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Variable Life Insurance

Sec. 38a-433-1. Authority

Sections 38a-433-2 to 38a-433-11, inclusive, applicable to variable life insurance policies, Sections 38a-433-12 to 38a-433-22, inclusive, applicable to Modified Guaranteed Annuities and Sections 38a-433-23 to 38a-433-32, inclusive, applicable to modified guaranteed life insurance, are promulgated under the authority of Section 38a-433 (e) of the Connecticut General Statutes.

(Effective September 25, 1992)

Sec. 38a-433-2. Definitions

As used in this regulation: (a) ''Affiliate'' of an insurer means any person, directly or indirectly, controlling, controlled by, or under common control with such insurer; any person who regularly furnishes investment advice to such insurer with respect to its separate accounts for which a specific fee or commission is charged; or any director, officer, partner, or employee of any such insurer, controlling or controlled person, or person providing investment advice or any member of the immediate family of such person.

(b) ''Agent'' means any person, corporation, partnership, or other legal entity which is licensed by this state as a life insurance agent.

(c) ''Assumed investment rate'' means 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.

(d) ''Benefit base'' means the amount to which the net investment return is applied.

(e) ''Commissioner'' means the Insurance Commissioner of this state.

(f) ''Control'' (including the terms ''controlling,'' ''controlled by'' and ''under common control with'') means 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 non-management 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 ten (10) percent of the voting securities of any other 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 such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(g) ''Flexible premium policy'' means any variable life insurance policy other than a scheduled premium policy as defined in this section.

(h) ''General account'' means all assets of the insurer other than assets in separate accounts established pursuant to Title 38a of the Connecticut General Statutes or pursuant to 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.

(i) "Incidental insurance benefit" means all 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, or term riders.

(j) "May" is permissive.

(k) "Minimum death benefit" means 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.

(*l*) "Net investment return" means the rate of investment return in separate account to be applied to the benefit base.

(m) "Person" means an individual, corporation, partnership, association, trust, or fund.

(n) "Policy processing day" means the day on which charges authorized in the policy are deducted from the policy's cash value.

(o) "Scheduled premium policy" means any variable life insurance policy under which both the amount and timing of premium payments are fixed by the insurer.

(p) "Separate account" means a separate account established pursuant to Section 38a-433 of the Connecticut General Statutes or pursuant to the corresponding section of the Insurance Laws of the state of domicile of a foreign or alien insurer.

(q) "Shall" is mandatory.

(r) "Variable death benefit" means 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.

(s) "Variable life insurance policy" means any individual policy which provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to such policy, pursuant to Section 38a-433 of the Connecticut General Statutes or pursuant to the corresponding section of the Insurance Laws of the state of domicile of a foreign or alien insurer.

(Effective September 25, 1992)

Sec. 38a-433-3. Qualification of insurer to issue variable life insurance

The following requirements are applicable to all insurers either seeking authority to issue variable life insurance in this state or having authority to issue variable life insurance in this state.

(a) **Licensing and approval to do business in this state:** An insurer shall not deliver or issue for delivery in this state any variable life insurance policy unless:

(1) the insurer is licensed or organized to do a life insurance business in this state;

(2) the insurer has obtained a license from the Commissioner for the issuance of variable life insurance policies in this state. The Commissioner shall grant such license only after he has found that:

(A) the plan of operation for the issuance of variable life insurance policies is not unsound;

(B) the general character, reputation, and experience of the management and those persons or 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 state; and

(C) 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 state. The Commissioner shall consider, among other things:

(i) the history of operation and financial condition of the insurer;

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

(iii) 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 shall be deemed its state of domicile for this purpose; and

(iv) if the insurer is a subsidiary of, or is affiliated by common management or ownership with another company, its relationship to such other company and the degree to which the requesting insurer, as well as the other company, meet these standards.

(b) **Filing for approval to do business in this state:** The commissioner may, at his discretion, require that an insurer, before it delivers or issues for delivery any variable life insurance policy in this state, file with this Department the following information for the consideration of the Commissioner in making the determination required by Section 38a-433-3 (a) (2):

(1) copies of and a general description of the variable life insurance policies 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 any separate account maintained by an insurer for any variable life insurance policy, a statement of the investment policy the insurer intends to follow for the investment of the assets held in such separate account. The statement 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 Subsection (j) of Sec. 38a-433-6;

(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; and

(6) a statement of the insurer's actuary describing the mortality and expense risks which the insurer will bear under the policy.

(c) **Standards of suitability.** Every insurer seeking approval to enter into the variable life insurance business in this state shall establish and maintain a written statement specifying the Standards of Suitability to be used by the insurer. Such 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 such policy is not unsuitable for such applicant on the basis of information furnished after reasonable inquiry of such applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and any other information known to the insurer or to the agent making the recommendation.

(d) **Use of sales materials:** An insurer authorized to transact variable life insurance business in this state shall not use any sales material, advertising material, or

descriptive literature or other materials of any kind in connection with its variable life insurance business in this state which is false, misleading, deceptive, or inaccurate.

(1) All variable life insurance sales material, advertising material, and descriptive literature shall be filed 30 business days prior to use with the Commissioner who shall require an insurer to cease the use of any such materials upon finding that any such materials are false, misleading, deceptive, or inaccurate. Revised versions of such materials containing changes of substantial import from versions on file with the Commissioner shall be filed with the Commissioner.

(2) For purposes of this regulation, variable insurance sales material, advertising material, or descriptive literature shall include but is not limited to:

(A) printed and published material, audio-visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV and film scripts, billboards, and similar displays for variable life insurance;

(B) descriptive literature and sales aids of all kinds used to sell variable life insurance by or on behalf of an insurer or any 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; and

(C) prepared sales talks, presentations, and material for use in the sale of variable life insurance by any person authorized to sell variable life insurance.

(e) **Requirements applicable to contractual services.** Any 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 such services shall furnish the Commissioner with any information or reports in connection with such services which the Commissioner may request in order to ascertain whether the variable life insurance operations of the insurer are being conducted in a manner consistent with these regulations and any other applicable law or regulations.

(f) **Reports to the commissioner:** Any insurer authorized to transact the business of variable life insurance in this state shall submit to the Commissioner, in addition to any other materials which may be required by this regulation or any other applicable laws or regulations:

(1) An Annual Statement of the business of its separate account or accounts in such form as may be prescribed by the Commissioner; and

(2) prior to the use in this state any Information Furnished to applicants as provided for in Sec. 38a-433-7; and

(3) prior to the use in this state the form of any of the Reports to Policyholders as provided for in Sec. 38a-433-9; and

(4) such additional information concerning its variable life insurance operations or its separate accounts as the Commissioner shall deem necessary.

Any material submitted to the Commissioner under this Section shall be disapproved if it is found to be false, misleading, deceptive, or inaccurate in any material respect and, if previously distributed, the Commissioner shall require the distribution of amended material.

(g) **Authority of commissioner to disapprove:** Any material required to be filed with and approved by the Commissioner shall be subject to disapproval if at any time it is found by him not to comply with the standards established by this regulation.

(Effective September 25, 1992)

Sec. 38a-433-4. Insurance policy requirements

Policy Qualification: The Commissioner shall not approve any variable life insurance form filed pursuant to this regulation unless it conforms to the requirements of this Section.

(a) **Filing of variable life insurance policies:** All variable life insurance policies, and all 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 the Commissioner and approved by him prior to delivery or issuance for delivery in this state.

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

(2) 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 regulation.

(b) **Mandatory policy benefit and design requirements:** Variable life insurance policies delivered or issued for delivery in this state shall comply with the following minimum requirements:

(1) 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.

(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 duly paid.

(3) The policy shall reflect the investment experience of one or more separate accounts established and maintained by the insurer. The insurer must 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) Any changes in variable death benefits of each variable life insurance policy shall be determined at least annually.

(6) The cash value of each variable insurance policy shall be determined at least monthly. The method of computation of cash values and other non-forfeiture 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 may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not to be 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.

(c) **Mandatory policy provisions:** Every variable life insurance policy filed for approval in this state shall contain at least the following:

(1) the cover page or pages corresponding to the cover page of each such policy shall contain:

(A) a prominent statement in either contrasting color or in boldface type that the amount or duration of death benefit may be variable or fixed under specified conditions;

(B) 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 any specified minimum guarantees;

(C) a statement describing any minimum death benefit required pursuant to section 38a-433-4 (b) (2);

(D) the method, or a reference to the policy provision which describes the method, for determining the amount of insurance payable at death;

(E) to the extent permitted by state law, a captioned provision that the policyholder may return the variable life insurance policy within 10 days of receipt of the policy by the policyholder, and receive a refund equal to the sum of (a) the difference between the premiums paid including any policy fees or other charges and the amounts allocated to any separate accounts under the policy and (b) the value of the amounts allocated to any separate accounts under the policy, on the date the returned policy is received by the insurer or its agent. Until such time as state law authorizes the return of payments as calculated in the preceding sentence, the amount of the refund shall be the total of all premium payments for such policy; and

(F) such other items as are currently required for fixed benefit life insurance policies and which are not inconsistent with this regulation.

(2) For scheduled premium policies, a provision for a grace period of not less than thirty-one days from the premium due date which shall provide that where the premium is paid within the grace period, policy values will be the same, except for the deduction of any overdue premium, as if the premium were paid on or before the due date.

(3) 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 such charges in accordance with the terms of the policy. Such grace period shall end on a date not less than 61 days after the mailing date of the report of policyholders required by section 38a-433-9 (c).

The death benefit payable during the grace period will equal the death benefit in effect immediately prior to such period less any overdue charges. If the policy processing days occur monthly, the insurer may require the payment of not more than 3 times the charges which were due on the policy processing day on which the amounts available under the policy were insufficient to pay all charges authorized by the policy that are necessary to keep such policy in force until the next policy processing day.

(4) For scheduled premium policies, a provision that the policy will be reinstated at any time within two years from the date of default upon the written application of the insured and 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 any 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 payment of an amount not exceeding the greater of:

(A) all overdue premiums and any other indebtedness in effect at the end of the grace period following the date of default with interest at the rate permitted by section 38a-444 of the General Statutes; or

(B) 110% of the increase in cash value resulting from reinstatement.

(5) a full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy;

(6) a provision designating the separate account to be used and stating that:

(A) the assets of such 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 variable life insurance policies supported by the separate account; and

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

(7) A provision that at any time during the first eighteen months of the variable life insurance policy, the owner may exchange the policy for a policy of permanent fixed benefit insurance for the same initial amount of insurance as the variable life insurance policy, provided that the new policy:

(A) shall bear the same date of issue and age at issue as the original variable life insurance policy;

(B) is issued on any plan of permanent insurance offered by the insurer or an affiliate on the date of issue of the variable life insurance policy and premium rates in effect on that date for the same class of insurance;

(C) Includes such riders and incidental insurance benefits as were included in the original policy if such riders and incidental insurance benefits are issued with the fixed benefit policy. If the conversion results in an increase or decrease in cash value, such increase or decrease will be payable to the insurer or the insured as the case may be.

(D) Must apply as an advance premium on the new policy any excess of the accrued premium on the original variable life insurance policy from the date of issue to the date of request for exchange over the corresponding accrued premium on the new fixed benefit policy, except that any portion of such excess which is less than a regular mode premium on the new policy may either be applied as an advance premium or refunded in cash at the option of the insurer.

(E) Shall not require evidence of insurability for this exchange.

(8) A provision specifying what documents constitute the entire insurance contract;

(9) 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;

(10) an identification of the owner of the insurance contract;

(11) 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;

(12) a statement of any conditions or requirements concerning the assignment of the policy;

(13) A description of any adjustments in policy values to be made in the event of misstatement of age or sex of the insured;

(14) A provision that the policy shall be incontestable by the insurer after it has been in force for two years during the lifetime of the insured, provided, however, that any 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 any such increase has been in force, during the lifetime of the insured, for two years from the date of issue of such increase;

(15) A provision stating that the investment policy of the separate account shall 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 of this state;

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

(A) for up to six months from the date of request; or

(B) for any 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 such payment impractical.

(17) If settlement options are provided, at least one such option shall be provided on a fixed basis only;

(18) A description of the basis for computing the cash value and the surrender value under the policy shall be included.

(19) Premiums or charges for incidental insurance benefits shall be stated separately;

(20) Any other policy provisions required by this regulation;

(21) Such other items as are currently required for fixed benefit life insurance policies and are not inconsistent with this regulation.

(22) A provision for non-forfeiture insurance benefits.

The insurer may establish a reasonable minimum cash value below which any non-forfeiture insurance options will not be available.

(d) **Policy loan provisions:** Every variable life insurance policy, other than term insurance policies and pure endowment policies, delivered or issued for delivery in this state shall contain provisions which are not less favorable to the policyholder than the following:

(1) A provision for policy loans which provides the following:

(A) At least 75% of the policy's cash surrender value may be borrowed;

(B) The amount borrowed shall bear interest at a rate not to exceed that permitted by Section 38a-444 of the General Statutes.

(C) Any indebtedness shall be deducted from the proceeds payable on death.

(D) Any indebtedness shall be deducted from the cash surrender value upon surrender or in determining any non-forfeiture benefit.

(E) For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within thirty-one days after the date of mailing of such 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 such charges, a report must be sent to the policyholder containing the information specified by Section 38a-433-9 (c).

(F) The policy may provide that if, at any time, so long as premiums are duly paid, the variable death benefit is less than it would have been if no loan or withdrawal had ever been made, the policyholder may increase such 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 such evidence of insurability as the insurer may request.

(G) The policy may specify a reasonable minimum amount which may be borrowed at any time but such minimum shall not apply to any automatic premium loan provision.

(H) No policy loan provision is required if the policy is under the extended insurance non-forfeiture option.

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

(J) 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.

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

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

(2) Incidental insurance benefits may be offered on a fixed or variable basis;

(3) Policies issued on a participating basis shall offer to pay dividend amounts in cash. In addition, such policies may offer the following options:

(A) The amount of the dividend may be credited against premium payments;

(B) The amount of the dividend may be applied to provide paid-up amounts of additional fixed or variable benefit life insurance;

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

(D) The amount of the dividend may be applied to provide paid-up amounts of fixed benefit one-year term insurance;

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

(4) 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 or partial withdrawals under this section, except that a restriction that no more than two consecutive premiums can be paid under this provision may be imposed.

(5) A provision allowing the policyholder to make partial withdrawals;

(6) Any other policy provision approved by the commissioner.

(Effective September 25, 1992)

Sec. 38a-433-5. Reserve liabilities for variable life insurance

(a) Reserve liabilities for variable life insurance policies shall be established under the Standard Valuation Law in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

(b) For scheduled premium policies, 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 the guarantee, and shall be maintained

in the general account of the insurer and shall be not less than the greater of the following minimum reserves:

(1) The aggregate total of the term costs, if any, covering a period of one full year from the valuation date, of the guarantee on each variable life insurance contract, assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the assumed investment rate; or

(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 shall not be less than zero and shall equal the ''residue,'' as described in paragragh (A), of the prior year's ''attained age level'' reserve on the contract, with any such ''residue'' increased or decreased by a payment computed on an attained age basis as described in paragraph (B) below.

(A) The ''residue'' of the prior year's ''attained age level'' reserve on each variable life insurance contract shall not be less than zero and shall be determined by adding interest at the valuation interest rate to such 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 such guarantee, and 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.

(B) The payment referred to in Subsection (b) of this Section shall be computed so that the present value of a level payment of that amount each year over the future premium paying period of the contract is equal to (A) minus (B) minus (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 such guarantee, and (C) is any ''residue,'' as described in paragraph (A), of the prior year's ''attained age level'' reserve on such variable life insurance contract. If the contract is paid-up, the payment shall equal (A) minus (B) minus (C). The amounts of future death benefits referred to in (B) shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate and/or the valuation interest rate but in no event may exceed the maximum rate permitted for the violation of life insurance contracts.

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

(c) For flexible premium policies, reserve liabilities for any guaranteed minimum death benefit shall be maintained in the general account of the insurer and shall be not less than the aggregate total of the term costs, if any, covering the period provided for in the guarantee not otherwise provided for by the reserves held in the separate account assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the valuation interest rate.

The valuation interest rate and mortality table used in computing this additional reserve, if any, shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ

suitable approximations and estimates, including but not limited to groupings and averages.

(d) Reserve liabilities for all fixed incidental insurance benefits and any guarantees associated with variable incidental insurance benefits shall be maintained in the general account and reserve liabilities for all 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 such benefit.

(Effective September 25, 1992)

Sec. 38a-433-6. Separate accounts

The following requirements apply to the establishment and administration of variable life insurance separate accounts by any domestic insurer:

(a) **Establishment and administration of separate accounts:** Any domestic insurer issuing variable life insurance shall establish one or more separate accounts pursuant to Section 38a-433 of the Connecticut General Statutes.

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

(2) Such insurer shall not without the prior written approval of the Commissioner employ in any material connection with the handling of separate account assets any person who:

(A) Within the last ten years has been convicted of any felony or a misdemeanor arising out of such person's conduct involving embezzlement, fraudulent conversion, or misappropriation of funds or securities or involving violation of Sections 1341, 1342, 1343 of Title 18, United States Code; or

(B) Within the last ten years has been found by any state regulatory authorities to have violated or has acknowledged violation of any provision of federal or state securities laws involving fraud, deceit, or knowing misrepresentation.

(3) All persons with access to the cash, securities, or other assets of the separate account shall be under bond.

(4) The assets of such separate accounts shall be valued at least as often as variable benefits are determined but in any event at least monthly.

(b) **Amounts in the separate account.**

The insurer shall maintain in each separate account assets with a 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 such policies.

(c) **Investments by the separate account.** (1) No sale, exchange, or other transfer of assets may be made by an insurer or any of its affiliates between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:

(A) in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the policies with respect to the separate account to which the transfer is made; and

(B) such transfer, whether into or from a separate account, is made by a transfer of cash; but other assets may be transferred if approved by the Commissioner in advance.

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

(d) **Limitations on Ownership.** (1) A separate account shall not purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States, if immediately after such purchase or acquisition the value of such investment, together with prior investments of such separate account in such security valued as required by sections 38a-433-1 to 38a-433-11, inclusive, of the Regulations of Connecticut State Agencies, 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 such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state.

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

(3) The percentage limitation specified in subdivision (1) of this subsection shall not be construed to preclude the investment of the assets of separate accounts in shares of investment companies registered pursuant to the federal Investment Company Act of 1940 or other pools of investment assets if the investment policies of such investment companies or asset pools comply substantially with the provisions of subsection (c) of this section and other applicable portions of sections 38a-433-1 to 38a-433-11, inclusive, of the Regulations of Connecticut State Agencies.

(e) **Valuation of assets of a separate account.** (1) 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.

(f) **Separate account investment policy.** (1) The investment policy of a separate account operate account operated by a domestic insurer filed under Section 38a-433-3 (b) (3) shall not be changed without first filing such change with the Insurance Commissioner.

(2) With respect to changes of investment policy for which the Commissioner must give his approval, the following regulations shall apply:

(A) Any change filed pursuant to this section shall be effective sixty days after the date it was filed with the Commissioner, unless the Commissioner notifies the insurer before the end of such sixty-day period of his disapproval of the proposed change. At any time the Commissioner may, after notice and public hearing, disapprove any change that has become effective pursuant to this section.

(B) The Commissioner may disapprove the change only if he determines that the change would be detrimental to the interest of the policyholders participating in such separate account.

(g) **Charges against a separate account.** (1) The insurer must disclose in writing, prior to or contemporaneously with delivery of the policy, all charges that may be made against the separate account, including, but not limited to, the following:

(A) taxes or reserves for taxes attributable to investment gains and income of the separate account;

(B) actual cost of reasonable brokerage fees and similar direct acquisition and sales costs incurred in the purchase or sale of separate account assets;

(C) actuarially determined costs of insurance (tabular costs) and the release of reserves and benefit base consistent with the release of separate account liabilities;

(D) charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate account;

(E) A charge, at a rate specified in the policy, for mortality and expense guarantees;

(F) Any amounts in excess of those required to be held in the separate account;

(G) Charges for incidental insurance benefits.

(h) **Standards of conduct.** Every insurer seeking approval to enter into the variable life insurance business in this state 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. Such Standards of Conduct shall be binding on the insurer and those to whom it refers. A code or codes of ethics meeting the requirements of Section 17j under the investment company act of 1940 and applicable rules and regulations thereunder shall satisfy the provisions of this section.

(i) **Conflicts of interest.** Rules under any provision of the Insurance Laws of this state or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee or other similar body.

(j) **Investment advisory services to a separate account.** (1) [a.] An insurer shall not enter into a contract under which any person undertakes, for a fee, to regularly furnish investment advice to such insurer with respect to its separate accounts maintained for variable life insurance policies unless:

(A) the person providing such advice is registered as an investment adviser under the Investment Advisers Act of 1940; or

(B) the insurer has filed with the Commissioner and continues to file annually the following information and statements concerning the proposed adviser:

(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 such an investment adviser be an individual, of such individual;

(iii) a written Standard of Conduct complying in substance with the requirements of Section 8 of this Article which has been adopted by the investment adviser and is applicable to the investment adviser, its officers, directors, and affiliates;

(iv) a statement provided by the proposed adviser as to whether the adviser or any person associated therewith:

(aa) has been convicted within ten years of any felony or misdemeanor arising out of such person's conduct as an employee, salesman, officer or director of an insurance company, a bank, an insurance agent, a securities broker, or an investment adviser; involving embezzlement, fradulent conversion, or misappropriation of funds or securities, or involving the violation of Sections 1341, 1342, or 1343 of Title 18 of the United States Code;

(bb) has been permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, or dealer, or as an affiliated person or as an employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity.

(cc) has been found by federal or state regulatory authorities to have willfully violated or has acknowledged willful violation of any provision of federal or state securities laws or state insurance laws or of any rule or regulations under any such laws; or

(dd) has been censured, denied an investment adviser registration, had a registration as an investment adviser revoked or suspended, or been barred or suspended from being associated with an investment adviser by order of federal or state regulatory authorities; and

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

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

(Effective September 25, 1992; amended August 30, 2004)

Sec. 38a-433-7. Information furnished to applicants

An insurer delivering or issuing for delivery in this state any variable life insurance policies shall deliver to the applicant for the policy, and obtain a written acknowledgement of receipt from such applicant coincident with or prior to the execution of the application, the following information. The requirements of this Section shall be deemed to have been satisfied by the delivery to the applicant of a prospectus included in a registration statement which satisfies the requirements of the Securities Act of 1933 and which was declared effective by the Securities and Exchange Commission to the extent that the prospectus contains the information required by this Section.

(a) A summary explanation, in non-technical 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. Such explanation must include notices of the provision required by Sections 38a-433-4 (c) (1) (E) and 38a-433 (c) (8);

(b) a statement of the investment policy of the separate account, including:

(1) a description of the investment objective intended for the separate account and the principal types of investments intended to be made; and

(2) any restriction or limitations on the manner in which the operations of the separate account are intended to be conducted.

(c) A statement of the net investment return of the separate account for each of the last ten years or such lesser period as the separate account has been in existence;

(d) a statement of the charges levied against the separate account during the previous year;

(e) a summary of the method to be used in valuing assets held by the separate account;

(f) a summary of the federal income tax aspects of the policy applicable to the insured, the policyholder and the beneficiary;

(g) illustrations of benefits payable under the variable life insurance contract. Such illustrations shall be prepared by the insurer and shall not include projections of past investment experience provided that nothing contained herein prohibits use of hypothetical assumed rates of return to illustrate possible levels of benefits if it is made clear that such assumed rates are hypothetical only.

(Effective September 25, 1992)

Sec. 38a-433-8. 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 any specified minimum guarantees);

(3) questions designed to elicit information which enables the insurer to determine the suitability of variable life.

(Effective September 25, 1992)

Sec. 38a-433-9. Reports to policyholders

Any insurer delivering or issuing for delivery in this state any variable life insurance policies shall mail to each variable life insurance policyholder at his or her last known address the following reports:

(a) Within thirty days after each anniversary of the policy, a statement or statements of the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge, and any optional payments allowed pursuant to Subsection (d) of Sec. 38a-433-4 under the policy computed as of the policy anniversary date. Provided, however, that such statement may be furnished within thirty days after a specified date in each policy year so long as the information contained therein is computed as of a date not more than sixty days prior to the mailing of such notice. 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 shall prominently identify any 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 such statement, the statement shall be modified to so indicate. For flexible premium policies, the report must 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 any other charges made against the cash value. In addition, the report must show the projected cash value and cash surrender value, if different, as of one year from the end of the period covered by the report assuming that: (i) planned periodic premiums, if any, are paid as scheduled; (ii) guaranteed costs of insurance are deducted; and (iii) the net investment return is equal to the guaranteed rate or, in the absence of a guaranteed rate, is not greater than zero. If the projected value is less than zero, a warning message must 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.

(b) Annually, a statement or statements including:

(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 five 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) any charges levied against the separate account during the previous year;

(5) a statement of the portfolio turnover rate as defined herein during the preceding fiscal year of investments allocated to the separate account.

(A) The rate shall be calculated by dividing (A) the lesser of purchases of sales of portfolio securities for the particular fiscal year by (B) the monthly average of the value of the portfolio securities owned by the separate account during the

particular fiscal year. Such monthly average shall be calculated by totaling the values of the portfolio securities as of the beginning and end of the first month of the particular fiscal year and as of the end of each of the succeeding eleven months, and dividing the sum by 13, except that the average value of securities for which market quotations are not available may be based upon the value of such securities as of the end of the preceding fiscal quarters.

(B) For the purposes of this item, there shall be excluded from both the numerator and the denominator all U.S. Government securities (short-term and long-term) and all other securities whose maturities at the time of acquisition were one year or less. Purchases shall include any cash paid upon the conversion of one portfolio security into another. Purchases shall also include the cost of rights or warrants purchased. Sales shall include the net proceeds of the sale of rights or warrants. Sales shall also include the net proceeds of redemptions of portfolio securities by call or maturity.

(C) The insurer shall show, in addition to the calculated portfolio turnover rate, both the amount of the purchases and the amount of the sales (calculated as prescribed in (2) above) and the monthly average (but not the individual monthly figures) of the value of the portfolio securities owned by the separate account during the fiscal year.

(D) The insurer may, if it wishes, make any statement or explanation with respect to any significant variations in the portfolio turnover rate during the three fiscal years next preceding.

(6) a statement of any change, since the last report, in the investment objective and orientation of the separate account, in any investment restriction or material quantitative or qualitative investment requirement applicable to the separate account, or in the investment adviser of the separate account; and

(7) the name of each broker or dealer handling portfolio transactions on behalf of the separate account in which the insurer or an affiliate has any material direct or indirect interest and the nature of such transactions and the amount of compensation received by each such broker or dealer from business originating with the separate account during the preceding fiscal year;

(c) For flexible premium policies, a report must be sent to the policyholder if the amounts available under the policy on any 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 must 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 such amount.

(Effective September 25, 1992)

Sec. 38a-433-10. Qualification of agents for the sale of variable life insurance

(a) **Qualification to sell variable life insurance.** (1) No person may sell or offer for sale in this state any variable life insurance policy unless such person is an agent and has filed with the Commissioner, in a form satisfactory to the Commissioner, evidence that such person holds any license or authorization which may be required for the solicitation or sale of variable life insurance.

(2) Any examination administered by the Department for the purpose of determining the eligibility of any person for licensing as an agent shall, after the effective date of this regulation, include such questions concerning the history, purpose, regulation, and the sale of variable life insurance as the Commissioner deems appropriate.

(b) **Reports of disciplinary actions.** Any person qualified in this state under this Section to sell or offer to sell variable life insurance shall immediately report to the Commissioner:

(1) any suspension or revocation of his agent's license in any other state or territory of the United States;

(2) the imposition of any disciplinary sanction, including suspension or expulsion from membership, suspension or revocation of or denial of registration, imposed upon him by any national securities exchange, or national securities association, or any federal, state, or territorial agency with jurisdiction over securities or variable life insurance;

(3) any judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

(c) **Refusal to qualify agent to sell variable life insurance, suspension, revocation, or nonrenewal of qualification.** The Commissioner may reject any application or suspend or revoke or refuse to renew any agent's qualifications under this Article to sell or offer to sell variable life insurance upon any ground that would bar such applicant or such agent from being licensed to sell other life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of an agent's license shall also govern any proceeding or suspension or revocation of an agent's qualification to sell or offer to sell variable life insurance.

(Effective September 25, 1992)

Sec. 38a-433-11. Separability

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

(Effective September 25, 1992)

Modified Guaranteed Annuities

Sec. 38a-433-12. Applicability and scope

This regulation shall apply to:

(1) The qualifications of agents to be authorized to sell Modified Guaranteed Annuity contracts in this state;

(2) the qualification of insurers to be authorized to issue such contracts;

(3) the required contract form and provisions for issue of such coverage in this state; and

(4) the manner in which separate account assets, supporting such issued contracts, are to be maintained and reported.

(Effective September 25, 1992)

Sec. 38a-433-13. Definitions

As used in Sections 38a-433-12a to 38a-433-21, inclusive:

(a) "Modified Guaranteed Annuity" means a deferred annuity contract, the underlying assets of which are held in a separate account, and the values of which are guaranteed if held for specified periods. It contains nonforfeiture values that are based upon a market-value adjustment formula if held for shorter periods. This formula may, or may not, reflect the value of assets held in the separate account.

The assets underlying the contract must be in a separate account during the period or periods, when the contract holder can surrender the contract.

(b) "Interest credits" means all interest that is credited to the contract.

(c) "Separate account" means a separate account established pursuant to Section 38a-433 of the Connecticut General Statutes or pursuant to the corresponding Section of the Insurance Laws of the state of domicile of a foreign or alien insurer.

(d) "Commissioner" means the Insurance Commissioner of this state.

(e) "Consumer Price Index" means the index for all urban consumers for all items as published by the Bureau of Labor Statistics of the United States Department of Labor or any successor agency.

(Effective September 25, 1992)

Sec. 38a-433-14. Authority of insurers

The following requirements are applicable to all insurers either seeking authority to issue Modified Guaranteed Annuities in this state or having authority to issue Modified Guaranteed Annuities in this state.

(a) **Licensing and Approval to do Business.** (1) No company shall deliver or issue for delivery Modified Guaranteed Annuities within this state unless it is licensed or organized to do a life insurance or annuity business in this state, and the Commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the Commissioner shall consider among other things the history and financial condition of the company; the character, responsibility and fitness of the officers and directors of the company; and the law and regulation under which the company is authorized in the state of domicile to issue such annuities.

(2) If the company is a subsidiary of an admitted life insurance company, or affiliated with such company by common management or ownership, it may be deemed by the Commissioner to have satisfied the provision of subdivision (1) of this subsection if either it or such admitted life company satisfies the aforementioned provisions; provided, further, that companies licensed and having a satisfactory record of doing business in this state for a period of at least three years may be deemed to have satisfied the Commissioner with respect to subdivision (1) of this subsection.

(3) Before any company shall deliver or issue for delivery such annuities within this state it shall submit to the Commissioner a general description of the kinds of such annuities it intends to issue; if requested by the Commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue such annuities; and if requested by the Commissioner, biographical data with respect to officers and directors of the company on the National Association of Insurance Commissioners uniform biographical data forms.

(b) **Use of Sales Materials.** An insurer authorized to transact Modified Guaranteed Annuity business in this state shall not use any sales material, advertising material, or descriptive literature or other materials of any kind in connection with its Modified Guaranteed Annuity business in this state which is false, misleading, deceptive, or inaccurate.

Illustrations of benefits payable under any Modified Guaranteed Annuity shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided, that hypothetical assumed interest credits may be used to illustrate possible levels of benefits.

Before any insurer shall deliver or issue for delivery any Modified Guaranteed Annuity contract in this state, the Commissioner may require the filing of a copy of any prospectus or other sales material to be used in connection with the marketing of that insurer's Modified Guaranteed Annuity contract. The sales material must clearly illustrate that there can be both upward and downward adjustments due to the application of the market value adjustment formula in determining nonforfeiture benefits.

(c) **Reports.** Any insurer authorized to transact the business of Modified Guaranteed Annuities in this state shall submit to the Commissioner:

(1) a separate account annual statement which shall include the business of its Modified Guaranteed Annuities; and

(2) such additional information concerning its Modified Guaranteed Annuity operations or separate accounts as the Commissioner shall deem necessary.

(d) **Authority of Commissioner to Disapprove.** Any material required to be filed with and approved by the Commissioner shall be subject to disapproval if at any time it is found by the Commissioner not to comply with the standards established by this regulation.

(Effective September 25, 1992)

Sec. 38a-433-15. Filing of contracts

No Modified Guaranteed Annuity shall be delivered or issued for delivery to any person in this state, nor shall any application, rider or endorsement be used in connection therewith, until a copy of the forms thereof shall have been filed with and approved by the Commissioner. Filings shall include a demonstration in a form satisfactory to the Commissioner that the nonforfeiture provisions of the contract(s) comply with subsection 38a-433-16 (b).

(Effective September 25, 1992)

Sec. 38a-433-16. Modified guaranteed annuity contract requirements

(a) **Mandatory Contract Benefit and Design Requirements.**

(1) Any Modified Guaranteed Annuity contract delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of nonforfeiture benefits.

(2) No Modified Guaranteed 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 provisions:

(A) A provision that there shall be a period of grace of thirty days or of one month, within which any stipulated payment to the insurer falling due after the first 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 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.

(3) The market-value adjustment formula, used in determining nonforfeiture benefits, must (A) be stated in the contract, (B) be applicable for both upward and downward adjustments, and (C) provide reasonable equity to both the contract holder and the insurance company. When a contract is filed with the Commissioner for approval, it must be accompanied by an actuarial statement indicating the basis for the market-value adjustment formula and that the formula provides reasonable equity to both the contract holder and the insurance company.

(4) If and to the extent so provided under the applicable contracts, that portion of the assets of any separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

(b) **Nonforfeiture Benefits.**

(1) This subsection 38a-433-16 (b) shall not apply to any:

(A) immediate annuity,

(B) group annuity contract purchased in connection with one or more retirement plans or plans of deferred compensation established or maintained by or for one or more employers (including partnerships or sole proprietorships), employee organizations, or any combination thereof, other than plans providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, or to any

(C) deferred annuity contract after annuity payments have commenced.

(2) No Modified Guaranteed Annuity contract shall be delivered or issued for delivery in this state unless it contains in substance the following provisions:

(A) That upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan described in the contract that complies with Section 38a-433-16 (b) (5) below. Such description will include a statement of the mortality table, if any, and guaranteed or assumed interest rates used in calculating annuity payments.

(B) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer will pay in lieu of any paid-up annuity benefit a cash surrender benefit as described in the contract that complies with Section 38a-433-16 (b) (6) below. The contract may provide that the insurer may defer payment of such cash surrender benefit for a period of six months after demand.

(3) The minimum values as specified in this Section of any paid-up annuity, cash surrender or death benefits available under a Modified Guaranteed Annuity contract shall be based upon nonforfeiture amounts meeting the requirements of this subdivision, Section 38a-433-16 (b) (3).

The ''Unadjusted Minimum Nonforfeiture Amount'' on any date prior to the annuity commencement date shall be an amount equal to the percentages of net considerations (as specified in Section 38a-433-16 (b) (4) below) increased by the interest credits defined in Section 38a-433-13 (b) allocated to the percentage of net considerations, which amount shall be reduced to reflect the effect of:

(A) any partial withdrawals from or partial surrender of the contract;

(B) the amount of any indebtedness on the contract, including interest due and accrued;

(C) an annual contract charge not less than zero and equal to (i) the lesser of thirty dollars ($30.00) or two percent (2%) of the end of year contract value less (ii) the amount of any annual contract charge deducted from any gross considerations credited to the contract during such contract year; and

(D) a transaction charge of ten dollars ($10.00) for each transfer to another investment division within the same contract.

Guaranteed interest credits in each year for any period of time for which interest credits are guaranteed shall be reasonably related to the average interest credits over that period of time.

The "Minimum Nonforfeiture Amount" shall be the Unadjusted Minimum Non-forfeiture Amount adjusted by the market-value adjustment formula contained in the contract.

The annual contract charge of thirty dollars ($30.00) and the transaction charge of ten dollars ($10.00) referenced will be adjusted to reflect changes in the Consumer Price Index in accordance with Section 38a-433-16 (b) (4) below.

(4) The percentages of net considerations used to define the Minimum Nonforfeiture Amount in Section 38a-433-16 (b) (3) above shall meet the requirements of this subdivision, Section 38a-433-16 (b) (4).

(A) With respect to contracts providing for periodic considerations, the net considerations for a given contract year used to define the Minimum Non-forfeiture Amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars ($30.00) and less a collection charge of one dollar and twenty-five cents ($1.25) per consideration credited to the contract during that contract year and less any charges for premium taxes. The percentages of net considerations shall be sixty-five percent (65%) for the first contract year and eighty-seven and one-half percent (87 1/2%) for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

(B) With respect to contracts providing for a single consideration, the net consideration used to define the Minimum Nonforfeiture Amount shall be the gross consideration less a contract charge of seventy-five dollars ($75.00) and less any charge for premium taxes. The percentage of the net consideration shall be ninety percent (90%).

The annual contract charge of thirty dollars ($30.00), the collection charge of one dollar and twenty-five cents ($1.25) per collection, and the single consideration contract charge of seventy-five dollars ($75.00) referred to above, will be adjusted to reflect changes in the Consumer Price Index in accordance with Section 38a-433-16 (b) (4) (C) below.

(C) The above contract charges shall be multiplied by the ratio of (i) the Consumer Price Index for June of calendar year preceding the date of filing, to (ii) the Consumer Price Index for June, 1979.

(5) Any paid-up annuity benefit available under a Modified Guaranteed Annuity contract shall be such that its present value on the annuity commencement date is at least equal to the Minimum Nonforfeiture Amount on that date. Such present value shall be computed using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.

(6) For Modified Guaranteed Annuity contracts which provide cash surrender benefits, the cash surrender benefit at any time prior to the annuity commencement date shall not be less than the Minimum Nonforfeiture Amount next computed after the request for surrender is received by the insurer. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(7) Any Modified Guaranteed Annuity contract which does not provide cash surrender benefits, or does not provide death benefits at least equal to the Minimum Nonforfeiture Amount, prior to the annuity commencement date shall include a statement in a prominent place in the contract that such benefits are not provided.

(8) Notwithstanding the requirements of this subsection, Section 38a-433-16 (b), a Modified Guaranteed Annuity contract may provide under the situations specified in (A) or (B) below, that the insurer, at its option, may cancel the annuity and pay the contract holder the larger of the Unadjusted Minimum Nonforfeiture Amount and the Minimum Nonforfeiture Amount, and by such payment be released of any further obligation under such contract:

(A) if at any time the annuity becomes payable, the larger of the Unadjusted Minimum Nonforfeiture Amount and the Minimum Nonforfeiture Amount is less than $2,000, or would provide an income the initial amount of which is less than $20 per month; or

(B) if prior to the time the annuity becomes payable under a periodic payment contract no considerations have been received under the contract for a period of two full years and both (i) the total considerations paid prior to such period, reduced to reflect any partial withdrawals from or partial surrenders of the contract, and (ii) the larger of the Unadjusted Minimum Nonforfeiture Amount and the Minimum Nonforfeiture Amount is less than $2,000.

(9) For any Modified Guaranteed Annuity contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of Section 38a-433-16 (b) (2) above, additional benefits payable

(A) in the event of total and permanent disability,

(B) as reversionary annuity or deferred reversionary annuity benefits, or

(C) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this Section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require Minimum Nonforfeiture Amounts, paid-up annuity, cash surrender and death benefits.

(c) **The Application.** The application for a Modified Guaranteed Annuity shall prominently set forth immediately preceding the signature line language denoting that amounts payable under the contract are subject to a market value adjustment prior to a date or dates specified in the contract.

(Effective September 25, 1992)

Sec. 38a-433-17. Reserve liabilities

Reserve liabilities for Modified Guaranteed Annuities shall be established in accordance with actuarial procedures that recognize: (a) that assets of the separate account are based on market values, (b) the variable nature of benefits provided, and (c) any mortality guarantees.

As a minimum, the separate account liability will equal the surrender value based upon the market-value adjustment formula contained in the contract. If that liability is greater than the market value of the assets, a transfer of assets will be made into

the separate account so that the market value of the assets at least equals that of the liabilities. Also, any additional reserve that is needed to cover future guaranteed benefits will also be set up by the valuation actuary.

The market-value adjustment formula, the interest guarantees, and the degree to which projected cash flow of assets and liabilities are matched must also be considered. Each year, the valuation actuary must provide an opinion on whether the assets in the separate account are adequate to provide all future benefits that are guaranteed.

(Effective September 25, 1992)

Sec. 38a-433-18. Separate accounts

The following requirements apply to the establishment and administration of Modified Guaranteed Annuity separate accounts by any domestic insurer:

(a) **Establishment and Administration of Separate Accounts.** Any domestic insurer issuing Modified Guaranteed Annuities shall establish one or more separate accounts pursuant to Section 38a-433 of the Connecticut General Statutes.

(b) **Amounts in the Separate Account.** The insurer shall maintain in each separate account assets with a market or other value comporting to standards set out in Section 38a-433 of the Connecticut General Statutes at least equal to the valuation reserves and other contract liabilities.respecting such account.

(c) **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, or pursuant to standards contained in Section 38a-433 of the Connecticut General Statutes..

(d) **Investment Laws.** Unless otherwise approved by the Commissioner, separate accounts relating to Modified Guaranteed Annuities will be subject to investment laws applicable to the insurer's general asset account.

(Effective September 25, 1992)

Sec. 38a-433-19. Reports to policyholders

Companies will annually provide their contractholders with a report showing both the account value and the cash surrender value. The report should clearly indicate that the account value is prior to the application of any surrender charges or market value adjustment formula. It should also specify the surrender charge and market value adjustment used to determine the cash surrender value.

(Effective September 25, 1992)

Sec. 38a-433-20. 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 these regulations, the Commissioner to the extent deemed appropriate by him or her may consider compliance with such law or regulation as compliance with this rule.

(Effective September 25, 1992)

Sec. 38a-433-21. Authorization of agents

No person, corporation, partnership, or other legal entity may sell or offer for sale in this state any Modified Guaranteed Annuity contract unless licensed to sell variable annuities under the insurance laws of this state.

(Effective September 25, 1992)

Sec. 38a-433-22. Separability

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation

and the application of such provision to other persons or circumstances shall not be affected thereby.
(Effective September 25, 1992)

Modified Guaranteed Life Insurance

Sec. 38a-433-23. Definitions

(a) "Modified Guaranteed Life Insurance Policy" means an individual policy of life insurance, the underlying assets of which are held in a separate account, and the values of which are guaranteed if held for specified periods. It contains nonforfeiture values that are based upon a market value adjustment formula if held for shorter periods. The formula may, or may not, reflect the value of assets held in the separate account. The assets underlying the policy must be in a separate account during the period, or periods, when the policyholder can surrender the policy.

(b) "Agent" means any person, corporation, partnership, or other legal entity which is licensed by this state as a life insurance agent.

(c) "Interest Credits" means all interest that is credited to the policy.

(d) "Commissioner" means the Insurance Commissioner of this state.

(e) "Person" means an individual, corporation, partnership, association, trust, or fund.

(f) "Separate account" means a separate account established pursuant to Section 38a-433 of the Connecticut General Statutes or pursuant to the corresponding Section of the Insurance Laws of the state of domicile of a foreign or alien insurer.

(g) "Policy processing day" means the day on which charges authorized in the policy are deducted from the policy's cash value.

(h) "Unadjusted cash value" is the cash value before application of the market value adjustment formula and any surrender charge contained in the policy.
(Effective September 25, 1992)

Sec. 38a-433-24. Authority of insurers

The following requirements are applicable to all insurers either seeking authority to issue Modified Guaranteed Life Insurance in this state or having authority to issue Modified Guaranteed Life Insurance in this state.

(a) **Licensing and Approval to do Business.**

(1) No company shall deliver or issue for delivery Modified Guaranteed Life Insurance within this state unless it is licensed to do a life insurance or annuity business in this state, and the Commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the Commissioner shall consider among other things the history and financial condition of the company; the character, responsibility and fitness of the officers and directors of the company; and the law and regulation under which the company is authorized in the state of domicile to conduct such business.

(2) If the company is a subsidiary of an admitted life insurance company, or affiliated with such company by common management or ownership, it may be deemed by the Commissioner to have satisfied the provision of subdivision (1) of this subsection if either it or such admitted life company satisfies the aforementioned provisions; provided, further, that companies licensed and having a satisfactory record of doing business in this state for a period of at least three years may be deemed to have satisfied the Commissioner with respect to subdivision (1) of this subsection.

(3) Before any company shall deliver or issue for delivery such life insurance within this state it shall submit to the Commissioner a general description of the kinds of such life insurance it intends to issue; if requested by the Commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue such life insurance; and if requested by the Commissioner, biographical data with respect to officers and directors of the company on the NAIC uniform biographical data forms.

(b) **Use of Sales Materials.** An insurer authorized to transact Modified Guaranteed Life Insurance business in this state shall not use any sales material, advertising material, or descriptive literature or other materials of any kind in connection with its Modified Guaranteed Life Insurance business in this state which is false, misleading, deceptive or inaccurate.

Illustrations of benefits payable under any Modified Guaranteed Life Insurance shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided, that hypothetical assumed interest credits may be used to illustrate possible levels of benefits if it is made clear that such assumed rates are hypothetical only.

Before any insurer shall deliver or issue for delivery any Modified Guaranteed Life Insurance Policy in this state, the Commissioner may require the filing of a copy of any prospectus or other sales material to be used in connection with the marketing of that insurer's Modified Guaranteed Life Insurance Policy. The sales material must clearly illustrate that there can be both upward and downward adjustments due to the application of the market value adjustment formula in determining nonforfeiture benefits.

(c) **Reports to Commissioner.** Any insurer authorized to transact the business of Modified Guaranteed Life Insurance in this state shall submit to the Commissioner: (1) a separate account annual statement which shall include the business of its Modified Guaranteed Life Insurance; and (2) such additional information concerning its Modified Guaranteed Life Insurance operations or separate accounts as the Commissioner shall deem necessary.

(d) **Authority of Commissioner to Disapprove.** Any material required to be filed with and approved by the Commissioner shall be subject to disapproval if at any time it is found by the Commissioner not to comply with the standards established by this regulation.

(Effective September 25, 1992)

Sec. 38a-433-25. Filing requirements

The filing requirements applicable to Modified Guaranteed Life Insurance shall be those filing requirements otherwise applicable under existing statutes and regulations of this state with respect to individual life insurance policy form filings, to the extent appropriate; provided, however, filings shall include a demonstration in a form satisfactory to the Commissioner that the nonforfeiture provisions of the contract(s) comply with Section 38a-433-26.

(Effective September 25, 1992)

Sec. 38a-433-26. Policy requirements

(a) **Mandatory Policy Benefit and Design Requirements.** Modified Guaranteed Life Insurance Policies delivered or issued for delivery in this state shall comply with the following minimum requirements.

(1) Mortality and expense risks shall be borne by the insurer. The mortality and expense charges shall be subject to the maximum stated in the contract.

(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 duly paid (subject to the provisions of subdivision (b) (4) of this section).

(3) The cash value of each Modified Guaranteed Life Insurance Policy shall be determined at least monthly. The method of computation of cash values and other nonforfeiture benefits shall be described in the policy. The market value adjustment formula, used in determining nonforfeiture benefits, must be stated in the policy and must be applicable for both upward and downward adjustments. The insurer must submit an actuarial statement indicating the basis for the market value adjustment formula and that the formula provides reasonable equity to both the policyholder and the insurer.

(4) The insurer must demonstrate that, if the interest credits at all times from the date of issue equal those guaranteed in the policy, with premiums and benefits determined accordingly under the terms of the policy, then the resulting unadjusted cash values and other nonforfeiture benefits must be at least equal to the minimum values required by Section 38a-78 of the Connecticut General Statutes for a fixed benefit general account policy with such premiums and benefits.

Guaranteed interest credits in each year for any period of time for which interest credits are guaranteed shall be reasonably related to the average guaranteed interest credits over that period of time.

(5) At the end of any specified guarantee period, the policyowner may select a new guarantee period. At those times, the policyowner must have the option of selecting a guarantee period of not more than five years, or a guarantee period that runs to the end of the coverage period, if shorter.

(b) **Mandatory Policy Provisions.** Every Modified Guaranteed Life Insurance Policy filed for approval in this state shall contain at least the following:

(1) The cover page or pages corresponding to the cover page of each such policy shall contain:

(A) A prominent statement that cash values may increase or decrease in accordance with the market value adjustment formula.

(B) To the extent permitted by state law, a captioned provision that the policyholder may return the Modified Guaranteed Life Insurance Policy within 10 days of receipt of the policy by the policyholder, and receive a refund equal to the sum of (1) the difference between the premiums paid including any policy fees or other charges and the amounts allocated to any separate accounts under the policy and (2) the value of the amounts allocated to any separate accounts under the policy, on the date the returned policy is received by the insurer or its agent, as determined by the market value adjustment formula. Until such time as state law authorizes the return of payments as calculated in the preceding sentence, the amount of the refund shall be the total of all premium payments for such policy.

(C) Such other items as are currently required for fixed benefit life insurance policies and which are not inconsistent with this regulation.

(2) If settlement options are provided, at least one such option shall be provided on a fixed basis only;

(3) A description of the basis for computing the cash value and the surrender value under the policy shall be included;

(4) Premiums or charges for incidental insurance benefits shall be stated separately;

(5) Any other policy provision required by this regulation;

(6) Such other items as are currently required for fixed benefit life insurance policies and are not inconsistent with this regulation;

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

(c) **Policy Loan Provisions.** Every Modified Guaranteed Life Insurance Policy, delivered or issued for delivery in this state shall contain provisions which are not less favorable to the policyholder than the following:

(1) A provision for policy loans after the policy has been in force in 3 full years which provides the following:

(A) At least 75% of the policy's cash surrender value may be borrowed;

(B) The amount borrowed shall bear interest at a rate not to exceed that permitted by state insurance law;

(C) Any indebtedness shall be deducted from the proceeds payable on death;

(D) Any indebtedness shall be deducted from the cash surrender value upon surrender or in determining any nonforfeiture benefit;

(E) For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within thirty-one days after the date of mailing of such 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 such charges, a report must be sent to the policyholder containing the information specified by subsection (b) of Section 38a-433-31;

(F) The policy may specify a reasonable minimum amount which may be borrowed at any time but such minimum shall not apply to any automatic premium loan provision;

(G) No policy loan provision is required if the policy is under extended insurance nonforfeiture option;

(H) The policy loan provision shall be constructed so that life insurance policyholders who have not exercised such provisions are not disadvantaged by the exercise thereof;

(I) 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.

(d) **Other Policy Provisions.** The following provisions may in substance be included in a Modified Guaranteed Life Insurance Policy or related form delivered or issued for delivery in this state:

(1) An exclusion for suicide within two years of the issue date of the policy; provided, however, that to the extent of the increased death benefits only, the policy may provide an exclusion for suicide within two years of any increase in death benefits which results from an application of the owner subsequent to the policy issue date;

(2) Incidental insurance benefits may be offered on a fixed or variable basis;

(3) Policies issued on a participating basis shall offer to pay dividend amounts in cash. In addition, such policies may offer other dividend options;

(4) 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 subdivision (c) of this section, except that

a restriction that no more than two consecutive premiums can be paid under this provision may be imposed;

(5) A provision allowing the policyholder to make partial withdrawals;

(6) Any other policy provision approved by the Commissioner.

(Effective September 25, 1992)

Sec. 38a-433-27. Reserve liabilities

Reserve liabilities for Modified Guaranteed Life Insurance Policies shall be established in accordance with actuarial procedures that recognize: (1) that assets of the separate account are based on market value; (2) the variable nature of the benefits provided; and (3) any mortality guarantees.

As a minimum, the separate account liability will equal the surrender value based upon the market value adjustment formula contained in the policy. If that liability is greater than the market value of the assets, a transfer of assets will be made into the separate account so that the market value of the assets at least equals that of the liabilities. Any additional reserve that is needed to cover future guaranteed benefits shall be established.

The market value adjustment formula, the interest guarantees, and the degree to which projected cash flow of assets and liabilities are matched must also be considered. Each year the statement of actuarial opinion accompanying the annual statement shall include an opinion on whether the assets in the separate account are adequate to provide all future guaranteed benefits.

Reserve liabilities for all fixed incidental insurance benefits and any guarantees associated with variable incidental insurance benefits shall be maintained in the general account.

(Effective September 25, 1992)

Sec. 38a-433-28. Separate accounts

The following requirements apply to the establishment and administration of Modified Guaranteed Life Insurance separate accounts by any domestic insurer:

(a) **Establishment and Administration of Separate Accounts.** Any domestic insurer issuing Modified Guaranteed Life Insurance shall establish one or more separate accounts pursuant to Section 38a-433 of the Connecticut General Statutes.

(b) **Amounts in the Separate Account.** The insurer shall maintain in each separate account assets with a market or other value comporting to standards set out in Section 38a-433 of the Connecticut General Statutes at least equal to the valuation reserves and other contract liabilities respecting such account.

(c) **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, or pursuant to standards contained in Section 38a-433 of the Connecticut General Statutes.

(d) **Investment Laws.** Unless otherwise approved by the Commissioner, assets held in separate accounts relating to Modified Guaranteed Life Insurance will be considered general account assets for purposes of the investment laws.

(Effective September 25, 1992)

Sec. 38a-433-29. Information furnished to applicants

An insurer delivering or issuing for delivery in this state any Modified Guaranteed Life Insurance Policy shall deliver to the applicant for the policy, and obtain a written acknowledgment of receipt from such applicant coincident with or prior to the execution of the application, the following information. 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, either in the form of (1) a prospectus which is part of an effective registration statement under the Securities Act of 1933; or (2) all information and reports required by the Employee Retirement Income Securities Act of 1974 if the policies are exempted from the registration requirements of the Securities Act of 1933.

(a) A summary explanation, in non-technical terms, of the principal features of the policy, including a description of the manner in which the nonforfeiture benefits will be affected by the market value adjustment formula and the factors which affect such variation. Such explanation must include notices of the provision required by subdivision (b) (1) (B) of section 38a-433-26;

(b) A summary of the federal income tax aspects of the policy applicable to the insured, the policyholder and the beneficiary;

(c) Illustrations of benefits payable under the Modified Guaranteed Life Insurance Policy. Such illustrations shall be prepared by the insurer and shall not include projections of past investment experience into the future or attempted predictions of future investment experience, provided that nothing contained herein prohibits use of hypothetical assumed rates of return to illustrate possible levels of benefits if it is made clear that such assumed rates are hypothetical only.

(Effective September 25, 1992)

Sec. 38a-433-30. Applications

The application for a Modified Guaranteed Life Insurance Policy shall contain: (1) immediately preceding the signature line, language denoting that amounts payable under the policy are subject to a market value adjustment prior to a date or dates specified in the policy; and (2) questions designed to elicit information which enables the insurer to determine the suitability of Modified Guaranteed Life Insurance for the applicant.

(Effective September 25, 1992)

Sec. 38a-433-31. Reports to policyholders

Any insurer delivering or issuing for delivery in this state any Modified Guaranteed Life Insurance Policies shall mail to each Modified Guaranteed Life Insurance Policyholder at his or her last known address the following reports:

(a) Within thirty days after each anniversary of the policy, a report showing the unadjusted cash value, the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge, and any optional payments allowed under the policy computed as of the policy anniversary date. The report should clearly indicate that the unadjusted cash value is prior to the application of any surrender charges or market value adjustment formula. It should also specify the surrender charge and market value adjustment used to determine the cash surrender value. Provided, however, that such report may be furnished within thirty days after a specified date in each policy year so long as the information contained therein is computed as of a date not more than sixty days prior to the mailing of such notice. This statement shall state that, in accordance with the market value adjustment formula, the cash values may increase or decrease, and shall prominently identify any value described therein which may be recomputed prior to the next statement required by this section. For flexible premium policies, the report must contain a reconciliation of the change since the previous report in unadjusted cash value and cash surrender value, if different, because of payments made (less deductions for expense charges), withdrawals, investment experience, insurance charges and any other charges made

against the cash value. In addition, the report must show the projected unadjusted cash value and cash surrender value, if different, as of one year from the end of the period covered by the report assuming that: (1) planned periodic premiums, if any, are paid as scheduled; (2) guaranteed costs of insurance are deducted; and (3) interest is credited at the guaranteed rate or, in the absence of a guaranteed rate, at a rate not greater than zero. If the projected value is less than zero, a warning message must 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.

(b) For flexible premium policies, a report must be sent to the policyholder if the amounts available under the policy on any 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 must 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 such amount.

(Effective September 25, 1992)

Sec. 38a-433-32. 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 these regulations, the Commissioner to the extent deemed appropriate by him in his discretion, may consider compliance with such law or regulation as compliance with these regulations.

(Effective September 25, 1992)

Sec. 38a-433-33. Authorization of agents

No person, corporation, partnership, or other legal entity may sell or offer for sale in this state any Modified Guaranteed Life Insurance Policy unless licensed to sell variable life insurance or variable annuity in this state.

(Effective September 25, 1992)

Sec. 38a-433-34. Separability

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

(Effective September 25, 1992)