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#### Authority

The provisions of this Chapter 82 issued under The Insurance Company Law of 1921 (40 P. S. §§ 341—991); The Insurance Department Act of 1921 (40 P. S. §§ 1—321); and sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412), unless otherwise noted.

#### Source

The provisions of this Chapter 82 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171, unless otherwise noted.

**GENERAL PROVISIONS****§ 82.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the content clearly indicates otherwise:

*Act*—The Insurance Company Law of 1921 (40 P. S. §§ 341—991).

*Affiliate of an insurer*—A person directly or indirectly controlling, controlled by or under common control with the insurer; a person who regularly furnishes investment advice to the insurer with respect to its separate accounts for which a specific fee or commission is charged; or a director, officer, partner or employe of the insurer, controlling or controlled person, or person providing investment advice or a member of the immediate family of the person.

*Agent*—A person, corporation, partnership or other legal entity which is licensed by the Commonwealth as a life insurance agent or broker.

*Assumed investment rate*—The rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses, and mortality and expense guarantees, to maintain the variable death benefit equal at all times to the amount of death benefit other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.

*Benefit base*—The amount to which the net investment return is applied.

*Commissioner*—The Insurance Commissioner of the Commonwealth.

*Control, including the terms controlling, controlled by and under common control with*—The possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing more than 10% of the voting securities of another person. This presumption may be rebutted by a showing made to the satisfaction of the Commissioner that control does not exist in fact. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

*Department*—The Insurance Department of the Commonwealth.

*Flexible premium policy*—A variable life insurance policy which permits the policyholder to vary, independently of each other, the amount or timing of one or more premium payments.

*General account*—The assets of the insurer other than assets in separate accounts established under section 406.2 of the act (40 P. S. § 506.2), or under

the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer, whether or not for variable life insurance.

*Incidental insurance benefit*—The insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including but not limited to accidental death and dismemberment benefits, disability benefits, guaranteed insurability options, family income and term riders.

*Minimum death benefit*—The amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.

*Net investment return*—The rate of investment return in a separate account to be applied to the benefit base.

*Person*—Individual, corporation, partnership, association trust or fund.

*Policy processing day*—The day on which charges authorized in the policy are deducted from the policy's cash value.

*Scheduled premium policy*—A variable life insurance policy other than a flexible premium policy.

*Separate account*—A separate account established under section 406.2 of the act or the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

*Variable death benefit*—The amount of the death benefit, other than incidental insurance benefits, payable under a variable life insurance policy dependent on the investment performance of the separate account which the insurer would have to pay in the absence of any minimum death benefit.

*Variable life insurance policy*—An individual policy which provides for life insurance, the amount or duration of which varies according to the investment experience of separate accounts established and maintained by the insurer as to the policy, under section 406.2 of the act or under the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

#### Source

The provisions of this § 82.1 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137031) to (137033).

### QUALIFICATION OF INSURER TO ISSUE VARIABLE LIFE INSURANCE

#### § 82.11. Scope.

The requirements listed in §§ 82.12—82.17 are applicable to insurers either seeking authority to issue variable life insurance in this Commonwealth or having authority to issue variable life insurance in this Commonwealth.

**Source**

The provisions of this § 82.11 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137033).

**§ 82.12. Licensing and approval to do business in this Commonwealth.**

An insurer may not deliver or issue for delivery in this Commonwealth a variable life insurance policy unless the following conditions have been met:

(1) The insurer is licensed or organized to do a life insurance business in this Commonwealth.

(2) The insurer has obtained the written approval of the Commissioner for the issuance of variable life insurance policies in this Commonwealth. The Commissioner will grant written approval only after finding that the following have been met:

(i) The plan of operation for the issuance of variable life insurance policies is not unsound.

(ii) The general character, reputation and experience of the management and those persons of firms proposed to supply consulting, investment, administrative or custodial services to the insurer are such as to reasonably assure competent operation of the variable life insurance business of the insurer in this Commonwealth.

(iii) The present and foreseeable future financial condition of the insurer and its method of operation in connection with the issuance of such policies is not likely to render its operation hazardous to the public or its policyholders in this Commonwealth. The Commissioner will consider, among other things:

(A) The history of the operation and financial condition of the insurer.

(B) The qualifications, fitness, character, responsibility, reputation and experience of the officers and directors and other management of the insurer and of those persons or firms proposed to supply consulting, investment, administrative or custodial services to the insurer.

(C) The applicable law and regulations under which the insurer is authorized in its state of domicile to issue variable life insurance policies, the state of entry of an alien insurer being deemed its state of domicile for this purpose.

(D) If the insurer is a subsidiary of or is affiliated by common management or ownership with another company, its relationship to the other company and the degree to which the requesting insurer, as well as the other company, meets the standards set forth in this section.

**Source**

The provisions of this § 82.12 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137033) to (137034).

**Cross References**

This section cited in 31 Pa. Code § 82.11 (relating to scope); and 31 Pa. Code § 82.13 (relating to filing for approval to do business in this Commonwealth).

**§ 82.13. Filing for approval to do business in this Commonwealth.**

The Commissioner may require that an insurer, before it delivers or issues for delivery a variable life insurance policy in this Commonwealth, file with the Department the following information for the consideration of the Commissioner in making the determination required by § 82.12(2) (relating to licensing and approval to do business in this Commonwealth):

- (1) Copies of and a general description of the variable life insurance policies, applications and riders it intends to issue.
- (2) A general description of the methods of operation of the variable life insurance business of the insurer, including methods of distribution of policies and the names of those persons or firms proposed to supply consulting, investment, administrative, custodial or distribution services to the insurer.
- (3) With respect to a separate account maintained by an insurer for a variable life insurance policy, a statement of the investment policy the insurer intends to follow for the investment of the assets held in the separate account and a statement of the procedures for changing the investment policy. The statement of investment policy shall include a description of the investment objective intended for the separate account.
- (4) A description of any investment advisory services contemplated as required by § 82.51 (relating to investment advisory services).
- (5) A copy of the statutes and regulations of the state of domicile of the insurer under which it is authorized to issue variable life insurance policies.
- (6) Biographical data with respect to officers and directors of the insurer on the National Association of Insurance Commissioners Uniform Biographical Data Form.
- (7) A statement of the insurer's actuary describing the mortality and expense risks which the insurer will bear under the policy.

**Source**

The provisions of this § 82.13 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137034) to (137035).

**Cross References**

This section cited in 31 Pa. Code § 82.11 (relating to scope); and 31 Pa. Code § 82.47 (relating to separate account investment policy).

**§ 82.14. Standards of suitability.**

(a) An insurer seeking approval to enter into the variable life insurance business in this Commonwealth shall establish, maintain and file, at the discretion of the Commissioner, a written statement specifying the standards of suitability to be used by the insurer.

(b) The standards of suitability shall specify that no recommendation shall be made to an applicant to purchase a variable life insurance policy and that no variable life insurance policy shall be issued in the absence of reasonable grounds to believe that the purchase of the policy is suitable for the applicant on the basis of information furnished after reasonable inquiry of the applicant concerning the applicant's insurance and investment objectives, financial situation and needs and other information known to the insurer or to the agent making the recommendation.

**Source**

The provisions of this § 82.14 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137035).

**Cross References**

This section cited in 31 Pa. Code § 82.11 (relating to scope).

**§ 82.15. Use of sales materials.**

(a) An insurer authorized to transact variable life insurance business in this Commonwealth may not use sales material, advertising material or descriptive literature or other materials in connection with its variable life insurance business in this Commonwealth which is false, misleading, deceptive or inaccurate.

(b) For purposes of this chapter, variable life insurance sales material, advertising material or descriptive literature includes, but is not limited to:

(1) Printed and published material, audio-visual material and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, television and film scripts, billboards and similar displays for variable life insurance.

(2) Descriptive literature and sales aids used to sell variable life insurance by or on behalf of an insurer or a person authorized to sell variable life insurance for presentation to members of the insurance buying public, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters.

(3) Prepared sales talks, presentations and material for use in the sale of variable life insurance by a person authorized to sell variable life insurance.

**Source**

The provisions of this § 82.15 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137036).

**Cross References**

This section cited in 31 Pa. Code § 82.11 (relating to scope).

**§ 82.16. Requirements applicable to contractual services.**

A material contract between an insurer and suppliers of consulting, investment, administrative, sales, marketing, custodial or other services with respect to variable life insurance operations shall be in writing and provide that the supplier of the services furnish the Commissioner with information or reports in connection with the services which the Commissioner may request to ascertain whether the variable life insurance operations of the insurer are being conducted in a manner consistent with this chapter and other applicable laws or regulations.

**Source**

The provisions of this § 82.16 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137036).

**Cross References**

This section cited in 31 Pa. Code § 82.11 (relating to scope).

**§ 82.17. Reports to the Commissioner.**

(a) An insurer authorized to transact the business of variable life insurance in this Commonwealth shall submit to the Commissioner, in addition to other materials which may be required by this chapter or other applicable laws or regulations, the following documents:

- (1) An annual statement of the business of its separate accounts in a form as may be prescribed by the National Association of Insurance Commissioners.
- (2) Prior to use in this Commonwealth, information furnished to applicants as provided for in § 82.61 (relating to information for applicants).
- (3) Prior to use in this Commonwealth, the form of the reports to policyholders as provided for in §§ 82.72—82.74 (relating to policy statements; separate account statements; and warning statements for flexible premium policies).
- (4) Additional information concerning its variable life insurance operations or its separate accounts as the Commissioner deems necessary.



(b) Material submitted to the Commissioner under this section will be disapproved if it is found to be false, misleading, deceptive or inaccurate in a material respect and, if previously distributed, the Commissioner will require the distribution of amended material.

**Source**

The provisions of this § 82.17 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137037).

**Cross References**

This section cited in 31 Pa. Code § 82.11 (relating to scope).

**§ 82.18. [Reserved].**

**Source**

The provisions of this § 82.18 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; reserved April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835. Immediately preceding text appears at serial page (39766).

**INSURANCE POLICY REQUIREMENTS**

**§ 82.21. Insurance policy qualification.**

The Commissioner will not approve a variable life insurance form filed under this chapter unless it conforms to the requirements of §§ 82.22—82.26.

**Source**

The provisions of this § 82.21 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171.

**§ 82.22. Filing of variable life insurance policies.**

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

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

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

**Source**

The provisions of this § 82.22 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137038).

**Cross References**

This section cited in 31 Pa. Code § 82.21 (relating to insurance policy qualification).

**§ 82.23. Mandatory policy benefit and design requirements.**

Variable life insurance policies delivered or issued for delivery in this Commonwealth shall comply with the following minimum requirements:

(1) The mortality and expense risk shall be borne by the insurer. The mortality and expense charges shall be subject to the maximums stated in the contract. For a flexible premium policy, the guaranteed maximum mortality charges may not exceed charges based on a mortality table permitted for calculation of nonforfeiture benefits. Guaranteed charges of up to 130% of an approved version of 1958 CSO or up to 135% of an approved version of 1980 CSO will be considered for policies issued on a simplified underwriting basis. Guaranteed charges of up to 145% of an approved version of 1958 CSO or up to 150% of an approved version of 1980 CSO will be considered for policies issued on a guaranteed basis. The guaranteed maximum mortality charges for a flexible premium policy issued to an insured in a rated premium class may reflect that the insured is rated. A premium class composed of smokers is considered to be a smoker class and not a rated premium class.

(2) For scheduled premium policies, a minimum death benefit shall be provided in an amount at least equal to the initial face amount of the policy so long as premiums are paid, subject to § 82.25 (relating to policy loan provisions).

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

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

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

(6) The cash value of each variable life insurance policy shall be determined at least monthly. The method of computation of cash values and other nonforfeiture benefits, as described either in the policy or in a statement filed with the Commissioner of the state in which the policy is delivered or issued for delivery, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation shall be such that, if the net investment return credited to the policy at all times from the date of

issue should be equal to the assumed investment rate with premiums and benefits determined accordingly under the terms of the policy, then the resulting cash values and other nonforfeiture benefits shall be at least equal to the minimum values required by section 410A of the act (40 P. S. § 510.1) for a general account policy with those premiums and benefits. The assumed investment rate may not exceed the maximum interest rate permitted under section 410A of the act. If the policy does not contain an assumed investment rate this demonstration shall be based on the maximum interest rate permitted under section 410A of the act. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include but are not limited to a guarantee that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the policy at all times from the date of issue had been equal to the assumed investment rate.

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

#### Source

The provisions of this § 82.23 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137038) to (137040).

#### Cross References

This section cited in 31 Pa. Code § 82.21 (relating to insurance policy qualification); and 31 Pa. Code § 82.24 (relating to mandatory policy provisions).

### § 82.24. Mandatory policy provisions.

A variable life insurance policy filed for approval in this Commonwealth shall contain at least the following provisions:

- (1) The cover page of each policy containing the following:
  - (i) A prominent statement, in either contrasting color or in boldface type, that the amount or duration of the death benefit may be variable or fixed under specified conditions.
  - (ii) A prominent statement, in either contrasting color or in boldface type, that cash values may increase or decrease in accordance with the experience of the separate account subject to specified minimum guarantees.
  - (iii) A statement describing minimum death benefits required under § 82.23(2) (relating to mandatory policy benefit and design requirements).
  - (iv) The method or a reference to the policy provision which describes the method for determining the amount of insurance payable at death.
  - (v) A captioned provision prominently printed on the first page of the policy which provides that the policyholder may return the variable life

insurance policy within at least 10 days of receipt of the policy by the policyholder and receive a refund of the premium payments for the policy.

(vi) Other items currently required for fixed benefit life insurance policies and which are consistent with this chapter.

(2) Grace periods which comply with the following:

(i) For scheduled premium policies, a provision for a grace period of at least 31 days from the premium due date which provides that, if the premium is paid within the grace period, policy values will be the same, except for the deduction of an overdue premium, as if the premium were paid on or before the due date.

(ii) For flexible premium policies, a provision for a grace period beginning on the policy processing day when the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amounts available under the policy to pay the charges in accordance with the terms of the policy. The grace period shall end on a date not less than 61 days after the mailing date of the Report to Policyholders required by § 82.74 (relating to warning statements for flexible premium policies). The death benefit payable during the grace period shall equal the death benefit in effect immediately prior to that period, less overdue charges. If the policy processing days occur monthly, the insurer may require the payment of not more than three times the charges which were due on the policy processing day on which the amounts available under the policy were insufficient to pay charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day.

(3) For scheduled premium policies, a provision that the policy will be reinstated at any time within 2 years from the date of default upon the written application of the insured and the furnishing of evidence of insurability, including good health, satisfactory to the insurer, unless the cash surrender value has been paid or the period of extended insurance has expired; upon the payment of outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with accrued interest thereon to the date of reinstatement; and upon payment of an amount not exceeding the greater of one of the following:

(i) All overdue premiums and indebtedness in effect at the end of the grace period following the date of default with interest at a rate not exceeding that permitted by section 410(k) of the act (40 P. S. § 510(k)).

(ii) One hundred ten percent of the increase in cash surrender value resulting from reinstatement plus overdue premiums for incidental insurance benefits with interest at a rate not exceeding that permitted by section 410(k) of the act.

(4) A full description of the benefit base and of the method of calculation and application of factors used to adjust variable benefits under the policy.

(5) A provision designating the separate account to be used and stating that:

(i) The assets of the separate account shall be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account arising under the policies or contracts supported by the separate account.

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

(6) A provision specifying what documents constitute the entire insurance contract.

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

(8) An identification of the owner of the insurance contract.

(9) A provision setting forth conditions or requirements as to the designation or change of designation of a beneficiary and a provision for disbursement of benefits in the absence of a beneficiary designation.

(10) A statement of conditions or requirements concerning the assignment of the policy.

(11) A description of the methods of adjustments made in death benefits and policy values—account values or cash values, or both—in the event of misstatement of age or sex of the insured. Examples of acceptable adjustment methods to the account value would be to recalculate from issue using mortality charges based on the correct age or sex or to make no adjustment. An example of an acceptable adjustment method for the death benefit of a flexible premium variable life insurance policy would be to determine the death benefit to be that purchased by the most recent mortality charge at the correct age or sex.

(12) A provision that the policy shall be incontestable by the insurer after it has been in force for 2 years during the lifetime of the insured. An increase in the amount of the policy's death benefits subsequent to the policy issue date, which increase occurred upon a new application or request of the owner and was subject to satisfactory proof of the insured's insurability, shall be incontestable after the increase has been in force, during the lifetime of the insured, for 2 years from the date of the issuance of the increase.

(13) A provision stating that the investment policy of the separate account may not be changed without the approval of the insurance commissioner of the state of domicile of the insurer and that the approval process is on file with the Commissioner.

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

(i) Up to 6 months from the date of request, if the payments are based on policy values which do not depend on the investment performance of the separate account.

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

(15) A provision stating that if settlement options are provided, at least one option shall be provided on a fixed basis only.

(16) A description of the basis for computing the cash value and the surrender value under the policy.

(17) Premiums or charges for incidental insurance benefits, stated separately.

(18) Other policy provisions required by this chapter.

(19) Other items currently required for fixed benefit life insurance policies not inconsistent with this chapter.

(20) A provision for nonforfeiture insurance benefits. The insurer may establish a reasonable minimum cash value below which nonforfeiture insurance options will not be available.

#### Source

The provisions of this § 82.24 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754; amended May 22, 1992, effective May 23, 1992, 22 Pa.B. 2729. Immediately preceding text appears at serial pages (139266) to (139269).

#### Cross References

This section cited in 31 Pa. Code § 82.21 (relating to insurance policy qualification); and 31 Pa. Code § 82.61 (relating to information for applicants).

### § 82.25. Policy loan provisions.

A variable life insurance policy, delivered or issued for delivery in this Commonwealth, other than a term insurance policy or pure endowment policy, shall contain a provision which provides for policy loans after the policy has been in force for 3 full years. The provision for policy loans may not be less favorable than the following:

(1) At least 75% of the cash surrender value of the policy may be borrowed.

(2) The amount borrowed shall bear interest at a rate not to exceed that permitted by section 410F of the act (40 P. S. § 510e).

(3) An indebtedness shall be deducted from the proceeds payable on death.

(4) An indebtedness shall be deducted from the cash surrender value upon surrender or in determining a nonforfeiture benefit.

(5) For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of intent to cancel the policy if the excess indebtedness is not repaid within 31 days after the date of mailing the notice. For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next following policy processing day exceed the amounts available under the policy to pay the charges, a report shall be sent to the policyholder containing the information specified by § 82.74 (relating to warning statements for flexible premium policies).

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

(7) The policy may specify a reasonable minimum amount which may be borrowed at any time, but the minimum does not apply to an automatic premium loan provision.

(8) A policy loan provision is not required if the policy is under the extended insurance nonforfeiture option.

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

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

#### Source

The provisions of this § 82.25 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137043) to (137045).

#### Cross References

This section cited in 31 Pa. Code § 82.21 (relating to insurance policy qualification); 31 Pa. Code § 82.23 (relating to mandatory policy benefit and design requirements); and 31 Pa. Code § 82.26 (relating to other policy provisions).

**§ 82.26. Other policy provisions.**

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

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

(2) Incidental insurance benefits offered on a fixed or variable basis.

(3) A provision allowing the policyholder to elect, in writing, in the application for the policy or thereafter, an automatic premium loan on a basis not less favorable than that required of policy loans under § 82.25 (relating to policy loan provisions); except that a restriction that no more than two consecutive premiums can be paid under this provision may be imposed.

(4) A provision allowing the policyholder to make partial withdrawals. The partial withdrawal provision shall be constructed so that a variable life insurance policyholder who has not exercised the provision is not disadvantaged by the exercise thereof.

(5) Other policy provisions approved by the Commissioner.

(b) Policies may be issued on a participating basis. The policies shall offer to pay dividend amounts in cash, and the policies may offer the following dividend options:

(1) The amount of the dividend may be credited against premium payments.

(2) The amount of the dividend may be applied to provide amounts of additional fixed or variable benefit whole life insurance.

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

(4) The amount of the dividend may be applied to provide paid-up amounts of fixed benefit 1-year term insurance.

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

**Source**

The provisions of this § 82.26 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137045) to (137046).

**Cross References**

This section cited in 31 Pa. Code § 82.21 (relating to insurance policy qualification).



**RESERVE LIABILITIES FOR VARIABLE LIFE INSURANCE****§ 82.31. Variable life.**

Reserve liabilities for variable life insurance policies shall be established under section 301 of The Insurance Department Act of one thousand nine hundred and twenty-one (40 P. S. § 71) in accordance with actuarial procedures that recognize the variable nature of the benefits provided and mortality guarantees.

**Source**

The provisions of this § 82.31 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137046).

**§ 82.32. Reserve liabilities for the guaranteed minimum death benefit.**

(a) Reserve liabilities for the guaranteed minimum death benefit shall be the reserve needed to provide for the contingency of death occurring when the guaranteed minimum death benefit exceeds the death benefit that would be paid in the absence of guarantee, shall be maintained in the general account of the insurer, and may not be less than the greater of the following minimum reserves:

(1) The aggregate total of the term costs, if any, covering a period of 1 full year from the valuation date, or, if less, covering the period provided for in the guarantee not otherwise provided for by the reserves held in the separate account, on each variable life insurance contract, assuming an immediate 1/3 depreciation in the current value of the assets of the separate account followed by a net investment return equal to the assumed investment rate.

(2) The aggregate total of the "attained age level" reserves on each variable life insurance contract. The "attained age level" reserve on each variable life insurance contract may not be less than zero and shall equal the "residue," as described in subparagraph (i), of the prior year's "attained age level" reserve on the contract, with any "residue" increased or decreased by a "payment computed on an attained age basis," as described in subparagraph (ii).

(i) The "residue" of the prior year's "attained age level" reserve on each variable life insurance contract may not be less than zero and shall be determined by adding interest at the valuation interest rate to the prior year's reserve, deducting the tabular claims based on the "excess," if any, of the guaranteed minimum death benefit over the death benefit that would be payable in the absence of the guarantee, and by dividing the net result by the tabular probability of survival. The "excess" referred to in the preceding sentence shall be based on the actual level of death benefits that would have been in effect during the preceding year in the absence of the guarantee, taking appropriate account of the reserve assumptions regarding the distribution of death claim payments over the year.

(ii) The “payment computed on an attained age basis” shall be computed so that the present value of a level payment of that amount each year over the future period for which charges for this risk will be collected under the contract is equal to  $A - B - C$ , where  $A$  is the present value of the future guaranteed minimum death benefits,  $B$  is the present value of the future death benefits that would be payable in the absence of the guarantee, and  $C$  is any “residue,” as described in subparagraph (i), of the prior year’s “attained age level” reserve on the variable life insurance contract. If no further charges for this risk shall be collected under the contract, the payment shall equal  $A - B - C$ .

(iii) The present value of future death benefits that would be payable in the absence of a minimum guarantee, as referred to in subparagraph (ii) of this paragraph, shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate or the valuation interest rate, or both, but may not exceed the maximum interest rate permitted for the valuation of life insurance contracts.

(b) The valuation interest rate and mortality table used in computing the two minimum reserves described in subsection (a)(1) and (2) shall conform to permissible standards for the valuation of life insurance contracts. In determining the minimum reserve, the company may employ suitable approximations and estimates, including, but not limited to, groupings and averages.

#### Source

The provisions of this § 82.32 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754; amended May 22, 1992, effective May 23, 1992, 22 Pa.B. 2729. Immediately preceding text appears at serial pages (139272) to (139273).

### § 82.33. [Reserved].

#### Source

The provisions of this § 82.33 adopted April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754; reserved May 22, 1992, effective May 23, 1992, 22 Pa.B. 2729. Immediately preceding text appears at serial page (139274).

### § 82.34. Other reserve liabilities.

Reserve liabilities for fixed incidental insurance benefits and guarantees associated with variable incidental insurance benefits shall be maintained in the general account and reserve liabilities for variable aspects of the variable incidental insurance benefits shall be maintained in a separate account in amounts determined in accordance with the actuarial procedures appropriate to the benefits.

**Source**

The provisions of this § 82.34 adopted April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137048).

**SEPARATE ACCOUNTS****§ 82.41. Applicability.**

The requirements in §§ 82.42—82.51 apply to the establishment and administration of variable life insurance separate accounts by a domestic insurer.

**Source**

The provisions of this § 82.41 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137048).

**§ 82.42. Establishment and administration.**

(a) A domestic insurer issuing variable life insurance shall establish one or more separate accounts under section 406.2 of the act (40 P. S. § 506.2).

(b) If no law or other regulation provides for the custody of separate account assets and if the insurer is not the custodian of the separate account assets, contracts for custody of the assets shall be in writing and the Commissioner has authority to review and approve both the terms of the contract and the proposed custodian prior to the transfer of custody.

(c) The insurer may not, without the prior written approval of the Commissioner, employ in a material connection with the handling of separate account assets a person who:

(1) Within the last 10 years has been convicted of a felony or a misdemeanor arising out of the conduct of the person involving embezzlement, fraudulent conversion or misappropriation of funds or securities or involving violation of 18 U.S.C. §§ 1341, 1342 or 1343.

(2) Within the last 10 years has been found by any state regulatory authority to have violated or has acknowledged violation of any state insurance law involving fraud, deceit or knowing misrepresentation; or

(3) Within the last 10 years has been found by Federal or State regulatory authorities to have violated or has acknowledged violation of Federal or State securities laws involving fraud, deceit or knowing misrepresentation.

(d) A person with access to the cash, securities or other assets of the separate account shall be under bond in an amount of not less than \$100,000.

(e) The assets of the separate accounts shall be valued as often as variable benefits are determined but at least monthly.

**Source**

The provisions of this § 82.42 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137048) to (137049).

**Cross References**

This section cited in 31 Pa. Code § 82.41 (relating to applicability).

**§ 82.43. Amounts in separate account.**

The insurer shall maintain in each separate account assets with a fair market value at least equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for the policies.

**Source**

The provisions of this § 82.43 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137049) to (137050).

**Cross References**

This section cited in 31 Pa. Code § 82.41 (relating to applicability).

**§ 82.44. Investments by the separate account.**

(a) Sales, exchanges or other transfers of assets may be made by an insurer between its separate accounts or between another investment account and one or more of its separate accounts if the transfer into or from a separate account is made by one of the following methods:

- (1) A transfer of cash.
- (2) A transfer of assets having a valuation which could be readily determined in the marketplace.
- (3) Other transfers the Commissioner may approve.

(b) The separate account shall have sufficient net investment income and readily marketable assets to meet anticipated withdrawals under policies funded by the account.

**Source**

The provisions of this § 82.44 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137050).

**Cross References**

This section cited in 31 Pa. Code § 82.41 (relating to applicability); and 31 Pa. Code § 82.45 (relating to limitations on ownership).

**§ 82.45. Limitations on ownership.**

(a) A separate account may not purchase or otherwise acquire the securities of an issuer, other than securities issued or guaranteed as to principal and interest by the United States, if, immediately after the purchase or acquisition, the value of the investment, together with prior investments of the separate account in the security valued as required by this chapter, would exceed 10% of the value of the assets of the separate account. The Commissioner may waive this limitation in writing if the Commissioner believes the waiver will not render the operation of the separate account hazardous to the public or the policyholders in this Commonwealth.

(b) No separate account may purchase or otherwise acquire the voting securities of an issuer if, as a result of the acquisition, the insurer and its separate accounts, in the aggregate, will own more than 10% of the total issued and outstanding voting securities of the issuer. The Commissioner may waive this limitation in writing if the Commissioner believes the waiver will not render the operation of the separate account hazardous to the public or the policyholders in this Commonwealth or jeopardize the independent operation of the issuer of the securities.

(c) The percentage limitation specified in subsection (a) does not preclude the investment of the assets of separate accounts in shares of investment companies registered under the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80a-64) or other pools of investment assets if the investments and investment policies of the investment companies or asset pools comply substantially with § 82.44 (relating to investments by the separate account) and other applicable portions of this chapter.

**Source**

The provisions of this § 82.45 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137050) to (137051).

**Cross References**

This section cited in 31 Pa. Code § 82.41 (relating to applicability).

**§ 82.46. Valuation of separate account assets.**

Investments of the separate account shall be valued at their market value on the date of valuation, or at amortized cost if it approximates market value. If there is no readily available market value, then the investments shall be valued as provided under the terms of the contract, the prospectus for the contract, rules of the Securities and Exchange Commission or rules or other written agreement applicable to the separate account.

**Source**

The provisions of this § 82.46 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137051).

**Cross References**

This section cited in 31 Pa. Code § 82.41 (relating to applicability).

**§ 82.47. Separate account investment policy.**

(a) The investment policy of a separate account operated by a domestic insurer filed under § 82.13(3) (relating to filing for approval to do business in this Commonwealth) may not be changed without first filing the change with the Commissioner.

(b) A change filed under this section shall be effective 60 days after the date it was filed with the Commissioner, unless the Commissioner notifies the insurer before the end of the 60-day period of the disapproval of the proposed change. The Commissioner may, after notice and public hearing, disapprove a change that has become effective under this section.

(c) The Commissioner may disapprove the change if the Commissioner determines that the change would be detrimental to the interests of the policyholders participating in the separate account.

**Source**

The provisions of this § 82.47 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137051) to (137052).

**Cross References**

This section cited in 31 Pa. Code § 82.41 (relating to applicability).

**§ 82.48. Charges against a separate account.**

The insurer shall disclose in writing, prior to or contemporaneously with the delivery of the policy, the charges that may be made against the separate account, including, but not limited to, the following charges:

- (1) Taxes or reserves for taxes attributable to investment gains and income of the separate account.
- (2) Actual cost of reasonable brokerage fees and similar direct acquisition and sales costs incurred in the purchase or sale of separate account assets.
- (3) Actuarially determined costs of insurance, that is, tabular costs and the release of reserves and benefit base consistent with the release of separate account liabilities.

- (4) Charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate account.
- (5) A charge, at the rate specified in the policy, for mortality and expense guarantees.
- (6) Any amounts in excess of those required to be held in the separate account.
- (7) A charge for incidental insurance benefits.

#### Source

The provisions of this § 82.48 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137052).

#### Cross References

This section cited in 31 Pa. Code § 82.41 (relating to applicability).

### § 82.49. Standards of conduct.

An insurer seeking approval to enter into the variable life insurance business in this Commonwealth shall adopt by formal action of its board of directors a written statement specifying the standards of conduct of the insurer, its officers, directors, employees and affiliates with respect to the purchase or sale of investments of separate accounts. The standards of conduct shall be binding on the insurer and those to whom it refers. A code of ethics meeting the requirements of 15 U.S.C. § 80a-17(j) (relating to transactions of certain affiliated persons and underwriters) and applicable rules and regulations thereunder satisfies the provisions of this section.

#### Source

The provisions of this § 82.49 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137052) to (137053).

#### Cross References

This section cited in 31 Pa. Code § 82.41 (relating to applicability); and 31 Pa. Code § 82.51 (relating to investment advisory services).

### § 82.50. Conflicts of interest.

Rules under the insurance laws of the Commonwealth or a regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest also apply to members of a separate account's committee or other similar body.

**Source**

The provisions of this § 82.50 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137053).

**Cross References**

This section cited in 31 Pa. Code § 82.41 (relating to applicability).

**§ 82.51. Investment advisory services.**

(a) An insurer may not enter into a contract under which a person undertakes, for a fee, to regularly furnish investment advice to the insurer with respect to any of its separate accounts maintained for variable life insurance policies unless one of the following conditions are met:

(1) The person providing the advice is registered as an investment advisor under 15 U.S.C.A. §§ 80b-1—80b-21 under the Employee Retirement Income Security Act of 1974 (ERISA), the act of September 2, 1974 (Pub. L. 93-406, 88 Stat. 829).

(2) The insurer has filed with the Commissioner and continues to file annually the following information and statements concerning the advisory.

(i) The name and form of organization, state of organization and its principal place of business.

(ii) The names and addresses of its partners, officers, directors and persons performing similar functions or, if the investment advisor is an individual, of the individual.

(iii) A written standard of conduct, complying in substance with the requirements of § 82.49 (relating to standards of conduct), which has been adopted by the investment advisor and is applicable to the investment advisor, its officers, directors and affiliates.

(iv) A statement provided by the proposed advisor as to whether the advisor or a person associated therewith has been convicted within 10 years of a felony or misdemeanor arising out of that person's conduct as an employe, salesman, officer or director of an insurance company, a bank, an insurance agent, a securities broker or an investment advisor, involving embezzlement, fraudulent conversion or misappropriation of funds or securities or involving the violation of 18 U.S.C. §§ 1341, 1342 or 1343 (relating to frauds and swindles; fictitious name or address; or fraud by wire, radio or television); has been permanently or temporarily enjoined by order, judgment or decree of a court of competent jurisdiction from acting as an investment advisor, underwriter, broker or dealer or as an affiliated person or as an employe of an investment company, bank or insurance company or from engaging in or continuing conduct or practice in connection with that activity; has been found by Federal or State regulatory authorities to have willfully violated or has acknowledged willful violation of Federal or State secu-



rities laws or State insurance laws or of a rule or regulation under those laws; or has been censured, been denied an investment advisor registration, had a registration as an investment advisor revoked or suspended, or been barred or suspended from being associated with an investment advisor by order of Federal or State regulatory authorities.

(b) The investment advisory contract shall be in writing and shall provide that it may be terminated by the insurer without penalty to the insurer or the separate account upon no more than 60 days' written notice to the investment advisor.

(c) The Commissioner may, by order, after notice and opportunity for hearing, require the investment advisory contract to be terminated if the Commissioner deems continued operation thereunder to be hazardous to the public or the insurer's policyholders.

#### Source

The provisions of this § 82.51 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected May 25, 1989, effective April 29, 1989, 19 Pa.B. 2251; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137053) to (137055).

#### Cross References

This section cited in 31 Pa. Code § 82.13 (relating to filing for approval to do business in this Commonwealth); and 31 Pa. Code § 82.41 (relating to applicability).

## INFORMATION AND APPLICATIONS

### § 82.61. Information for applicants.

(a) An insurer delivering or issuing for delivery in this Commonwealth variable life insurance policies shall deliver to the applicant for the policy and obtain a written acknowledgment or receipt from the applicant, coincident with or prior to the execution of the application, the following information:

(1) A summary explanation, in nontechnical terms, of the principal features of the policy, including a description of the manner in which the variable benefits will reflect the investment experience of the separate account and the factors which affect such variation. The explanation shall include notices of the provisions required by § 82.24(1)(v) and (6) (relating to mandatory policy provisions).

(2) A statement of the investment policy of the separate account, including the following:

(i) A description of the investment objective intended for the separate account and the principal types of investments intended to be made.

(ii) Restrictions or limitations on the manner in which the operations of the separate account are intended to be conducted.

- (3) A statement of the net investment return of the separate account for each of the last 10 years or a lesser period that the separate account has been in existence.
  - (4) A statement of the charges levied against the separate account during the previous year.
  - (5) A summary of the method to be used in valuing assets held by the separate account.
  - (6) A summary of the Federal income tax aspects of the policy applicable to the insured, the policyholder and the beneficiary.
  - (7) Illustrations of benefits payable under the variable life insurance contract. The illustrations shall be prepared by the insurer and may not include projections of the past investment experience into the future or attempt predictions of future investment experience. This paragraph does not prohibit the use of hypothetical assumed rates of return to illustrate possible levels of benefits if it is made clear that the assumed rates are hypothetical only.
- (b) The requirements of this section shall be deemed to have been satisfied to the extent that a disclosure containing information required by this section is delivered, in the form of one of the following:
- (1) A prospectus included in a registration statement which satisfies the requirements of the Securities and Exchange Commission.
  - (2) The information and reports required by the Employee Retirement Income Security Act of 1974, the act of September 2, 1974 (Pub. L. 93-406, 88 Stat. 829) if the policies are exempted under section 3(a)(2) from the registration requirements of the Securities Act of 1933 (15 U.S.C. § 77c(a)(2)).

#### Source

The provisions of this § 82.61 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137054) to (137056).

#### Cross References

This section cited in 31 Pa. Code § 82.17 (relating to reports to the Commissioner).

### § 82.62. Applications.

The application for a variable life insurance policy shall contain:

- (1) A prominent statement that the death benefit may be variable or fixed under specified conditions.
- (2) A prominent statement that cash values may increase or decrease in accordance with the experience of the separate account, subject to a specified minimum guarantees.
- (3) Questions designed to elicit information which enables the insurer to determine the suitability of variable life insurance for the applicant.

**Source**

The provisions of this § 82.62 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137056).

**REPORTS TO POLICYHOLDERS****§ 82.71. Mailing.**

An insurer delivering or issuing for delivery in this Commonwealth variable life insurance policies shall mail each variable life insurance policyholder at his last known address the material in §§ 82.72—82.74 (relating to policy statements; separate account statements; and warning statements for flexible premium policies).

**Source**

The provisions of this § 82.71 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137056) to (137057).

**§ 82.72. Policy statements.**

Within 30 days after each anniversary of the policy, a statement of the cash surrender value, death benefit, a partial withdrawal or policy loan and interest charge, under the policy computed as of the policy anniversary date shall be mailed. The statement may be furnished within 30 days after a specified date in each policy year if the information contained therein is computed as of a date not more than 60 days prior to the mailing of the notice.

(1) This statement shall state that, in accordance with the investment experience of the separate account, the cash values and the variable death benefit may increase or decrease, and this statement shall prominently identify value described therein which may be recomputed prior to the next statement required by this section. If the policy guarantees that the variable death benefit on the next policy anniversary date will not be less than the variable death benefit specified in the statement, the statement shall be modified to so indicate.

(2) For flexible premium policies, the report shall contain a reconciliation of the change since the previous report in cash value and cash surrender value, if different, because of payments made—less deductions for expense charges—withdrawals, investment experience, insurance charges and other charges made against the cash value.

(i) The report shall show the projected cash value and cash surrender value, if different, as of 1 year from the end of the period covered by the report assuming that:

(A) Planned periodic premiums, if any, are paid as scheduled.

- (B) Guaranteed costs of insurance are deducted.
- (C) The net investment return is equal to the guaranteed rate or, in the absence of a guaranteed rate, is not greater than zero.
- (ii) If the projected value is less than zero, a warning message shall be included that states that the policy may be in danger of terminating without value in the next 12 months unless additional premium is paid.

#### Source

The provisions of this § 82.72 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137057) to (137058).

#### Cross References

This section cited in 31 Pa. Code § 82.17 (relating to reports to the Commissioner); and 31 Pa. Code § 82.71 (relating to mailing).

### § 82.73. Separate account statements.

Annually, a statement shall be mailed which includes the following:

- (1) A summary of the financial statement of the separate account based on the annual statement last filed with the Commissioner.
- (2) The net investment return of the separate account for the last year and, for each year after the first, a comparison of the investment rate of the separate account during the last year with the investment rate during prior years, up to a total of not less than 5 years when available.
- (3) A list of investments held by the separate account, as of a date not earlier than the end of the last year for which an annual statement was filed with the Commissioner.
- (4) Charges levied against the separate account during the year.
- (5) A statement of a change, since the last report, in the investment objective and orientation of the separate account, in an investment restriction or material quantitative or qualitative investment requirement applicable to the separate account, or in the investment advisor of the separate account.
- (6) The name of each broker or dealer handling portfolio transactions on behalf of the separate account in which the insurer or an affiliate has a material direct or indirect interest and the nature of the transactions and the amount of compensation received by each broker or dealer from business originating with the separate account during the preceding fiscal year.
- (7) The names and principal occupations of each principal executive officer and each director of the insurer.
- (8) The names of parent companies of the insurer and the basis of control of the insurer and the name of persons who are known to own, of record or beneficially, 10% or more of the outstanding voting securities of the company.

**Source**

The provisions of this § 82.73 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected May 25, 1989, effective April 29, 1989, 19 Pa.B. 2251; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137058).

**Cross References**

This section cited in 31 Pa. Code § 82.17 (relating to reports to the Commissioner); and 31 Pa. Code § 82.71 (relating to mailing).

**§ 82.74. Warning statements for flexible premium policies.**

For flexible premium policies, a report shall be sent to the policyholder if the amounts available under the policy on a policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next following policy processing day. The report shall indicate the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment of that amount.

**Source**

The provisions of this § 82.74 adopted April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137059).

**Cross References**

This section cited in 81 Pa. Code § 82.17 (relating to reports to the Commissioner); 31 Pa. Code § 82.24 (relating to mandatory policy provisions); 31 Pa. Code § 82.25 (relating to policy loan provisions); and 31 Pa. Code § 82.71 (relating to mailing).

**QUALIFICATION OF AGENTS AND BROKERS FOR THE SALE OF  
VARIABLE LIFE INSURANCE****§ 82.81. Qualifications to sell variable life insurance.**

(a) No person may sell or offer for sale in this Commonwealth a variable life insurance policy unless the person is an agent and has filed with the Commissioner, in a form satisfactory to the Commissioner, evidence that the person holds a license or authorization which may be required for the solicitation or sale of variable life insurance.

(b) An examination administered by the Department for the purpose of determining the eligibility of a person for licensing as an agent will, after the effective date of this chapter, include questions concerning the history, purpose, regulation and sale of variable life insurance as the Commissioner deems appropriate.

**Source**

The provisions of this § 82.81 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137059).

**Notes of Decisions***Public Policy*

This regulation applies only to unlicensed individuals who sell or offer for sale insurance policies and does not apply where appellant is attempting to ignore the contract for commission splits based on appellee's referrals. The public policy advanced by this provision is the preclusion of insurance sales to the public by unlicensed, and therefore untrained, inexperienced and possibly unscrupulous individuals. In this case, all the sales were made by a licensed and highly experienced agent, namely, appellant. Thus, the public policy concerns of this regulation were satisfied and did not operate to void the otherwise enforceable agreement entered by the parties. *Rapp v. Lorch*, 667 A.2d 240 (Pa. Super. 1995); appeal denied 675 A.2d 1250 (Pa. 1996).

**§ 82.82. Reports of disciplinary actions.**

A person qualified in this Commonwealth under this chapter to sell or offer to sell variable life insurance shall immediately report to the Commissioner:

- (1) A suspension or revocation of his agent's license in another state or territory of the United States.
- (2) The imposition of a disciplinary sanction, including suspension or expulsion from membership, suspension or revocation of or denial of registration imposed upon him by any national securities exchange, national securities association or a Federal, State or territorial agency with jurisdiction over securities or variable life insurance.
- (3) A judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation or violation of an insurance or securities law or regulation.

**Source**

The provisions of this § 82.82 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial pages (137059) to (137060).

**§ 82.83. Refusal to qualify agent to sell variable life insurance; suspension, revocation or nonrenewal of qualification.**

The Commissioner may reject an application or suspend or revoke or refuse to renew the qualification of an agent under this section to sell or offer to sell variable life insurance, upon grounds that would bar the applicant or the agent from being licensed to sell other life insurance contracts in this Commonwealth. The rules governing proceedings relating to the suspension or revocation of the license of an agent shall also govern a proceeding for suspension or revocation of the qualification of an agent to sell or offer to sell variable life insurance.

**Source**

The provisions of this § 82.83 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137060).

**FOREIGN COMPANIES****§ 82.91. Foreign companies.**

If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially similar to that provided by this chapter, the Commissioner, to the extent the Commissioner deems it appropriate, may consider compliance with the law or regulation as compliance with this chapter.

**Source**

The provisions of this § 82.91 adopted August 4, 1978, effective September 5, 1978, 8 Pa.B. 2171; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1835; corrected June 30, 1989, effective retroactive to April 29, 1989, 19 Pa.B. 2754. Immediately preceding text appears at serial page (137060).

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