

191—31.3(508) Filing, policy forms and provision.

31.3(1) No contract on a variable basis or certificate evidencing variable benefits issued pursuant to any such contract shall be issued or delivered to any person in this state until a copy of the form of the same has been filed pursuant to rule 191—20.1(505,509,514A,515,515A,515F) and approved by the commissioner.

31.3(2) The commissioner shall disapprove or withdraw approval of any such contract form or certificate if:

a. Such contract or certificate contains provisions which are unjust, unfair, inequitable, ambiguous, misleading, likely to result in misrepresentation or contrary to law, or

b. Sales of such contracts are being solicited by any means of advertising, communication or dissemination of information which involves misleading or inadequate description of the provisions of the contract.

c. The contract or certificate does not comply with the filing requirements and provisions set forth in rule 191—20.1(505,509,514A,515,515A,515F).

31.3(3) Any variable contract delivered or issued for delivery in this state and any certificates evidencing variable benefits issued pursuant to any such contract on a group basis shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits and shall state that such dollar amounts will vary to reflect investment experience and shall contain on its first page a clear and prominently placed statement to the effect that the benefits thereunder are on a variable basis.

31.3(4) Illustrations of benefits payable under any contract providing benefits payable in variable amounts shall not include projections of past investment experience into the future or attempted predictions of future investment experience. Hypothetical illustrations of rates to possible levels of annuity payments may be used if submitted to and not disapproved by the commissioner.

31.3(5) No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this state unless it contains in substance the following provision or provisions which in the opinion of the commissioner are more favorable to the holders of such contracts:

a. A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first payment may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom.

b. A provision that at any time within one year from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom.

c. A provision specifying the option available in the event of default in a periodic stipulated payment. Such options may include an option to surrender the contract for a cash value as determined by the contract and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash, the amount of such paid-up annuity being determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.

31.3(6) Any variable contract evidencing variable benefits delivered or issued for delivery in this state shall stipulate the expense, mortality and investment increment factors to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and shall guarantee that expenses will not adversely affect such dollar amounts. In computing the dollar amount of variable benefits or other contractual payments or values under any variable contract, the annual net investment increment assumption shall not exceed 5 percent, except with the approval of the

commissioner. "Expenses" as used in this paragraph may exclude some or all taxes, as stipulated in the contract.

31.3(7) To the extent that the level of benefits may be affected by mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a higher mortality rate at any age, or, if approved by the commissioner, from another table.

31.3(8) The reserve liability for variable annuities shall be established pursuant to the requirements of the standard valuation law in accordance with actuarial procedure that would recognize the variable nature of the benefits provided.