit assumed expenses to be less than minimum assumed expenses.

(e) "Generic name" means a short title descriptive of the policy being illustrated such as "whole life," "term life," or "flexible premium adjustable life."

(f) "Guaranteed elements" and "nonguaranteed elements" are defined as follows:

(1) "guaranteed elements" means the premiums, benefits, values, credits, or charges under a policy of life insurance that are guaranteed and determined at issue; and

(2) "nonguaranteed elements" means the premiums, benefits, values, credits, or charges under a policy of life insurance that are not guaranteed or not determined at issue.

(g) "Illustrated scale" means a scale of nonguaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:

(1) the disciplined current scale; or

(2) the currently payable scale.

(h) "Illustration" means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years and that is one of the three types defined in clauses (1) to (3):

(1) "basic illustration" means a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and nonguaranteed elements;

(2) "supplemental illustration" means an illustration furnished in addition to a basic illustration that meets the applicable requirements of sections 61A.70 to 61A.745, and that may be presented in a format differing from the basic illustration, but may only depict a scale of nonguaranteed elements that is permitted in a basic illustration; and

(3) "in-force illustration" means an illustration furnished at any time after the policy that it depicts has been in force for one year or more.

(i) "Illustration actuary" means an actuary meeting the requirements of section 61A.74 who certifies to illustrations based on the standard of practice adopted by the Actuarial Standards Board.

(j) "Lapse-supported illustration" means an illustration of a policy form failing the test of self-supporting as defined in sections 61A.70 to 61A.745, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first five years and 100 percent policy persistency thereafter.

(k)(1) "Minimum assumed expenses" means the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form. The insurer may choose to designate each year the method of determining assumed expenses for all policy forms from the following:

(i) fully allocated expenses;

(ii) marginal expenses; and

(iii) a generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the National Association of Insurance Commissioners or by the commissioner.

(2) Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses must be used.

(l) "Nonterm group life" means a group policy or individual policies of life insurance issued to members of an employer group or other permitted group where:

- (1) every plan of coverage was selected by the employer or other group representative;
- (2) some portion of the premium is paid by the group or through payroll deduction; and
- (3) group underwriting or simplified underwriting is used.

(m) "Policy owner" means the owner named in the policy or the certificate holder in the case of a group policy.

(n) "Premium outlay" means the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket.

(o) "Self-supporting illustration" means an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the 15th policy anniversary or the 20th policy anniversary for second-or-later-to-die policies (or upon policy expiration if sooner), the accumulated value of all policy cash flows equals or exceeds the total policy owner value available. For this purpose, policy owner value will include cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

History: 2007 c 104 s 7

61A.71 POLICIES TO BE ILLUSTRATED.

(a) Each insurer marketing policies to which sections 61A.70 to 61A.745 are applicable shall notify the commissioner whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on January 1, 2008, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after January 1, 2008, the identification must be made at the time of filing. Any previous identification may be changed by notice to the commissioner.

(b) If the insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration for any policy using that form prior to the first policy anniversary is prohibited.

(c) If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with sections 61A.70 to 61A.745 is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

(d) Potential enrollees of nonterm group life subject to sections 61A.70 to 61A.745 shall be furnished a quotation with the enrollment materials. The quotation must show potential policy values for sample ages and policy years on a guaranteed and nonguaranteed basis appropriate to the group and the coverage. This quotation must not be considered an illustration for purposes of sections 61A.70 to 61A.745, but all information provided shall be consistent with the illustrated scale. A basic illustration must be provided at delivery of the certificate to enrollees for nonterm group life who enroll for more than the minimum premium necessary to provide pure death benefit protection. In addition, the insurer shall make a basic illustration available to any nonterm group life enrollee who requests it.

History: 2007 c 104 s 8

61A.715 GENERAL RULES AND PROHIBITIONS.

(a) An illustration used in the sale of a life insurance policy must satisfy the applicable requirements of sections 61A.70 to 61A.745, be clearly labeled "life insurance illustration," and contain the following basic information:

- (1) name of insurer;
- (2) name and business address of producer or insurer's authorized representative, if any;
- (3) name, age, and sex of proposed insured, except where a composite illustration is permitted under sections 61A.70 to 61A.745;
- (4) underwriting or rating classification upon which the illustration is based;
- (5) generic name of policy, the company product name, if different, and form number;
- (6) initial death benefit; and
- (7) dividend option election or application of nonguaranteed elements, if applicable.

(b) When using an illustration in the sale of a life insurance policy, an insurer or its producers or other authorized representatives shall not:

- (1) represent the policy as anything other than a life insurance policy;
 - (2) use or describe nonguaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
 - (3) state or imply that the payment or amount of nonguaranteed elements is guaranteed;
 - (4) use an illustration that does not comply with the requirements of sections 61A.70 to 61A.745;
 - (5) use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;
 - (6) provide an applicant with an incomplete illustration;
 - (7) represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;
 - (8) use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan for using nonguaranteed elements to pay a portion of future premiums;
 - (9) except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported"; or
 - (10) use an illustration that is not "self-supporting."
- (c) If an interest rate used to determine the illustrated nonguaranteed elements is shown, it must not be greater than the earned interest rate underlying the disciplined current scale.

History: 2007 c 104 s 9

61A.72 STANDARDS FOR BASIC ILLUSTRATIONS.

Subdivision 1. **Format.** A basic illustration must conform with the following requirements:

- (1) the illustration must be labeled with the date on which it was prepared;
- (2) each page, including any explanatory notes or pages, must be numbered and show its relationship to the total number of pages in the illustration (e.g., the fourth page of a seven-page illustration must be labeled "page 4 of 7 pages");
- (3) the assumed dates of payment receipt and benefit payout within a policy year must be clearly identified;
- (4) if the age of the proposed insured is shown as a component of the tabular detail, it must be issue age plus the number of years the policy is assumed to have been in force;
- (5) the assumed payments on which the illustrated benefits and values are based must be identified as premium outlay or contract premium, as applicable. For policies that do not re-

quire a specific contract premium, the illustrated payments must be identified as premium outlay;

(6) guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium must be shown and clearly labeled guaranteed;

(7) if the illustration shows any nonguaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements must be clearly labeled nonguaranteed;

(8) the guaranteed elements, if any, must be shown before corresponding nonguaranteed elements and must be specifically referred to on any page of an illustration that shows or describes only the nonguaranteed elements (e.g., "see page one for guaranteed elements");

(9) the account or accumulation value of a policy, if shown, must be identified by the name this value is given in the policy being illustrated and shown in close proximity to the corresponding value available upon surrender;

(10) the value available upon surrender must be identified by the name this value is given in the policy being illustrated and must be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans, and policy loan interest, as applicable;

(11) illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form;

(12) any illustration of nonguaranteed elements shall be accompanied by a statement indicating that:

(i) the benefits and values are not guaranteed;

(ii) the assumptions on which they are based are subject to change by the insurer; and

(iii) actual results may be more or less favorable;

(13) if the illustration shows that the premium payer may have the option to allow policy charges to be paid using nonguaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure must be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display must not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up; and

(14) if the applicant plans to use dividends or policy values, guaranteed or nonguaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

Subd. 2. Narrative summary. A basic illustration must include the following:

(1) a brief description of the policy being illustrated, including a statement that it is a life insurance policy;

(2) a brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code;

(3) a brief description of any policy features, riders, or options, guaranteed or nonguaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;

(4) identification and a brief definition of column headings and key terms used in the illustration; and

(5) a statement containing in substance the following: "This illustration assumes that the currently illustrated nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

Subd. 3. **Numeric summary.** (a) Following the narrative summary, a basic illustration must include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values must be based on the contract premium. This summary must be shown for at least policy years five, ten, and 20 and at age 70, if applicable, on the three bases shown in clauses (1) to (3). For multiple life policies the summary must show policy years five, ten, 20, and 30:

- (1) policy guarantees;
- (2) insurer's illustrated scale; and
- (3) insurer's illustrated scale used but with the nonguaranteed elements reduced as follows:

- (i) dividends at 50 percent of the dividends contained in the illustrated scale used;
- (ii) nonguaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and
- (iii) all nonguaranteed charges, including but not limited to term insurance charges, mortality, and expense charges at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

(b) In addition, if coverage would cease prior to policy maturity or age 100, the year in which coverage ceases must be identified for each of the three bases.

Subd. 4. **Statements.** (a) Statements substantially similar to paragraphs (b) and (c) must be included on the same page as the numeric summary and signed by the applicant or the policy owner in the case of an illustration provided at time of delivery, as required in sections 61A.70 to 61A.745.

(b) A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that any nonguaranteed elements illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed."

(c) A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any nonguaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

Subd. 5. **Tabular detail.** (a) A basic illustration must include the following for at least each policy year from one to ten and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and except for term insurance beyond the 20th year, for any year in which the premium outlay and contract premium, if applicable, is subject to change:

- (1) the premium outlay and mode the applicant plans to pay and the contract premium, as applicable;
- (2) the corresponding guaranteed death benefit, as provided in the policy; and
- (3) the corresponding guaranteed value available upon surrender, as provided in the policy.

(b) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender must correspond to the contract premium.

(c) Nonguaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any nonguaranteed elements are shown, they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a nonguaranteed benefit or value is shown, a zero must be displayed in the guaranteed column.

History: 2007 c 104 s 10

61A.725 STANDARDS FOR SUPPLEMENTAL ILLUSTRATIONS.

- (a) A supplemental illustration may be provided so long as:

(1) it is appended to, accompanied by, or preceded by a basic illustration that complies with sections 61A.70 to 61A.745;

(2) the nonguaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration;

(3) it contains the same statement required of a basic illustration that nonguaranteed elements are not guaranteed; and

(4) for a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration. For policies that do not require a contract premium, the premium outlay underlying the supplemental illustration must be equal to the premium outlay shown in the basic illustration.

(b) The supplemental illustration must include a notice referring to the basic illustration for guaranteed elements and other important information.

History: 2007 c 104 s 11

61A.73 DELIVERY OF ILLUSTRATION AND RECORD RETENTION.

(a)(1) If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with sections 61A.70 to 61A.745, must be submitted to the insurer at the time of policy application. A copy also must be provided to the applicant.

(2) If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued must be sent with the policy. The revised illustration must conform to the requirements of sections 61A.70 to 61A.745, must be labeled "Revised Illustration," and must be signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy must be provided to the insurer and the policy owner.

(b)(1) If no illustration is used by an insurance producer or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.

(2) If the policy is issued, a basic illustration conforming to the policy as issued must be sent with the policy and signed no later than the time the policy is delivered. A copy must be provided to the insurer and the policy owner.

(c) If the basic illustration or revised illustration is sent to the applicant or policy owner by mail from the insurer, it must include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer's obligation under this paragraph must be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort must be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

(d) A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, must be retained by the insurer until three years after the policy is no longer in force. A copy need not be retained if no policy is issued.

History: 2007 c 104 s 12

61A.735 ANNUAL REPORT; NOTICE TO POLICY OWNERS.

(a) In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that must contain at least the information in this section.

(b) For universal life policies, the report must include the following:

- (1) the beginning and end date of the current report period;
- (2) the policy value at the end of the previous report period and at the end of the current report period;
- (3) the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense, and riders);
- (4) the current death benefit at the end of the current report period on each life covered by the policy;
- (5) the net cash surrender value of the policy as of the end of the current report period;
- (6) the amount of outstanding loans, if any, as of the end of the current report period; and
- (7) for fixed premium policies, assuming guaranteed interest, mortality, and expense loads and continued scheduled premium payments, if the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect must be included in the report; or
- (8) for flexible premium policies, assuming guaranteed interest, mortality, and expense loads, if the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect must be included in the report.

(c) For all other policies, the report must include where applicable:

- (1) current death benefit;
- (2) annual contract premium;
- (3) current cash surrender value;
- (4) current dividend;
- (5) application of current dividend; and
- (6) amount of outstanding loan.

(d) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.

(e) If the annual report does not include an in-force illustration, it must contain the following notice displayed prominently: "IMPORTANT POLICY OWNER NOTICE: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling (insurer's phone number), writing to (insurer's name) at (insurer's address), or contacting your agent. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department." The insurer may vary the sequential order of the methods for obtaining an in-force illustration.

(f) Upon request of the policy owner, the insurer shall furnish an in-force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration must comply with the requirements of sections 61A.715, paragraphs (a) and (b), and 61A.72, subdivisions 1 and 5. No signature or other acknowledgment of receipt of this illustration must be required.

(g) If an adverse change in nonguaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report must contain a notice of that fact and the nature of the change prominently displayed.

History: 2007 c 104 s 13

61A.74 ANNUAL CERTIFICATIONS.

(a) The board of directors of each insurer shall appoint one or more illustration actuaries.

(b) The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the Actuarial Standard of Practice for Compliance with the NAIC Model Regulation on Life Insurance Illustrations promulgated by the Actuarial Standards Board, and that the illustrated scales used in insurer–authorized illustrations meet the requirements of sections 61A.70 to 61A.745.

(c) The illustration actuary shall:

(1) be a member in good standing of the American Academy of Actuaries;

(2) be familiar with the standard of practice regarding life insurance policy illustrations;

(3) not have been found by the commissioner, following appropriate notice and hearing to have:

(i) violated any provision of, or any obligation imposed by, the insurance law or other law in the course of the actuary’s dealings as an illustration actuary;

(ii) been found guilty of fraudulent or dishonest practices;

(iii) demonstrated the actuary’s incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or

(iv) resigned or been removed as an illustration actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;

(4) not fail to notify the commissioner of any action taken by a commissioner of another state similar to that under clause (3);

(5) disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in–force policies, this must be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in–force policies are not consistent with the nonguaranteed elements actually being paid, charged, or credited to the same or similar forms, this must be disclosed in the annual certification; and

(6) disclose in the annual certification the method used to allocate overhead expenses for all illustrations:

(i) fully allocated expenses;

(ii) marginal expenses; or

(iii) a generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the National Association of Insurance Commissioners or by the commissioner.

(d)(1) The illustration actuary shall file a certification with the board and with the commissioner:

(i) annually for all policy forms for which illustrations are used; and

(ii) before a new policy form is illustrated.

(2) If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the commissioner promptly.

(e) If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the commissioner promptly of the actuary’s inability to certify.

(f) A responsible officer of the insurer, other than the illustration actuary, shall certify annually:

(1) that the illustration formats meet the requirements of sections 61A.70 to 61A.745 and that the scales used in insurer–authorized illustrations are those scales certified by the illustration actuary; and

(2) that the company has provided its agents with information about the expense allocation method used by the company in its illustrations and disclosed as required in paragraph (c), clause (6).

(g) The annual certifications must be provided to the commissioner each year by a date determined by the insurer.

(h) If an insurer changes the illustration actuary responsible for all or a portion of the company's policy forms, the insurer shall notify the commissioner of that fact promptly and disclose the reason for the change.

History: 2007 c 104 s 14

61A.745 PENALTIES.

In addition to any other penalties provided by the laws of this state, an insurer or producer that violates a requirement of sections 61A.70 to 61A.745 is guilty of a violation of section 72A.20.

History: 2007 c 104 s 15