

TITLE 41
INSURANCE

CHAPTER 19
LIFE INSURANCE POLICIES AND ANNUITY CONTRACTS

41-1901. SCOPE OF CHAPTER. This chapter applies only to contracts of life insurance and annuities, other than reinsurance, group life insurance and group annuities.

[41-1901, added 1961, ch. 330, sec. 432, p. 645.]

41-1902. "INDUSTRIAL LIFE INSURANCE" DEFINED. For the purposes of this code "industrial life insurance" is that form of life insurance written under policies of face amount of one thousand dollars (\$1,000) or less bearing the words "industrial policy" imprinted on the face thereof as part of the descriptive matter, and under which premiums are payable monthly or more often.

[41-1902, added 1961, ch. 330, sec. 433, p. 645.]

41-1903. STANDARD PROVISIONS REQUIRED. (1) No policy of life insurance other than group, and pure endowments with or without return of premiums or of premiums and interest, shall be delivered or issued for delivery in this state unless it contains in substance all of the applicable provisions required by sections [41-1904](#) to [41-1915](#), [Idaho Code,] inclusive, of this chapter. This section shall not apply to annuity contracts nor to any provision of a life insurance policy, or contract supplemental thereto, relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(2) Any of such provisions or portions thereof not applicable to single premium or term policies shall to that extent not be incorporated therein.

[41-1903, added 1961, ch. 330, sec. 434, p. 645.]

41-1904. GRACE PERIOD. There shall be a provision that a grace period of thirty (30) days, or, at the option of the insurer, of one (1) month of not less than thirty (30) days, or of four (4) weeks in the case of industrial life insurance policies the premiums for which are payable more frequently than monthly, shall be allowed within which the payment of any premium after the first policy year may be made, during which period of grace the policy shall continue in full force; the insurer may impose an interest charge not in excess of six per cent (6%) per annum for the number of days of grace elapsing before the payment of the premium, and, whether or not such interest charge is imposed, if a claim arises under the policy during such period of grace the amount of any premium due or overdue, together with interest and any deferred instalment of the annual premium, may be deducted from the policy proceeds.

[41-1904, added 1961, ch. 330, sec. 435, p. 645.]

41-1905. INCONTESTABILITY. There shall be a provision that the policy (exclusive of provisions relating to disability benefits or to additional benefits in the event of death by accident or accidental means) shall be in-

contestable, except for nonpayment of premiums, after it has been in force during the lifetime of the insured for a period of two (2) years from its date of issue.

[41-1905, added 1961, ch. 330, sec. 436, p. 645.]

41-1906. ENTIRE CONTRACT. There shall be a provision that the policy, or the policy and the application therefor if a copy of such application is endorsed upon or attached to the policy when issued, shall constitute the entire contract between the parties, and that all statements contained in such an application shall, in the absence of fraud, be deemed representations and not warranties.

[41-1906, added 1961, ch. 330, sec. 437, p. 645.]

41-1907. MISSTATEMENT OF AGE. There shall be a provision that if the age of the insured or of any other person whose age is considered in determining the premium or benefit has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages.

[41-1907, added 1961, ch. 330, sec. 438, p. 645.]

41-1908. DIVIDENDS. (1) There shall be a provision in participating policies that, beginning not later than the end of the third policy year, the insurer shall annually ascertain and apportion the divisible surplus, if any, that will accrue on the policy anniversary or other dividend date specified in the policy provided the policy is in force and all premiums to that date are paid. Except as hereinafter provided, any dividend becoming payable shall at the option of the party entitled to elect such option be either:

(a) Payable in cash, or

(b) Applied to any one of such other dividend options as may be provided by the policy. If any such other dividend options are provided, the policy shall further state which option shall be automatically effective if such party shall not have elected some other option. If the policy specifies a period within which such other dividend option may be elected, such period shall be not less than thirty (30) days following the date on which such dividend is due and payable. The annually apportioned dividend shall be deemed to be payable in cash within the meaning of (a) above even though the policy provides that payment of such dividend is to be deferred for a specified period, provided such period does not exceed six (6) years from the date of apportionment and that interest will be added to such dividend at a specified rate. If a participating policy provides that the benefit under any paid-up nonforfeiture provision is to be participating, it may provide that any divisible surplus becoming payable or apportioned while the insurance is in force under such nonforfeiture provision shall be applied in the manner set forth in the policy.

(2) In participating industrial life insurance policies, in lieu of the provision required in subsection (1) above, there shall be a provision that, beginning not later than the end of the fifth policy year, the policy shall participate annually in the divisible surplus, if any, in the manner set forth in the policy.

[41-1908, added 1961, ch. 330, sec. 439, p. 645.]

41-1909. POLICY LOAN. (1) There shall be a provision that after three (3) full years' premiums have been paid and after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. A policy issued after July 1, 1975, and prior to July 1, 1982, shall contain either, but not both of the following policy loan interest rate provisions:

(a) A provision that a policy loan shall bear interest at a specified rate (not exceeding eight per cent (8%) per annum); or

(b) A provision that all loans under the policy, including outstanding loans, shall bear interest at a variable rate (not exceeding eight per cent (8%) per annum), specified from time to time by the insurer.

The effective date of any increase in such variable rate shall be not less than one (1) year after the effective date of the establishment of the previous rate. If the interest rate is increased, the amount of such increase shall not exceed one per cent (1%) per annum. The variable rate may be decreased without restriction as to amount or frequency. With respect to policies providing for a variable rate, the insurer shall,

1. when a loan is made and when notification of interest due is furnished, give notice of the variable rate currently effective;

2. as to any loans outstanding forty (40) days before the effective date of any increase in the variable rate, give notice of any such increase at least thirty (30) days before such effective date; and

3. as to any loans made during the forty (40) days before the effective date of the increase, give notice of such increase when the loan is made. Every such notice shall be given as directed by the policy owner and any assignee as shown on the records of the insurer at its home office.

(2) (a) Policies issued on or after July 1, 1982 shall provide for policy loan interest rates as follows:

1. A provision permitting a maximum interest rate of not more than eight per cent (8%) per annum; or

2. A provision permitting an adjustable maximum interest rate established from time to time by the life insurer as permitted by law.

(b) The rate of interest charged on a policy loan made under subsection (2) (a)2. shall not exceed the higher of the following:

1. The published monthly average for the calendar month ending two (2) months before the date on which the rate is determined; or

2. The rate used to compute the cash surrender values under the policy during the applicable period plus one per cent (1%) per annum.

(c) For purposes of this section the "published monthly average" means:

1. Moody's Corporate Bond Yield Average -- Monthly Average Corporates as published by Moody's Investors Service, Inc. or any successor thereto; or

2. In the event that Moody's Corporate Bond Yield Average -- Monthly Average Corporates is no longer published, a substan-

tially similar average, established by regulation issued by the director.

(d) If the maximum rate of interest is determined pursuant to subsection (2) (a)2., the policy shall contain a provision setting forth the frequency at which the rate is to be determined for that policy.

(e) The maximum rate for each policy must be determined at regular intervals at least once every twelve (12) months, but not more frequently than once in any three (3) month period. At the intervals specified in the policy:

1. The rate being charged may be increased whenever such increase as determined under subsection (2) (b) would increase that rate by one-half per cent (.5%) or more per annum; or

2. The rate being charged must be reduced whenever such reduction as determined under subsection (2) (b) would decrease that rate by one-half per cent (.5%) or more per annum.

(f) The life insurer shall:

1. Notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan;

2. Notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in (f)3. hereof;

3. Sent [Send] to policyholders with loans reasonable advance notice of any increase in the rate; and

4. Include in the notices required above the substance of the pertinent provisions of subsections (2) (a) and (2) (d).

(g) No policy shall terminate in a policy year as the sole result of a change in the interest rate during that policy year, and the life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.

(h) The substance of the pertinent provisions of subsections (2) (a) and (2) (d) shall be set forth in the policies to which they apply.

(i) For purposes of this section:

1. The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after any lapse of a policy.

2. The term "policy loan" includes any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they fell due.

3. The term "policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer.

4. The term "policy" includes certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans.

(j) No other provision of law shall apply to policy loan interest rates unless made specifically applicable to such rates.

(k) The provisions of this section shall not apply to any insurance contract issued before July 1, 1981 unless the policyholder agrees in writing to the applicability of such provisions.

(3) The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, provided that the insurer may deduct, either from such loan value or from the proceeds of the loan, any existing indebtedness not already deducted in determining such cash surrender value including any interest then accrued but not due, any unpaid balance of the premium for the current policy year, and any interest which may be allowable on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six (6) months after application therefor. The policy, at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect.

(4) This section shall not apply to term policies nor to term insurance benefits provided by rider or supplemental policy provisions, or to industrial life insurance policies.

[41-1909, added 1961, ch. 330, sec. 440, p. 645; am. 1975, ch. 232, sec. 1, p. 635; am. 1982, ch. 359, sec. 1, p. 908.]

41-1910. TABLE OF INSTALMENTS. In case the policy provides that the proceeds may be payable in instalments which are determinable at issue of the policy, there shall be a table showing the amounts of the guaranteed instalments.

[41-1910, added 1961, ch. 330, sec. 441, p. 645.]

41-1911. REINSTATEMENT. There shall be a provision that unless:

- (1) The policy has been surrendered for its cash surrender value, or
- (2) Its cash surrender value has been exhausted, or
- (3) The paid-up term insurance, if any, has expired,

the policy will be reinstated at any time within three (3) years (or two (2) years in the case of industrial life insurance policies) from the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears with interest at a rate not exceeding eight per cent (8%) per annum compounded annually and the payment or reinstatement of any other policy indebtedness with interest at a rate not exceeding the applicable policy loan rate or rates determined in accordance with the policy's provisions.

[41-1911, added 1961, ch. 330, sec. 442, p. 645; am. 1993, ch. 185, sec. 1, p. 467.]

41-1912. PAYMENT OF PREMIUMS. There shall be a provision relative to the payment of premiums.

[41-1912, added 1961, ch. 330, sec. 443, p. 645.]

41-1913. PAYMENT OF CLAIMS. There shall be a provision that when a policy shall become a claim by the death of the insured, settlement shall be made

upon receipt of due proof of death and, at the insurer's option, surrender of the policy and/or proof of the interest of the claimant. If an insurer shall specify a particular period prior to the expiration of which settlement shall be made, such period shall not exceed two (2) months from the receipt of such proofs.

[41-1913, added 1961, ch. 330, sec. 444, p. 645.]

41-1914. BENEFICIARY -- INDUSTRIAL POLICIES. An industrial life insurance policy shall have the name of the beneficiary designated thereon with a reservation of the right to designate or change the beneficiary after the issuance of the policy. The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until endorsed on the policy by the insurer, and that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured. The policy may also provide that if the beneficiary designated in the policy does not make a claim under the policy or does not surrender the policy with due proof of death within the period stated in the policy, which shall not be less than thirty (30) days after the death of the insured, or if the beneficiary is the estate of the insured, or is a minor, or dies before the insured, or is not legally competent to give a valid release, then the insurer may make any payment thereunder to the executor or administrator of the insured, or to any relative of the insured by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto by reason of having been named beneficiary, or by reason of having incurred expense for the maintenance, medical attention or burial of the insured. The policy may also include a similar provision applicable to any other payment due under the policy.

[41-1914, added 1961, ch. 330, sec. 446, p. 645.]

41-1915. TITLE. There shall be a title on the policy, briefly describing the same.

[41-1915, added 1961, ch. 330, sec. 446, p. 645.]

41-1916. EXCLUDED OR RESTRICTED COVERAGE. A clause in any policy of life insurance providing that such policy shall be incontestable after a specified period shall preclude only a contest of the validity of the policy, and shall not preclude the assertion at any time of defenses based upon provisions in the policy which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such clause.

[41-1916, added 1961, ch. 330, sec. 447, p. 645.]

41-1917. STANDARD PROVISIONS -- ANNUITY AND PURE ENDOWMENT CONTRACTS. (1) No annuity or pure endowment contract, other than reversionary annuities (also called survivorship annuities) or group annuities and except as stated herein, shall be delivered or issued for delivery in this state unless it contains in substance each of the provisions specified in sections [41-1918](#) to [41-1923](#), inclusive, of this chapter. Any of such provisions not applicable to single premium annuities or single premium pure endowment contracts shall not, to that extent, be incorporated therein.

(2) This section shall not apply to contracts for deferred annuities included in, or upon the lives of beneficiaries under, life insurance policies.

[41-1917, added 1961, ch. 330, sec. 448, p. 645.]

41-1918. GRACE PERIOD -- ANNUITIES. In an annuity or pure endowment contract, other than a reversionary, survivorship or group annuity, there shall be a provision that there shall be a period of grace of one month, but not less than thirty (30) days, within which any stipulated payment to the insurer falling due after the first may be made, subject at the option of the insurer to an interest charge thereon at a rate to be specified in the contract but not exceeding six per cent (6%) per annum for the number of days of grace elapsing before such payment, during which period of grace the contract shall continue in full force; but in case a claim arises under the contract on account of death prior to expiration of the period of grace before the overdue payment to the insurer or the deferred payments of the current contract year, if any, are made, the amount of such payments, with interest on any overdue payments, may be deducted from any amount payable under the contract in settlement.

[41-1918, added 1961, ch. 330, sec. 449, p. 645.]

41-1919. INCONTESTABILITY -- ANNUITIES. If any statements, other than those relating to age, sex and identity are required as a condition to issuing an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, and subject to section [41-1921](#) of this chapter, there shall be a provision that the contract shall be incontestable after it has been in force during the lifetime of the person or of each of the persons as to whom such statements are required, for a period of two (2) years from its date of issue, except for nonpayment of stipulated payments to the insurer; and at the option of the insurer such contract may also except any provisions relative to benefits in the event of disability and any provisions which grant insurance specifically against death by accident or accidental means.

[41-1919, added 1961, ch. 330, sec. 450, p. 645.]

41-1920. ENTIRE CONTRACT -- ANNUITIES. In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that the contract shall constitute the entire contract between the parties or, if a copy of the application is endorsed upon or attached to the contract when issued, a provision that the contract and the application therefor shall constitute the entire contract between the parties.

[41-1920, added 1961, ch. 330, sec. 451, p. 645.]

41-1921. MISSTATEMENT OF AGE OR SEX -- ANNUITIES. In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that if the age or sex of the person or persons upon whose life or lives the contract is made, or of any of them, has been misstated, the amount payable or benefits accruing under the contract shall be such as the stipulated payment or payments to the insurer would have pur-

chased according to the correct age or sex and that if the insurer shall make or has made any overpayment or overpayments on account of any such misstatement, the amount thereof with interest at the rate to be specified in the contract but not exceeding six per cent (6%) per annum, may be charged against the current or next succeeding payment or payments to be made by the insurer under the contract.

[41-1921, added 1961, ch. 330, sec. 452, p. 645.]

41-1922. DIVIDENDS -- ANNUITIES. If an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, is participating, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the contract.

[41-1922, added 1961, ch. 330, sec. 453, p. 645.]

41-1923. REINSTATEMENT -- ANNUITIES. In an annuity or pure endowment contract, other than a reversionary or group annuity, there shall be a provision that the contract may be reinstated at any time within one year from the default in making stipulated payments to the insurer, unless the cash surrender value has been paid, but all overdue stipulated payments and any indebtedness to the insurer on the contract shall be paid or reinstated with interest thereon at a rate to be specified in the contract but not exceeding six per cent (6%) per annum payable annually, and in cases where applicable the insurer may also include a requirement of evidence of insurability satisfactory to the insurer.

[41-1923, added 1961, ch. 330, sec. 454, p. 645.]

41-1924. STANDARD PROVISIONS -- REVERSIONARY ANNUITIES. (1) Except as stated herein, no contract for a reversionary annuity shall be delivered or issued for delivery in this state unless it contains in substance each of the following provisions:

(a) Any such reversionary annuity contract shall contain the provisions specified in sections [41-1918](#) through [41-1922](#) except that under section [41-1918](#) the insurer may at its option provide for an equitable reduction of the amount of the annuity payments in settlement of an overdue payment in lieu of providing for deduction of such payments from an amount payable upon settlement under the contract.

(b) In such reversionary annuity contracts there shall be a provision that the contract may be reinstated at any time within three years from the date of default in making stipulated payments to the insurer, upon production of evidence of insurability satisfactory to the insurer, and upon condition that all overdue payments and any indebtedness to the insurer on account of the contract be paid, or, within the limits permitted by the then cash values of the contract, reinstated, with interest as to both payments and indebtedness at a rate to be specified in the contract but not exceeding six per cent (6%) per annum compounded annually.

(2) This section shall not apply to group annuities or to annuities included in life insurance policies, and any of such provisions not applicable to single premium annuities shall not to that extent be incorporated therein.

[41-1924, added 1961, ch. 330, sec. 455, p. 645.]

41-1925. LIMITATION OF LIABILITY. (1) No policy of life insurance shall be delivered or issued for delivery in this state if it contains any of the following provisions:

(a) A provision for a period shorter than that provided by statute within which an action at law or in equity may be commenced on such a policy.

(b) A provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

(i) Death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces, or of any act or hazard of such war or action, or of service in the military, naval, or air forces or in civilian forces auxiliary thereto, or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such military action;

(ii) Death as a result of aviation or any air travel or flight;

(iii) Death as a result of a specified hazardous occupation or occupations;

(iv) Death while the insured is a resident outside continental United States and Canada; or

(v) Death within two (2) years from the date of issue of the policy as a result of suicide, while sane or insane.

(2) A policy which contains any exclusion or restriction pursuant to subsection (1) of this section shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the commissioner's reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy) with adjustment for indebtedness or dividend credit.

(3) This section shall not apply to group life insurance, disability insurance, reinsurance, or annuities, or to any provision in a life insurance policy or contract supplemental thereto relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(4) Nothing contained in this section shall prohibit any provision which in the opinion of the director is more favorable to the policyholder than a provision permitted by this section.

[41-1925, added 1961, ch. 330, sec. 456, p. 645.]

41-1926. PROHIBITED PROVISIONS -- INDUSTRIAL LIFE INSURANCE. No policy of industrial life insurance shall contain any of the following provisions:

(1) A provision by which the insurer may deny liability under the policy for the reason that the insured has previously obtained other insurance from the same insurer.

(2) A provision giving the insurer the right to declare the policy void because the insured has had any disease or ailment, whether specified or not, or because the insured has received institutional, hospital, medical or surgical treatment or attention, except a provision which gives the insurer the right to declare the policy void if the insured has, within two years prior

to the issuance of the policy, received institutional, hospital, medical or surgical treatment or attention and if the insured or claimant under the policy fails to show that the condition occasioning such treatment or attention was not of a serious nature or was not material to the risk.

(3) A provision giving the insurer the right to declare the policy void because the insured has been rejected for insurance, unless such right be conditioned upon a showing by the insurer that knowledge of such rejection would have led to a refusal by the insurer to make such contract.

[41-1926, added 1961, ch. 330, sec. 457, p. 645.]

41-1927. STANDARD NONFORFEITURE LAW -- LIFE INSURANCE.

(1) (a) This section shall be known as the standard nonforfeiture law for life insurance.

(b) "Operative date of the valuation manual" means January 1 of the first calendar year that the valuation manual, as defined in section [41-612](#), Idaho Code, is effective.

(2) Nonforfeiture provisions: In the case of policies issued on or after the operative date of this section as defined in subsection (14) of this section, no policy of life insurance, except as set forth in subsection (13) of this section, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified and are essentially in compliance with subsection (12) of this law:

(a) That in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be hereinafter specified. In lieu of such stipulated paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty (60) days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(b) That upon surrender of the policy within sixty (60) days after the due date of any premium payment in default after premiums have been paid for at least three (3) full years in the case of ordinary insurance, and five (5) full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty (60) days after the due date of the premium in default.

(d) That if the policy shall have become paid up by completion of all premium payments, or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance, or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty (30) days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(e) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first twenty (20) policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of this state; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

(3) Any of the provisions or portions thereof set forth in subdivisions (a) through (f) of the foregoing subsection (2) which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six (6) months after demand therefor with surrender of the policy. If the insurer defers payment of a cash surrender value under the provisions of this section, the insurer shall pay interest to the policyholder at the rate specified in section [28-22-104\(2\)](#), Idaho Code, as established and in existence at the time of the surrender demand.

(4) Cash surrender value: Any cash surrender value available under the policy in the event of default in the premium payment due on any policy anniversary, whether or not required by subsection (2) of this section, shall be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions if there had been no default, over the sum of:

(a) The then present value of the adjusted premiums as defined in subsections (6) through (9) of this section, corresponding to premiums which would have fallen due on and after such anniversary, and

(b) The amount of any indebtedness to the insurer on account of or secured by the policy. Provided, however, that for any policy issued on or after the operative date of subsection (9) (d) as defined therein, which

provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision. Provided, further, that for any family policy issued on or after the operative date of subsection (9) (d) as defined therein, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one (71), the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

Any cash surrender value available within thirty (30) days after any policy anniversary under any policy paid up by completion of all premium payments, or any policy continued under any paid-up nonforfeiture benefits, whether or not required by such subsection (2), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

(5) Paid-up nonforfeiture benefits: Any paid-up nonforfeiture benefit available under the policy in the event of default in the premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy, or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the conditions that premiums shall have been paid for at least a specified period.

(6) The adjusted premium: This subsection shall not apply to policies issued on or after the operative date of subsection (9) (d) as defined therein. Except as provided in subsection (8) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

- (a) The then present value of the future guaranteed benefits provided for by the policy;
- (b) Two per cent (2%) of the amount of the insurance if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with the duration of the policy;
- (c) Forty per cent (40%) of the adjusted premium for the first policy year;
- (d) Twenty-five per cent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the

same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less, provided, however, that in applying the percentages specified in subdivisions (c) and (d) above, no adjusted premiums shall be deemed to exceed four per cent (4%) of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of issue of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy. The date of issue of a policy for the purposes of this subsection shall be the date as of which the rated age of the insured is determined.

(7) In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purpose of the preceding subsection (6) shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy for a varying amount of insurance issued on the life of a child under age ten (10), the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten (10) were the amount provided by such policy at age ten (10).

(8) The adjusted premiums for any policy providing term insurance benefits by any rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in subsections (6) and (7) except that, for the purposes of subdivisions (b), (c) and (d) of subsection (6), the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (4) (a).

(9) (a) Except as provided in subdivisions (b), (c) and (d) of this subsection, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the commissioners 1941 standard ordinary mortality table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated, at the option of the insurer according to an age not more than three (3) years younger than the actual age of the insured and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half per cent (3 1/2%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than

one hundred thirty per cent (130%) of the rates of mortality according to such applicable table, provided further that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

(b) This subsection (9) (b) shall not apply to ordinary policies issued on or after the operative date of subsection (9) (d) as defined therein. In the case of ordinary policies issued on or after the operative date of this subdivision as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners' 1958 standard ordinary mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed three and one-half per cent (3 1/2%) per annum except that a rate of interest not exceeding four per cent (4%) per annum may be used for policies issued on or after July 1, 1973, and prior to July 1, 1977, and a rate of interest not exceeding five and one-half per cent (5 1/2%) per annum may be used for policies issued on or after July 1, 1977, except that for any single premium whole life or endowment insurance policy at a rate of interest not exceeding six and one-half per cent (6 1/2%) per annum may be used and provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six (6) years younger than the actual age of the insured. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners' 1958 extended term insurance table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

On or after the operative date of this section as defined in subsection (14) of this section, any insurer may file with the director a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision for such insurer), this subdivision shall become operative with respect to the ordinary policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subdivision for such insurer shall be January 1, 1966.

(c) This subsection (9) (c) shall not apply to industrial policies issued on or after the operative date of subsection (9) (d) as defined therein. In the case of industrial policies issued on or after the operative date of this subdivision as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners' 1961 standard industrial mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half per cent (3 1/2%) per annum except that a rate of interest not exceeding four per cent (4%) per annum may be used for policies issued on or after July 1, 1973, and prior to July 1, 1977, and a rate of interest not exceeding

five and one-half per cent (5 1/2%) per annum may be used for policies issued on or after July 1, 1977, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half per cent (6 1/2%) per annum may be used. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners' 1961 industrial extended term insurance table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

After the effective date of this amendatory act, any insurer may file with the director a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision for such insurer), this subdivision shall become operative with respect to the industrial policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subdivision for such insurer shall be January 1, 1968.

(d) (i) Subsection (9)(d) shall apply to all policies issued on or after the operative date of this subsection (9)(d) as defined herein. Except as provided in paragraph vii of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (A) the then present value of the future guaranteed benefits provided for by the policy; (B) one per cent (1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and (C) one hundred twenty-five per cent (125%) of the nonforfeiture net level premium as hereinafter defined. Provided, however, that in applying the percentage specified in (C) above, no nonforfeiture net level premium shall be deemed to exceed four per cent (4%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

(ii) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one (1) per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(iii) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(iv) Except as otherwise provided in paragraph vii of this subsection, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of the sum of (A) the then present value of the then future guaranteed benefits provided for by the policy and (B) the additional expense allowance, if any, over the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(v) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (A) one per cent (1%) of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten (10) policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten (10) policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (B) one hundred twenty-five per cent (125%) of the increase, if positive, in the nonforfeiture net level premium.

(vi) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (A) by (B) where

(A) equals the sum of

1. the nonforfeiture net level premium applicable prior to the change, times the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and

2. the present value of the increase in future guaranteed benefits provided for by the policy, and

(B) equals the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(vii) Notwithstanding any other provisions of this subsection to the contrary, in the case of a policy issued on a substandard ba-

sis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values, for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(viii) All adjusted premiums and present values referred to in this section shall, for all policies of ordinary insurance, be calculated on the basis of (A) the commissioners 1980 standard ordinary mortality table or (B) at the election of the insurer for any one or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors; shall, for all policies of industrial insurance, be calculated on the basis of the commissioners 1961 standard industrial mortality table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection, for policies issued in that calendar year. Provided, however, that:

1. At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year.

2. Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection (2) shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

3. An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

4. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioners 1961 industrial extended term insurance table for policies of industrial insurance.

5. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

6. (A) For policies issued prior to the operative date of the valuation manual, any commissioners standard ordinary mortality tables,

adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the director for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table.

(B) For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table. If the director approves by regulation any commissioners standard ordinary mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

7. (A) For policies issued prior to the operative date of the valuation manual, any commissioners standard industrial mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table.

(B) For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table. If the director approves by regulation any commissioners standard industrial mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard

supersedes the minimum nonforfeiture standard provided by the valuation manual.

(ix) The nonforfeiture interest rate is defined below:

1. For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five percent (125%) of the interest rate used in determining the minimum standard for the valuation of such policy as defined in the standard valuation law, rounded to the nearer one-quarter of one percent ($1/4$ of 1%).

2. For policies issued on and after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.

(x) Notwithstanding any other provision in this code to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

(xi) After the effective date of subsection (9) (d), any insurer may file with the director a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1989, which shall be the operative date of this subsection for such insurer. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January 1, 1989.

(10) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on the then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in subsections (2) through (9) herein, then:

(a) The director must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsections (2) through (9) herein;

(b) The director must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;

(c) The cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this standard nonforfeiture law for life insurance, as determined by regulations promulgated by the director.

(11) Calculation of values: Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (4) through (9) of this section may be calculated upon the assumption that any death benefit is payable at the end of the pol-

icy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide such additions. Notwithstanding the provisions of subsection (4) of this section, additional benefits payable:

- (a) In the event of death or dismemberment by accident or accidental means,
- (b) In the event of total and permanent disability,
- (c) As reversionary annuity or deferred reversionary annuity benefits,
- (d) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply,
- (e) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six (26), is uniform in amount after the child's age is one (1), and has not become paid-up by reason of the death of a parent of the child, and
- (f) As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(12) This subsection, in addition to all other applicable subsections of this section, shall apply to all policies issued on or after January 1, 1986. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one per cent (2/10 of 1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years, from the sum of:

- (a) The greater of zero and the basic cash value hereinafter specified; and
- (b) The present value of any existing paid-up additions less the amount of any indebtedness to the insurer under the policy.

The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the insurer, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which would have fallen due on and after such anniversary. Provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection (4) or (8), whichever is applicable, shall be the same as are the effects specified in subsection (4) or (8), whichever is applicable, on the cash surrender values defined in that subsection.

The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subsection (6) or (9) (d), whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage:

- (a) Must be the same percentage for each policy year between the second policy anniversary and the later of (i) the fifth policy anniversary and (ii) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths

of one per cent (2/10 of 1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and

(b) Must be such that no percentage after the later of the two (2) policy anniversaries specified in the preceding paragraph (a) may apply to fewer than five (5) consecutive policy years.

Provided, that no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subsection (6) or (9) (d), whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

All adjusted premiums and present values referred to in this subsection shall, for a particular policy, be calculated on the same mortality and interest basis as are used in demonstrating the policy's compliance with the other subsections of this section. The cash surrender values referred to in this subsection shall include any endowment benefits provided for by the policy.

Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subsections (2), (3), (4), (5), (9) (d) and (11). The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed as items (a) through (f) in subsection (11) shall conform with the principles of this subsection (12).

(13) Exceptions. This section shall not apply to any of the following:

- (a) Reinsurance,
- (b) Group insurance,
- (c) Variable life insurance,
- (d) Pure endowment,
- (e) Annuity or reversionary annuity contract,
- (f) Term policy of uniform amount which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of the policy,
- (g) Term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in subsections (6) through (9) of this section, is less than the adjusted premiums so calculated on a policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of the policy;
- (h) Policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subsections (4) through (9) of this section, exceeds two and one-half per cent (2 1/2%) of the amount of insurance at the beginning of the same policy year;
- (i) Policy which shall be delivered outside this state through an agent or other representative of the insurer issuing the policy.

For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

(14) Operative date. After January 1, 1962, any insurer may file with the director a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1963. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer) this section shall become operative with respect to the policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be January 1, 1963.

[41-1927, added 1961, ch. 330, sec. 458, p. 645; am. 1965, ch. 307, sec. 2, p. 822; am. 1973, ch. 274, sec. 2, p. 574; am. 1977, ch. 265, sec. 2, p. 781; am. 1982, ch. 205, sec. 2, p. 556; am. 1989, ch. 142, sec. 1, p. 332; am. 2016, ch. 68, sec. 2, p. 226.]

41-1927A. STANDARD NONFORFEITURE LAW FOR INDIVIDUAL DEFERRED ANNUITIES. (1) This section shall be known as the standard nonforfeiture law for individual deferred annuities.

(2) This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the insurer issuing the contract.

(3) In the case of contracts issued on or after the operative date of this section as defined in subsection (12) of this section, no contract of annuity, except as stated in subsection (2) of this section shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract.

(a) That upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (5), (6), (7), (8) and (10) of this section.

(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 of such amount as is specified in subsections (5), (6), (8) and (10) of this section. The insurer shall reserve the right to defer the payment of such cash surrender benefit for a period of six (6) months after demand therefor with surrender of the contract. If the insurer defers payment of a cash surrender benefit under this section, the insurer shall pay interest at the rate specified in section [28-22-104\(2\)](#), Idaho Code, as established and in existence at the time of the surrender demand.

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the insurer to the contract, any indebtedness to the insurer on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars (\$20.00) monthly, the insurer may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(4) The minimum values as specified in subsections (5), (6), (7), (8) and (10) of this section of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(a) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest as indicated in subsection (4) (b) of this section of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of subparagraphs (4) (a) (i) through (iv) below:

(i) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in subsection (4) (b) of this section;

(ii) An annual contract charge of fifty dollars (\$50.00), accumulated at rates of interest as indicated in subsection (4) (b) of this section;

(iii) Any premium tax paid by the insurer for the contract, accumulated at rates of interest as indicated in subsection (4) (b) of this section, provided that the premium tax credit is only permitted if the tax is actually paid by the insurer, and provided further that if the tax is paid and subsequently credited back to the insurer, such as upon early termination of the contract, the tax credit may not be taken; and

(iv) The amount of any indebtedness to the insurer on the contract, including interest due and accrued.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent (87.5%) of the gross considerations credited to the contract during that contract year.

(b) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of

three percent (3%) per annum and the following, which shall be specified in the contract if the interest rate will be reset:

(i) The five (5) year constant maturity treasury rate reported by the federal reserve as of a date, or average over a period, rounded to the nearest one-twentieth of one percent (.2%), specified in the contract no longer than fifteen (15) months prior to the contract issue date or redetermination date under subsection (4) (b) (iv) of this section;

(ii) Reduced by one hundred twenty-five (125) basis points;

(iii) Where the resulting interest rate is not less than one percent (1%); and

(iv) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five (5) year constant maturity treasury rate to be used at each redetermination date.

(c) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in subsection (4) (b) (ii) of this section by up to an additional one hundred (100) basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The director may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the director, the director may disallow or limit the additional reduction.

(d) The director may adopt rules to implement the provisions of subsection (4) (c) of this section and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts that the director determines adjustments are justified.

(5) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence 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 interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(6) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the insurer on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the insurer to the contract. In no event shall any cash surrender benefit be

less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(7) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the insurer to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(8) For the purpose of determining the benefits calculated under subsections (6) and (7) of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(9) Any 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 commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(10) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(11) For any 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 subsections (5), (6), (7), (8) and (10) of this section, additional benefits payable (i) in the event of total and permanent disability, (ii) as reversionary annuity or deferred reversionary annuity benefits, or (iii) 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.

(12) After the effective date of this section any insurer may file with the director a written notice of its election to comply with the provisions of this section after a specified date before the second anniversary of the effective date of this section. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such insurer, this section shall become operative with respect to annuity contracts thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be the second anniversary of the effective date of this section.

[41-1927A, added 1977, ch. 265, sec. 3, p. 788; am. 1989, ch. 142, sec. 2, p. 344; am. 2003, ch. 86, sec. 1, p. 261; am. 2004, ch. 92, sec. 1, p. 332.]

41-1928. NONFORFEITURE BENEFITS -- CERTAIN INTERIM POLICIES. (1) Each life insurance policy issued between the effective date of this code and the operative date of section [41-1927](#) (standard nonforfeiture law) shall contain:

(a) An automatic nonforfeiture provision, which must be either a loan, a paid-up policy, or an extended term, to which the policyholder is entitled in the event of default in a premium payment after three (3) full annual premiums shall have been paid.

(b) Tables showing in figures the cash, paid-up and extended insurance options available under the policy each year upon default in premium payments, during the first twenty (20) years of the policy, or for its life if maturity is less than twenty (20) years.

(c) At the insurer's option, a provision that the insurer shall have the right to defer payment of the cash value for a period not exceeding six (6) months.

(2) The value of the options referred to in subdivision (b) above, shall be equivalents based on the reserves which shall be computed according to the tables of mortality and rate of interest named in the policy, and according to a basis and method of valuation acceptable under section [41-612](#) (3) (standard valuation law), less a specified surrender charge, not exceeding two and one-half per cent (2 1/2%) of the amount of insurance. Provided, however, that if the benefits under the policy are calculated according to a more modern table than the American experience table of mortality, the value of any extended term insurance, with accompanying pure endowment, if any, may be calculated according to rates of mortality not exceeding one hundred thirty per cent (130%) of the rates according to such more modern table.

(3) Any of the foregoing provisions or portions thereof not applicable to single premium or term policies need not to that extent be incorporated therein. This section shall not apply to industrial insurance, annuities, pure endowments with or without return premium, and policies of reinsurance.

[41-1928, added 1961, ch. 330, sec. 459, p. 645.]

41-1929. INCONTESTABILITY AND LIMITATION OF LIABILITY AFTER REINSTATEMENT. (1) A reinstated policy of life insurance or annuity contract may be contested on account of fraud or misrepresentation of facts material to the reinstatement only for the same period following reinstatement and with

the same conditions and exceptions as the policy provides with respect to contestability after original issuance.

(2) When any life insurance policy or annuity contract is reinstated, such reinstated policy or contract may exclude or restrict liability to the same extent that such liability could have been or was excluded or restricted when the policy or contract was originally issued, and such exclusion or restriction shall be effective from the date of reinstatement.

[41-1929, added 1961, ch. 330, sec. 460, p. 645.]

41-1930. POLICY SETTLEMENTS. Any life insurer shall have the power to hold under agreement the proceeds of any policy issued by it, upon such terms and restrictions as to revocation by the policyholder and control by beneficiaries, and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as set forth in the policy or as agreed to in writing by the insurer and the policyholder. Upon maturity of a policy, in the event the policyholder has made no such agreement, the insurer shall have the power to hold the proceeds of the policy under an agreement with the beneficiaries. The insurer shall not be required to segregate the funds so held but may hold them as part of its general assets.

[41-1930, added 1961, ch. 330, sec. 461, p. 645.]

41-1931. INDEBTEDNESS DEDUCTED FROM PROCEEDS. In determining the amount due under any life insurance policy heretofore or hereafter issued, deduction may be made of:

(1) Any unpaid premiums or instalments thereof for the current policy year due under the terms of the policy, and of

(2) The amount of principal and accrued interest of any policy loan or other indebtedness against the policy then remaining unpaid.

[41-1931, added 1961, ch. 330, sec. 462, p. 645.]

41-1932. PARTICIPATING AND NONPARTICIPATING POLICIES -- RIGHT TO ISSUE. A life insurer may issue policies on either the participating basis or the nonparticipating basis, or on both bases, if the right or absence of right of participation is reasonably related to the premium charged and the insurer is otherwise not in violation of sections [41-1313](#) (unfair discrimination--life insurance, annuities, and disability insurance) or [41-1314](#) (rebates, illegal inducements).

[41-1932, added 1961, ch. 330, sec. 463, p. 645.]

41-1933. PARTICIPATING AND NONPARTICIPATING POLICIES -- ACCOUNTING. (1) A life insurer issuing both participating and nonparticipating policies shall maintain a system of accounting which segregates the participating from the nonparticipating business and clearly shows the profits and losses upon each such category of business. The insurer's annual statement as filed with the director under section [41-335](#) shall provide such information with respect to such categories as is called for in connection therewith.

(2) For the purposes of such accounting the insurer shall make a reasonable allocation as between the respective such categories of the expenses of such general operations or functions as are jointly shared. Any allocation

of expense as between the respective categories shall be made upon a reasonable basis, to the end that each category shall bear a just portion of joint expense involved in the administration of the business of such category.

(3) No policy hereafter shall provide for, and no life insurer or representative shall hereafter knowingly offer or promise payment, credit, or distribution of participating "dividends", "earnings", "profits" or "savings", by whatever name called, to participating policies out of such profits, earnings or savings on nonparticipating policies. This provision shall not be deemed to restrict the generality of section [41-1314](#) (rebates, illegal inducements).

[41-1933, added 1961, ch. 330, sec. 464, p. 645.]

41-1934. PROHIBITED POLICY PLANS. (1) No life insurer shall hereafter deliver or issue for delivery in this state:

(a) As part of or in combination with any life insurance, endowment or annuity contract, any agreement or plan, additional to the rights, dividends, and benefits arising out of any such contract, which provides for the accumulation of profits over a period of years and for payment of all or any part of such accumulated profits only to members or policyholders of a designated group or class who continue as members or policyholders until the end of a specified or ascertainable period of years.

(b) Any individual life insurance policy which provides that on the death of anyone other than a beneficiary or a person insured thereunder, the owner or beneficiary of the policy shall receive the payment or granting of anything of value.

(c) Any "registered" policy; that is, any policy purporting to be "registered" or otherwise specially recorded, with any agency of the state of Idaho, or of any other state or with any bank, trust company, escrow company, or other institution other than the insurer; or purporting that any reserves, assets or deposits are held, or will be so held, for the special benefit or protection of the holder of such policy, by or through any such agency or institution.

(d) Any policy or contract under which any part of the premium or of funds or values arising from the policy or contract or from investment of reserves, or from mortality savings, lapses or surrenders, in excess of the normal reserves or amounts required to pay death, endowment, and nonforfeiture benefits in respective amounts as specified in or pursuant to the policy or contract, are on a basis not involving insurance or life contingency features, (i) to be placed in special funds or segregated accounts or specially designated places or (ii) to be invested in specially designated investments or types thereof, and the funds or earnings thereon to be divided among the holders of such policies or contracts, or their beneficiaries or assignees. This subdivision (d) does not apply as to variable life insurance or variable annuity contracts issued under section [41-1936](#), Idaho Code.

(e) Any profit sharing, charter, coupon or founders policy.

(f) For the purposes of subdivision (e) above, a "profit sharing" policy is:

(i) A life insurance policy which by its terms expressly provides that the policyholder will participate in the distribution of earnings or surplus other than earnings or surplus attributable, by reasonable and nondiscriminatory standards, to the participating policies of the insurer and allocated to the policyholder on reasonable and nondiscriminatory standards; or

(ii) A life insurance policy the provisions of which, through sales material or oral presentations, are interpreted by the insurer to prospective policyholders as entitling the policyholder to the benefits described in paragraph (i) of this subdivision (f).

(g) For the purposes of subdivision (e) above a "charter" or "founders" policy is:

(i) A life insurance policy which by its terms expressly provides that the policyholder will receive some preferential or discriminatory advantage or benefit not available to persons who purchase insurance from the insurer at future dates or under other circumstances; or

(ii) A life insurance policy the provisions of which, through sales material or oral presentations, are interpreted by the insurer to prospective policyholders as entitling the policyholders to the benefits described in subdivision (g) (i) of this section.

(h) For the purposes of subdivision (e) above, a "coupon" policy means a life insurance policy which provides a series of pure endowments maturing periodically in amounts not exceeding the gross annual policy premiums. The term "pure endowment" or "endowment" is used in its accepted actuarial sense, meaning a benefit becoming payable at a specific future date if the insured person is then living.

(2) This section shall not be deemed to prohibit the provision, payment, allowance or apportionment of regular annual dividends or "savings" under regular participating forms of policies or contracts.

[41-1934, added 1961, ch. 330, sec. 465, p. 645; am. 1969, ch. 214, sec. 50, p. 625; am. 1972, ch. 369, sec. 10, p. 1072.]

41-1935. LIFE INSURANCE AND ANNUITIES -- TWENTY DAY FREE EXAMINATION. (1) Every life insurance policy to which the provisions of section [41-1927](#), Idaho Code, apply and every annuity contract shall contain a provision therein or in a separate rider attached thereto when delivered, stating in substance that the person to whom the life insurance policy or annuity contract is issued shall be permitted to return the life insurance policy or annuity within twenty (20) days of its delivery to such person, and to have a refund of the premium paid if after examination of the policy the purchaser is not satisfied with it for any reason. The provision shall be set forth in the policy or contract under appropriate caption, and if not so printed on the face page of the policy or contract adequate notice of the provision shall be printed or stamped conspicuously on the face page.

(2) The policy or contract may be so returned to the insurer at its home or branch office or to the agent through whom it was applied for, and thereupon shall be void as from the beginning and as if the policy or contract had not been issued.

[41-1935, added 1992, ch. 162, sec. 1, p. 518.]

41-1936. SEPARATE ACCOUNTS -- OPERATION AND MANAGEMENT. (1) A domestic life insurer may, by or pursuant to resolution of its board of directors, establish one or more separate accounts, and may allocate thereto amounts to provide for life insurance or annuities (and benefits incidental thereto), payable in fixed or in variable amounts or in both.

(2) The amounts allocated to each such account and accumulations thereon may be invested as provided in section [41-734](#) of this act (special investments of separate account funds).

(3) The income, if any, and gains and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account without regard to other income, gains or losses of the insurer.

(4) Unless otherwise approved by the director, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; except, that unless otherwise approved by the director, a portion of the assets of such separate account equal to the insurer's reserve liability with regard to the guaranteed benefits and funds, if any, referred to in section [41-734](#), Idaho Code, (special investments of separate account funds), shall be valued in accordance with the rules otherwise applicable to the insurer's assets.

(5) Amounts allocated to a separate account in the exercise of the power granted by this section shall be owned by the insurer, and the insurer shall not be, nor hold itself out to be, a trustee with respect to such amounts. If and to the extent so provided under the applicable contracts, that portion of the assets of any such 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 insurer may conduct.

(6) No sale, exchange or other transfer of assets may be made by an insurer between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, 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 contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, is made (a) by a transfer of cash, or (b) by a transfer of securities having a readily determinable market value, provided that such transfer of securities is approved by the director. The director may approve other transfers among such accounts if, in his opinion, such transfers would not be inequitable.

(7) To the extent that the insurer deems it necessary to comply with any applicable federal or state laws, the insurer, with respect to any separate account, including without limitation any separate account which is a management investment company or a unit investment trust, may provide for persons having an interest therein, appropriate voting and other rights and special procedures for the conduct of the business of such account, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants, and the selection of a committee, the members of which need not be otherwise affiliated with the insurer, to manage the business of such account.

[I.C., sec. 41-1936, as added by 1969, ch. 214, sec. 51, p. 625; am. 1971, ch. 272, sec. 2, p. 1078.]

41-1937. VARIABLE CONTRACTS -- STATEMENT OF ESSENTIAL FEATURES. (1) Any variable contract providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurer in determining the dollar amount of such variable benefits. Any such contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued

thereunder, shall state that such dollar amount will so vary and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

(2) Variable annuity contracts delivered or issued for delivery in this state may include as an incidental benefit provision for payment on death during the deferred period of an amount not in excess of the greater of the sum of the premiums or stipulated payments paid under the contract or the value of the contract at time of death. Any such provision shall not be deemed to be life insurance and shall not be subject to the provisions of this code governing life insurance contracts. A provision for any other benefit on death during the deferred period shall be subject to such life insurance provisions.

[I.C., sec. 41-1937, as added by 1969, ch. 214, sec. 52, p. 625; am. 1971, ch. 272, sec. 3, p. 1078.]

41-1938. VARIABLE CONTRACTS -- AUTHORITY OF INSURER TO ISSUE. No insurer shall deliver or issue for delivery in this state contracts authorized under section [41-1936](#), Idaho Code, unless it is authorized or organized to do a life insurance or annuity business in this state, and the director 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 director shall consider among other things:

- (1) The history and financial condition of the insurer;
- (2) The character, responsibility and fitness of the officers and directors of the insurer; and
- (3) The law and regulation under which the insurer is authorized in the state of domicile to issue variable contracts.

[41-1938, added 1969, ch. 214, sec. 53, p. 625; am. 1999, ch. 95, sec. 1, p. 297.]

41-1939. VARIABLE CONTRACTS -- REGULATION THEREOF. (1) Notwithstanding any other provision of law, the director shall have sole and exclusive authority to regulate the issuance and sale of variable contracts and to provide for licensing of persons selling such contracts, and to issue such reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of this section.

(2) The reserve liability for variable contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

(3) The director, by regulation, may require that any individual variable contract, delivered or issued for delivery in this state, shall contain provisions as to policy loans, payment of premiums, payment of claims, indebtedness and nonforfeiture benefits appropriate to a variable contract.

[I.C., sec. 41-1939, as added by 1969, ch. 214, sec. 54, p. 625.]

41-1940. ANNUITY CONSUMER PROTECTIONS ACT. (1) Sections [41-1940](#) through [41-1943](#), Idaho Code, shall be known and may be cited as the "Annuity Consumer Protections Act."

(2) As used in the annuity consumer protections act:

(a) "Annuity" means an annuity that is an insurance product under state law that is individually solicited, whether classified as an individual or group annuity.

(b) "Best interest obligations" means that a producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made without placing the producer's or the insurer's financial interest ahead of the consumer's interest.

(c) "Cash compensation" means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

(d) "Consumer profile information" means information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs, and financial objectives, including, at a minimum, the following:

- (i) Age;
- (ii) Annual income;
- (iii) Financial situation and needs, including debts and other obligations;
- (iv) Financial experience;
- (v) Insurance needs;
- (vi) Financial objectives;
- (vii) Intended use of the annuity;
- (viii) Financial time horizon;
- (ix) Existing assets or financial products, including investment, annuity, and insurance holdings;
- (x) Liquidity needs;
- (xi) Liquid net worth;
- (xii) Risk tolerance, including but not limited to willingness to accept non-guaranteed elements in the annuity;
- (xiii) Financial resources used to fund the annuity; and
- (xiv) Tax status.

(e) "Continuing education provider" or "CE provider" means an individual or entity approved by the department to offer continuing education courses.

(f) "Contract owner" means the owner named in the annuity contract or the certificate holder in the case of a group annuity contract.

(g) "Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and that are not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements may include the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, charges, or elements of formulas used to determine any of these. An element is considered determinable only if it is calculated from underlying determinable elements or from both determinable and guaranteed elements.

(h) "FINRA" means the financial industry regulatory authority or succeeding agency.

(i) "Generic name" means a short title descriptive of the annuity contract being applied for or illustrated, such as "single premium deferred annuity."

(j) "Guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, charges, or elements of formulas used to determine any of these that are promised and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.

(k) "Insurance producer" or "producer" has the same meaning as provided in [chapter 10, title 41](#), Idaho Code. For purposes of the annuity consumer protections act, "producer" includes an insurer where no producer is involved.

(l) "Insurer" means a company required to be licensed under the laws of this state to provide insurance products, including annuities.

(m) "Intermediary" means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer's annuities by producers.

(n) "Material conflict of interest" means a financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. It does not include cash compensation or noncash compensation.

(o) "Noncash compensation" means any form of compensation that is not cash, including but not limited to health insurance, office rent, office support, and retirement benefits.

(p) "Non-guaranteed elements" means the premiums, credited interest rates including any bonus, benefits, values, dividends, noninterest-based credits, charges, or elements of formulas used to determine any of these that are subject to company discretion and that are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.

(q) "Recommendation" means advice provided by a producer to an individual consumer that was intended to result or does result in a purchase, exchange, or replacement of an annuity in accordance with that advice. It does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

(r) "Replacement" means a transaction in which a new policy or contract is purchased and in which it is known or should be known to the proposing producer or insurer that, by reason of the transaction, an existing policy or contract has been or is to be:

(i) Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or terminated;

(ii) Converted to reduced paid-up insurance, continued as extended term insurance, or reduced in value by the use of nonforfeiture benefits or other policy values;

(iii) Amended to effect either a reduction in benefits or in the term for which coverage would remain in force or for which benefits would be paid;

(iv) Reissued with any reduction in cash value; or

(v) Used in a financed purchase.

(s) "SEC" means the United States securities and exchange commission.

(3) Unless otherwise specifically included, the annuity consumer protections act shall not apply to transactions involving:

(a) Contracts used to fund:

- (i) An employee pension or welfare benefit plan that is covered by the employee retirement and income security act of 1974 (ERISA);
- (ii) A plan described by sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code, as amended, if established or maintained by an employer;
- (iii) A governmental or church plan defined in section 414 of the Internal Revenue Code, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under section 457 of the Internal Revenue Code; or
- (iv) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(b) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(c) Formal prepaid funeral contracts, also known as prepaid prearrangement sales or prearrangement sales contracts, as defined under section [54-1131](#)(7), Idaho Code, and as regulated in [chapter 11, title 54](#), Idaho Code.

(4) The director may promulgate rules implementing the provisions of the annuity consumer protections act for the protection of consumers in annuity transactions.

(5) Nothing in the annuity consumer protections act shall be construed to create or imply a private cause of action for a violation of the annuity consumer protections act or rules promulgated pursuant thereto.

[41-1940, added 2021, ch. 41, sec. 2, p. 110.]

41-1940A. ANNUITY CONSUMER PROTECTIONS -- SUITABILITY DUTIES. (1) This section through section [41-1940E](#), Idaho Code, shall apply to any sale or recommendation of an annuity.

(a) The purpose of these sections is to require producers, as defined in the annuity consumer protections act, to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers at the time of the transaction are effectively addressed.

(b) Nothing in the annuity consumer protections act shall be construed to subject a producer to civil liability under the best interest standard of care outlined in this section or under standards governing the conduct of a fiduciary or a fiduciary relationship.

(2) Unless otherwise specifically included, this section through section [41-1940E](#), Idaho Code, shall not apply to transactions involving:

(a) Contracts excluded by section [41-1940](#)(3), Idaho Code; or

(b) Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this section.

(3) Best interest obligations. A producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made without placing the producer's or the insurer's financial interest ahead of the consumer's interest. A producer has acted in the best interest of the consumer if he has satisfied the following obligations regarding care, disclosure, conflict of interest, and documentation:

- (a) Care obligation. The producer, in making a recommendation, shall exercise reasonable diligence, care, and skill to:
- (i) Know the consumer's financial situation, insurance needs, and financial objectives;
 - (ii) Understand the available recommendation options after making a reasonable inquiry into options available to the producer;
 - (iii) Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and
 - (iv) Communicate the basis or bases of the recommendation.
- (b) The requirements under paragraph (a) of this subsection include making reasonable efforts to obtain consumer profile information from the consumer prior to the recommendation of an annuity.
- (c) The requirements under paragraph (a) of this subsection require a producer to consider the types of products the producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs, and financial objectives. This does not require analysis or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the recommendation. Producers shall be held to standards applicable to producers with similar authority and licensure.
- (d) The requirements under this subsection do not create a fiduciary obligation or relationship and create only a regulatory obligation as established in this section.
- (e) The consumer profile information, characteristics of the insurer, and product costs, rates, benefits, and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs, and financial objectives, but the level of importance of each factor under the care obligation of this subsection may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.
- (f) The requirements under paragraph (a) of this subsection include having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit, or other insurance-related features.
- (g) The requirements under paragraph (a) of this subsection apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity and to riders and similar producer enhancements, if any.
- (h) The requirements under paragraph (a) of this subsection do not mean the annuity with the lowest onetime or multiple occurrence compensation structure shall necessarily be recommended.
- (i) The requirements under paragraph (a) of this subsection do not mean the producer has ongoing monitoring obligations under the care obligation pursuant to this subsection, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment advising, or financial planning agreement between the consumer and the producer.

(j) In the case of an exchange or replacement of an annuity, the producer shall consider the whole transaction, which includes taking into consideration whether:

(i) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits such as death, living, or other contractual benefits, or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;

(ii) The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and

(iii) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding sixty (60) months.

(k) Nothing in this section shall be construed to require a producer to obtain any license other than a producer license with the appropriate line of authority to sell, solicit, or negotiate insurance in this state, including but not limited to any securities license, in order to fulfill the duties and obligations contained in this section; provided the producer does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

(4) Disclosure obligation.

(a) Prior to the recommendation or sale of an annuity, the producer shall prominently disclose to the consumer on a form prescribed by the director or substantially similar thereto the following:

(i) A description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction;

(ii) An affirmative statement on whether the producer is licensed and authorized to sell the following products:

1. Fixed annuities;
2. Fixed indexed annuities;
3. Variable annuities;
4. Life insurance;
5. Mutual funds;
6. Stocks and bonds; and
7. Certificates of deposit;

(iii) An affirmative statement describing the insurers the producer is authorized, contracted (or appointed), or otherwise able to sell insurance products for, using the following descriptions:

1. From one (1) insurer;
2. From two (2) or more insurers; or
3. From two (2) or more insurers although primarily contracted with one (1) insurer;

(iv) A description of the sources and types of cash compensation and noncash compensation to be received by the producer, including whether the producer is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary, or other producer or by fee as a result of a contract for advice or consulting services; and

(v) A notice of the consumer's right to request additional information regarding cash compensation described in paragraph (b) of this subsection.

(b) Upon request of the consumer or the consumer's designated representative, the producer shall disclose:

(i) A reasonable estimate of the amount of cash compensation to be received by the producer, which may be stated as a range of amounts or percentages; and

(ii) Whether the cash compensation is a onetime or multiple occurrence amount and, if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages.

(c) Prior to or at the time of the recommendation or sale of an annuity, the producer shall have a reasonable basis to believe the consumer has been informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity, mortality and expense fees, investment advisory fees, any annual fees, potential charges for and features of riders or other options of the annuity, limitations on interest returns, potential changes in non-guaranteed elements of the annuity, insurance and investment components, and market risk. The disclosure requirements under this subsection are intended to supplement and not replace the disclosure requirements under section [41-1941](#), Idaho Code.

(5) Conflict of interest obligation. A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

(6) Documentation obligation. A producer shall at the time of recommendation or sale:

(a) Make a written record of any recommendation and the basis for the recommendation subject to this section;

(b) Obtain a consumer-signed statement on a form prescribed by the director or substantially similar to such form, documenting:

(i) A customer's refusal to provide the consumer profile information, if any; and

(ii) A customer's understanding of the ramifications of not providing his consumer profile information or providing insufficient consumer profile information; and

(c) Obtain a consumer-signed statement on a form prescribed by the director or substantially similar to such form, acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's recommendation.

(7) Application of the best interest obligation. Any requirement applicable to a producer under this section shall apply to every producer who has exercised material control or influence in the making of a recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling or other back office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

(8) Transactions not based on a recommendation.

(a) Except as provided under paragraph (b) of this subsection, a producer shall have no obligation to a consumer under subsection (3) of this section related to any annuity transaction if:

- (i) No recommendation is made;
- (ii) A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;
- (iii) A consumer refuses to provide relevant consumer profile information and the annuity transaction is not recommended; or
- (iv) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the producer.

(b) An insurer's issuance of an annuity subject to paragraph (a) of this subsection shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

(9) Prohibited practices. Neither a producer nor an insurer shall dissuade, or attempt to dissuade, a consumer from:

- (a) Truthfully responding to an insurer's request for confirmation of the consumer profile information;
- (b) Filing a complaint; or
- (c) Cooperating with the investigation of a complaint.

(10) Safe harbor for financial professionals.

(a) Recommendations and sales of annuities made in compliance with comparable standards shall satisfy the requirements under this section. This subsection applies to all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls, and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue. However, nothing in this subsection shall limit the insurance director's ability to investigate and enforce the provisions of this section.

(b) Nothing in paragraph (a) of this subsection shall limit the insurer's obligation to comply with section [41-1940B\(1\)](#), Idaho Code, although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

(c) For paragraph (a) of this subsection to apply, an insurer shall:

- (i) Monitor the relevant conduct of the financial professional seeking to rely on paragraph (a) of this subsection or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal securities laws, using information collected in the normal course of an insurer's business; and
- (ii) Provide to the entity responsible for supervising the financial professional seeking to rely on paragraph (a) of this subsection, such as the financial professional's broker-dealer or investment adviser registered under federal securities laws, information and reports that are reasonably appropriate to assist such entity to maintain its supervision system.

(d) For purposes of this subsection, "financial professional" means a producer that is regulated and acting as:

- (i) A broker-dealer registered under federal securities laws or a registered representative of a broker-dealer;

- (ii) An investment adviser registered under federal securities laws or an investment adviser representative associated with the federal registered investment adviser; or
 - (iii) A plan fiduciary under section 3(21) of the employee retirement income security act of 1974 (ERISA) or a fiduciary under section 4975(e)(3) of the Internal Revenue Code or any amendments or successor statutes thereto.
- (e) For purposes of this subsection, "comparable standards" means:
- (i) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales, including but not limited to regulation best interest and any amendments or successor regulations thereto;
 - (ii) With respect to investment advisers registered under federal securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the investment advisers act of 1940, including but not limited to the form ADV and interpretations; and
 - (iii) With respect to plan fiduciaries or fiduciaries, the duties, obligations, prohibitions, and all other requirements attendant to such status under ERISA or the Internal Revenue Code and any amendments or successor statutes thereto.

[41-1940A, added 2021, ch. 41, sec. 3, p. 113.]

41-1940B. ANNUITY CONSUMER PROTECTION -- SUPERVISION SYSTEM. (1) Except as permitted under section [41-1940A\(8\)](#), Idaho Code, an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives based on the consumer's consumer profile information.

(2) An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with the annuity consumer protections act, including but not limited to the following:

- (a) The insurer shall establish and maintain reasonable procedures to inform its producers of the requirements of the annuity consumer protections act and shall incorporate the requirements of such act into relevant producer training manuals;
- (b) The insurer shall establish and maintain standards for producer product training and shall establish and maintain reasonable procedures to require its producers to comply with the requirements of section [41-1940C](#), Idaho Code;
- (c) The insurer shall provide product-specific training and training materials that explain all material features of its annuity products to its producers;
- (d) The insurer shall establish and maintain procedures for the review of each recommendation prior to issuance of an annuity that are designed to ensure there is a reasonable basis to determine that the recommended annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished elec-

tronically or through other means, including but not limited to physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(e) The insurer shall establish and maintain reasonable procedures to detect recommendations that are not in compliance with section [41-1940A](#), Idaho Code. This may include but is not limited to confirmation of the consumer's consumer profile information, systematic customer surveys, producer and consumer interviews, confirmation letters, producer statements or attestations, and programs of internal monitoring. Nothing in this paragraph prevents an insurer from complying with this paragraph by applying sampling procedures or by confirming the consumer profile information or other required information under that section after issuance or delivery of the annuity;

(f) The insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided to the consumer the information required to be provided under the annuity consumer protections act;

(g) The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;

(h) The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this paragraph are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits, or other employee benefits by employees as long as those benefits are not based on the volume of sales of a specific annuity within a limited period of time; and

(i) The insurer shall annually provide a written report to senior management, including to the senior manager responsible for audit functions, which report shall detail a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

(3) Nothing in this section restricts an insurer from contracting for performance of a function, including maintenance of procedures, required under this section.

(a) An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to section [41-1940D](#), Idaho Code, regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with paragraph (b) of this subsection.

(b) An insurer's supervision system under this section shall include supervision of contractual performance under this section. This includes but is not limited to the following:

(i) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

(ii) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

(4) An insurer is not required to include in its system of supervision:

- (a) A producer's recommendations to consumers of products other than the annuities offered by the insurer; or
- (b) Consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer.

[41-1940B, added 2021, ch. 41, sec. 4, p. 117.]

41-1940C. ANNUITY CONSUMER PROTECTION -- PRODUCER TRAINING. (1) A producer shall not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer's standards for product training. A producer may rely on insurer-provided product-specific training standards and materials to comply with this subsection.

(2) A producer who engages in the sale of annuity products shall complete a onetime four (4) credit training course approved by the department and provided by the department-approved education provider. Individuals who obtain a life insurance line of authority on or after July 1, 2021, may not engage in the sale of annuities until the annuity training course required under this section has been completed.

(a) The minimum length of the training required under this subsection shall be sufficient to qualify for at least four (4) continuing education credits but may be longer.

(b) The training required under this subsection shall include information on the following topics:

- (i) The types of annuities and various classifications of annuities;
- (ii) Identification of the parties to an annuity;
- (iii) How product-specific annuity contract features affect consumers;
- (iv) The application of income taxation of qualified and nonqualified annuities;
- (v) The primary uses of annuities; and
- (vi) Appropriate standard of conduct, sales practices, replacement, and disclosure requirements.

(c) Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

(d) A provider of an annuity training course intended to comply with this subsection shall register as a continuing education provider in this state and comply with the rules and guidelines applicable to producer continuing education courses as set forth by the department.

(e) A producer who has completed an annuity training course approved by the department of insurance prior to July 1, 2021, shall, within six (6) months after July 1, 2021, complete either:

- (i) A new four (4) credit training course approved by the department of insurance after July 1, 2021; or
- (ii) An additional onetime one (1) credit training course approved by the department and provided by the department-approved education provider on appropriate sales practices, replacement,

and disclosure requirements under the annuity consumer protections act.

(f) Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion as set forth by the department.

(g) The satisfaction of the training requirements of another state that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

(h) The satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

(i) An insurer shall verify that a producer has completed the annuity training course required under this subsection before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by director-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

[41-1940C, added 2021, ch. 41, sec. 5, p. 119.]

41-1940D. ANNUITY CONSUMER PROTECTION -- COMPLIANCE MITIGATION. An insurer is responsible for compliance with the annuity consumer protections act. If a violation occurs, either because of the action or inaction of the insurer or its producer, the director may order:

(1) An insurer to take reasonably appropriate corrective action for any consumer harmed by a failure to comply with this regulation by the insurer, by an entity contracted to perform the insurer's supervisory duties, or by the producer;

(2) A general agency, an independent agency, or the producer to take reasonably appropriate corrective action for any consumer harmed by the producer's violation of this regulation; and

(3) Appropriate penalties and sanctions.

[41-1940D, added 2021, ch. 41, sec. 6, p. 120.]

41-1940E. ANNUITY CONSUMER PROTECTION -- RECORDKEEPING. (1) Insurers, general agents, independent agencies, and producers shall maintain or be able to make available to the director records of the information collected from the consumer, disclosures made to the consumer including summaries of oral disclosures, and other information used in making the recommendations that were the basis for insurance transactions for five (5) years after the natural life of the contract. An insurer is permitted but shall not be required to maintain documentation on behalf of a producer.

(2) Records required to be maintained by the annuity consumer protections act may be maintained in paper, photographic, micro-process, magnetic, mechanical, or electronic media or by any process that accurately reproduces the actual document.

[41-1940E, added 2021, ch. 41, sec. 7, p. 120.]

41-1941. ANNUITY CONSUMER PROTECTIONS -- DISCLOSURES. (1) The provisions of this section shall apply to all group and individual annuity contracts and certificates except:

- (a) Registered or nonregistered variable annuities or other registered products;
- (b) Immediate and deferred annuities that contain no non-guaranteed elements; and
- (c) Contracts excluded by section [41-1940](#) (3), Idaho Code.

(2) If the application for an annuity contract is taken in a face-to-face meeting, the applicant, at or before the time of application and at the time of contract delivery, shall be given both the disclosure document and the buyer's guide in the form prescribed by the director. The disclosure document shall be dated and signed by the prospective annuity owner and producer and the company shall maintain a signed copy for a period of five (5) years after the natural life of the contract.

(3) If the application for an annuity contract is taken by means other than in a face-to-face meeting, the applicant shall be sent both the disclosure document and the buyer's guide at the time of application and at the time of contract delivery. The producer and the company shall maintain a signed copy of the disclosure document for a period of five (5) years after the natural life of the contract.

(4) A solicitation for an annuity contract provided in other than a face-to-face meeting shall include a statement that the proposed applicant may contact the insurer for a free annuity buyer's guide.

(5) At a minimum, the following information shall be included in the disclosure document required to be provided under this section in a form or forms prescribed by the director or substantially similar to such form or forms:

- (a) The generic name of the contract, the company product name, if different, the form number and the fact that it is an annuity;
- (b) The insurer's name and address;
- (c) A description of the contract and its benefits, emphasizing its long-term nature and including the following examples where appropriate:
 - (i) The guaranteed, non-guaranteed and determinable elements of the contract, their limitations, if any, and an explanation of how they operate;
 - (ii) An explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;
 - (iii) The periodic income options both on a guaranteed and non-guaranteed basis;
 - (iv) Any value reductions caused by withdrawals from or surrender of the contract;
 - (v) How values in the contract can be accessed;
 - (vi) The death benefit, if available, and how it will be calculated;
 - (vii) A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and
 - (viii) The impact of any rider, such as a long-term care rider.

(d) The specific dollar amount or percentage charges and fees shall be listed with an explanation of how they apply;

(e) Information about the current guaranteed rate for new contracts that contains a clear notice that the rate is subject to change;

(f) Whenever projections for non-guaranteed elements of a contract are provided in the disclosure document, equal prominence shall be given to guaranteed elements; and

(g) Terms used in the disclosure document shall be defined in clear and concise language that facilitates the understanding of a typical person within the segment of the public to which the disclosure document is directed.

(6) For annuities in the payout period with changes in nonguaranteed elements and for the accumulation period of a deferred annuity, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract. Such report shall contain at a minimum the following information:

(a) The beginning and end dates of the current report period;

(b) The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

(c) The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and

(d) The amount of outstanding loans, if any, as of the end of the current report period.

[41-1941, added 2010, ch. 238, sec. 1, p. 617; am. 2012, ch. 107, sec. 6, p. 290; am. 2020, ch. 290, sec. 1, p. 837; am. 2021, ch. 41, sec. 8, p. 121.]

41-1942. ADVERTISEMENT OF INTEREST-INDEXED ANNUITIES. No issuer of interest-indexed annuity contracts shall advertise interest-indexed annuity contracts, regardless of the advertising medium, without prior approval of such advertisement from the director. For purposes of this section, "interest-indexed annuity" means a type of annuity whose credited interest is linked to an external reference at any time during the term of the contract and shall include contracts, application forms where written application is required and is to be made a part of the contract, printed riders, endorsements, and renewal certificates.

[41-1942, added 2020, ch. 290, sec. 2, p. 839; am. 2021, ch. 41, sec. 9, p. 123.]

41-1943. STANDARDS FOR POLICY PROVISIONS FOR ANNUITIES. No annuity shall be delivered or issued for delivery in this state that contains:

(1) Surrender charges that persist past ten (10) years from the time of deposit; or

(2) Surrender charges that exceed ten percent (10%) in the first year and decrease one percent (1%) per year in subsequent years.

[41-1943, added 2020, ch. 290, sec. 3, p. 840.]

41-1950. SHORT TITLE AND SCOPE. (1) Sections [41-1950](#) through [41-1965](#), Idaho Code, may be cited as the "Life Settlements Act."

(2) Nothing contained herein is intended to abrogate or conflict with the Idaho uniform securities act contained in [chapter 14, title 30](#), Idaho

Code, or supersede the duty of persons to comply with that or any other applicable law. Given the combined interest and regulation of life settlements by the department and the department of finance, the director and the director of the department of finance should cooperate in the exercise of discretionary acts and enforcement of the applicable laws within their respective authority and responsibility.

(3) Unless clearly inapplicable, other provisions and chapters of [title 41](#), Idaho Code, apply to licensees and persons subject to sections [41-1950](#) through [41-1965](#), Idaho Code, including, but not limited to, chapters 1 through 5, 10, 13, 18 and 19, [title 41](#), Idaho Code. Specifically, section [41-220](#), Idaho Code, applies to licensees under sections [41-1950](#) through [41-1965](#), Idaho Code.

[41-1950, added 2009, ch. 69, sec. 1, p. 192.]

41-1951. DEFINITIONS. In sections [41-1950](#) through [41-1965](#), Idaho Code:

(1) "Advertising" means any written, electronic or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the internet or similar communications media, including film strips, motion pictures and videos, published, disseminated, circulated or placed directly before the public, in this state, for the purpose of creating an interest in or inducing a person to sell, assign, devise, bequest or transfer the death benefit or ownership of a life insurance policy pursuant to a life settlement contract.

(2) "Business of life settlements" means an activity involved in, but not limited to, the offering to enter into, soliciting, negotiating, procuring or effectuating a life settlement contract. The transaction of the business of life settlements is within the scope of the transaction of the business of insurance as provided in section [41-112](#), Idaho Code.

(3) "Chronically ill" means:

(a) Being unable to perform at least two (2) activities of daily living such as eating, toileting, transferring, bathing, dressing or continence; or

(b) Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

(4) "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a life settlement provider, credit enhancer or any entity that has a direct ownership in a policy or certificate that is the subject of a life settlement contract, but:

(a) Whose principal activity related to the transaction is providing funds to effect the life settlement or purchase of one (1) or more settled policies; and

(b) Who has an agreement in writing with one (1) or more licensed life settlement providers to finance the acquisition of life settlement contracts.

"Financing entity" does not include a nonaccredited investor. An "accredited investor" is defined by rule 501 of regulation D, 17 CFR 230.501(a).

(5) "Life insurance producer" means any person licensed in this state as a resident or nonresident insurance producer who has received qualification or authority for life insurance coverage or a life line of coverage pursuant to section [41-1008](#), Idaho Code.

(6) "Life settlement broker" or "broker" means a person who, working exclusively on behalf of an owner and for a fee, commission or other valuable

consideration, offers or attempts to negotiate life settlement contracts between an owner and one (1) or more life settlement providers or one (1) or more life settlement brokers. Notwithstanding the manner in which the life settlement broker is compensated, a life settlement broker is deemed to represent only the owner, and not the insurer or the life settlement provider, and owes a fiduciary duty to the owner to act according to the owner's instructions and in the best interest of the owner. Nothing in this definition reduces or impairs the scope of the definitions in section [30-14-102](#), Idaho Code, including, but not limited to, agent, broker-dealer, investment adviser, and investment adviser representative. The term does not include an attorney, certified public accountant or a financial planner accredited by a nationally recognized accreditation agency who is retained to represent the owner and whose compensation is not paid directly or indirectly by the life settlement provider or purchaser.

(7) "Life settlement contract" means an agreement between an owner and a life settlement provider or any affiliate, as that term is defined in section [41-3802](#)(1), Idaho Code, of the life settlement provider establishing the terms under which compensation or anything of value is or will be paid, which compensation or value is less than the expected death benefits of the policy, in return for the owner's present or future assignment, transfer, sale, hypothecation, devise or bequest of the death benefit or ownership of any portion of the insurance policy or certificate of insurance. Nothing in this definition reduces or impairs the scope of the definition of security contained in section [30-14-102](#)(28), Idaho Code.

(a) "Life settlement contract" includes a premium finance loan made for a life insurance policy on or before the date of issuance of the policy where one (1) or more of the following conditions apply:

(i) The loan proceeds are not used solely to pay premiums for the policy and any costs or expenses incurred by the lender or the borrower in connection with the financing;

(ii) The owner or the insured receives on the date of the premium finance loan a guarantee of a future life settlement value of the policy; or

(iii) The owner or the insured agrees on the date of the premium finance loan to sell the policy or any portion of its death benefit on any date following the issuance of the policy.

(b) "Life settlement contract" includes the transfer, for compensation or value, of ownership or beneficial interest in a trust or other entity that owns such policy if the trust or other person was formed or availed of for the principal purpose of acquiring one (1) or more life insurance policies which life insurance contract insures the life of a person residing in this state.

(c) "Life settlement contract" does not include any of the following:

(i) A policy loan or accelerated death benefit made by the insurer pursuant to the policy's terms;

(ii) A loan, the proceeds of which are used solely to pay:

(A) Premiums for the policy; and

(B) The costs of the loan, including, without limitation, interest, arrangement fees, utilization fees and similar fees, closing costs, legal fees and expenses, trustee fees and expenses, and third party collateral provider fees and expenses, including fees payable to letter of credit issuers;

(iii) A loan made by a bank or other licensed financial institution in which the lender takes an interest in a life insurance policy solely to secure repayment of a loan or, if there is a default on the loan and the policy is transferred, the transfer of such a policy by the lender, provided that neither the default itself nor the transfer of the policy in connection with the default is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under sections [41-1950](#) through [41-1965](#), Idaho Code;

(iv) A loan made by a lender that does not violate the Idaho credit code, provided that the premium finance loan is not described in paragraph (a) of this subsection;

(v) An agreement where all the parties are closely related to the insured by blood or law or have a lawful substantial economic interest in the continued life, health and bodily safety of the person insured, or are trusts established primarily for the benefit of such parties;

(vi) Any designation, consent or agreement by an insured who is an employee of an employer in connection with the purchase by the employer, or trust established by the employer, of life insurance on the life of the employee;

(vii) A bona fide business succession planning arrangement:

(A) Between one (1) or more shareholders in a corporation or between a corporation and one (1) or more of its shareholders or one (1) or more trusts established by its shareholders;

(B) Between one (1) or more partners in a partnership or between a partnership and one (1) or more of its partners or one (1) or more trusts established by its partners; or

(C) Between one (1) or more members in a limited liability company or between a limited liability company and one (1) or more of its members or one (1) or more trusts established by its members;

(viii) An agreement entered into by a service recipient, or a trust established by the service recipient, and a service provider, or a trust established by the service provider, who performs significant services for the service recipient's trade or business; or

(ix) Any other contract, transaction or arrangement exempted from the definition of life settlement contract by the director based on a determination that the contract, transaction or arrangement is not of the type intended to be regulated by sections [41-1950](#) through [41-1965](#), Idaho Code.

(8) "Life settlement provider" or "provider" means a person, other than an owner, who enters into or effectuates a life settlement contract with an owner resident in this state. Nothing in this definition reduces or impairs the scope of the definitions of section [30-14-102](#), Idaho Code, including, but not limited to, agent, broker-dealer, investment adviser, and investment adviser representative. "Life settlement provider" does not include:

(a) A bank, savings bank, savings and loan association, credit union or other licensed lending institution that takes an assignment of a life insurance policy solely as collateral for a loan;

(b) A premium finance company making premium finance loans that takes an assignment of a life insurance policy solely as collateral for a loan;

- (c) The insurer of the life insurance policy;
- (d) An authorized or eligible insurer that provides stop loss coverage or financial guaranty insurance to a life settlement provider, purchaser, financing entity, special purpose entity or related provider trust;
- (e) A financing entity;
- (f) A special purpose entity;
- (g) A related provider trust; or
- (h) Any other person that the director determines is not the type of person intended to be covered by the definition of life settlement provider.

(9) "Owner" means the owner of a life insurance policy or a certificate holder under a group policy who resides in this state and enters or seeks to enter into a life settlement contract. For the purposes of sections [41-1950](#) through [41-1965](#), Idaho Code, an owner shall not be limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition except where specifically addressed.

- (a) If there is more than one (1) owner on a single policy and the owners are residents of different states, the transaction shall be governed by the law of the state in which the owner having the largest percentage ownership resides or, if the owners hold equal ownership, the state of residence of one (1) owner agreed upon in writing by all the owners.

(b) "Owner" does not include:

- (i) A licensee under sections [41-1950](#) through [41-1965](#), Idaho Code, including a life insurance producer acting as a life settlement broker pursuant to sections [41-1950](#) through [41-1965](#), Idaho Code;
- (ii) Qualified institutional buyer as defined, respectively, in rule 144A, 17 CFR 230.144A, promulgated under the federal securities act of 1933, 15 USC section 77a et seq., as amended;
- (iii) A financing entity;
- (iv) A special purpose entity; or
- (v) A related provider trust.

(10) "Policy" means an individual or group policy, group certificate, contract or arrangement of life insurance owned by a resident of this state, regardless of whether delivered or issued for delivery in this state.

(11) "Premium finance loan" means a loan made primarily for the purpose of making premium payments on a life insurance policy, which loan is secured by an interest in such life insurance policy.

(12) "Related provider trust" means a titling trust or other trust established by a licensed life settlement provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction. The trust shall have a written agreement with the licensed life settlement provider under which the licensed life settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to life settlement transactions available to the director as if those records and files were maintained directly by the licensed life settlement provider.

(13) "Settled policy" means a life insurance policy or certificate that has been acquired by a life settlement provider pursuant to a life settlement contract.

(14) "Special purpose entity" means a corporation, partnership, trust, limited liability company or other similar entity formed solely to provide either directly or indirectly access to institutional capital markets:

(a) For a financing entity or licensed life settlement provider;

(b) In connection with a transaction in which the securities in the special purposes entity are acquired by the owner or by "qualified institutional buyers" as defined in rule 144A, 17 CFR 230.144A, promulgated under the federal securities act of 1933, as amended; or

(c) In connection with a transaction in which the securities pay a fixed rate of return commensurate with established asset-backed institutional capital markets.

(15) "Stranger-originated life insurance" or "STOLI" means an act, plan, practice, or arrangement to initiate a life insurance policy for the benefit of a third party investor who, at the time of policy origination, has no insurable interest in the insured. STOLI practices include, but are not limited to, cases in which life insurance is purchased with resources or guarantees from or through a person who, at the time of policy inception, could not lawfully initiate the policy himself or itself, and where, at the time of inception, there is an arrangement or agreement, whether oral or written, to directly or indirectly transfer the ownership of the policy or the policy benefits to a third party. Trusts that are created to give the appearance of an insurable interest and are used to initiate policies for investors violate insurable interest laws and the prohibition against wagering on life. STOLI arrangements do not include those practices set forth in subsection (7) (c) of this section.

(16) "Terminally ill" means having an illness or sickness that can reasonably be expected to result in death within twenty-four (24) months or less.

[41-1951, added 2009, ch. 69, sec. 1, p. 192; am. 2013, ch. 266, sec. 10, p. 683.]

41-1952. LICENSE REQUIREMENT. (1) A person shall not act as a life settlement provider or life settlement broker where the owner of the life insurance policy is a resident of this state without first obtaining a license from the director as a life insurance producer under [chapter 10, title 41](#), Idaho Code, and complying with the additional requirements set forth in sections [41-1950](#) through [41-1965](#), Idaho Code.

(2) Not later than ten (10) days from the first day of operating as a life settlement broker or provider, and thereafter upon renewal of the life insurance producer license, the life insurance producer shall notify the director that he or she is acting as a life settlement broker or provider on a form prescribed by the director, and shall pay any applicable fee to be determined by the director specified by rule pursuant to section [41-401](#), Idaho Code. Notification shall include an acknowledgment by the life insurance producer that he or she will operate as a life settlement broker in accordance with sections [41-1950](#) through [41-1965](#), Idaho Code.

(3) The insurer that issued the policy being settled shall not be responsible for any act or omission of a life settlement broker or life settlement provider arising out of or in connection with the life settlement transaction, unless the insurer receives compensation for the placement of a life settlement contract from the life settlement provider or life settlement broker in connection with the life settlement contract.

[41-1952, added 2009, ch. 69, sec. 1, p. 196.]

41-1953. FILING OF LIFE SETTLEMENT CONTRACTS AND DISCLOSURE STATEMENTS. A person shall not use a life settlement contract form or provide to an owner a disclosure statement form in this state unless first filed with the director accompanied by a certification that the form is in compliance with sections [41-1950](#) through [41-1965](#), Idaho Code. The director may disapprove a life settlement contract form or disclosure statement form if, in the director's opinion, the contract or provisions contained therein fail to meet the requirements of sections [41-1950](#) through [41-1965](#), Idaho Code, or are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the owner. At the director's discretion, the director may require the submission of advertising material.

[41-1953, added 2009, ch. 69, sec. 1, p. 197.]

41-1954. REPORTING REQUIREMENTS AND PRIVACY. (1) Each life settlement provider shall file with the director, on or before March 1 of each year, an annual statement containing such information on a form prescribed by the director or as prescribed by rule. Such information shall be limited to only those transactions where the owner is a resident of this state.

(2) Except as otherwise allowed or required by law, a life settlement provider, life settlement broker, insurance company, insurance producer, information bureau, rating agency or company, or any other person with actual knowledge of an insured's identity, shall not disclose that identity as an insured, or the insured's financial or medical information to any other person unless the disclosure is:

- (a) Necessary to effect a life settlement between the owner and a life settlement provider and the owner and insured have provided prior written consent to the disclosure;
- (b) Provided in response to an investigation or examination by the director or any other governmental officer or agency;
- (c) A term of or condition to the transfer of a policy by one (1) life settlement provider to another life settlement provider;
- (d) Necessary to permit a financing entity, related provider trust or special purpose entity to finance the purchase of policies by a life settlement provider and the owner and insured have provided prior written consent to the disclosure;
- (e) Necessary to allow the life settlement provider or life settlement broker or their authorized representatives to make contacts for the purpose of determining health status;
- (f) Required to purchase stop loss coverage or financial guaranty insurance; or
- (g) Permitted by any other provision of applicable law.

[41-1954, added 2009, ch. 69, sec. 1, p. 197.]

41-1955. EXAMINATION AND RECORDS. (1) A person required to be licensed by sections [41-1950](#) through [41-1965](#), Idaho Code, is subject to examination as authorized in [chapter 2, title 41](#), Idaho Code, and shall for five (5) years retain copies of all:

- (a) Proposed, offered and executed contracts, purchase agreements, underwriting documents, policy forms, executed disclosure statements and

applications from the date of the proposal, offer or execution of the contract or purchase agreement, whichever is later;

(b) All checks, drafts or other evidence and documentation related to the payment, transfer, deposit or release of funds from the date of the transaction; and

(c) All other records and documents related to the requirements of sections [41-1950](#) through [41-1965](#), Idaho Code.

(2) The provisions of this section does not relieve a person of the obligation to produce these documents to the director after the retention period has expired if the person has retained the documents.

(3) Records required to be retained by this section must be legible and complete and in accordance with section [28-50-107](#), Idaho Code, and may be retained in paper, photograph, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces or forms a durable medium for the reproduction of a record.

[41-1955, added 2009, ch. 69, sec. 1, p. 197.]

41-1956. DISCLOSURE TO OWNER UPON APPLICATION. With each application for a life settlement contract, a life settlement provider or life settlement broker shall provide the owner with at least the following disclosures no later than the time the application for the life settlement contract is signed by all parties. The disclosures shall be provided in a separate document that is signed by the owner and the life settlement provider or life settlement broker, and shall provide the following information:

(1) There are possible alternatives to life settlement contracts including any accelerated death benefits or policy loans offered under the owner's life insurance policy.

(2) That a life settlement broker represents exclusively the owner, and not the insurer or the life settlement provider, and owes a fiduciary duty to the owner, including a duty to act according to the owner's instructions and in the best interest of the owner.

(3) Some or all of the proceeds of the life settlement may be taxable under federal and state law, and assistance should be sought from a professional tax advisor.

(4) Proceeds of the life settlement could be subject to the claims of creditors.

(5) Receipt of the proceeds of a life settlement may adversely affect the owner's eligibility for medicaid or other government benefits or entitlements, and advice should be obtained from the appropriate government agencies.

(6) The owner has the right to rescind a life settlement contract within twenty (20) days of the date it is executed by all parties. Rescission, if exercised by the owner, is effective only if both notice of the rescission is given, and the owner repays all proceeds and any premiums, loans and loan interest paid on account of the life settlement contract within the rescission period. If the insured dies during the rescission period, the life settlement contract shall be deemed to have been rescinded, subject to repayment by the owner or the owner's estate of all life settlement proceeds and any premiums, loans and loan interest.

(7) Funds will be sent to the owner within three (3) business days after the life settlement provider has received the insurer or group administrator's written acknowledgment that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated.

(8) Entering into a life settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate, to be forfeited by the owner. Assistance should be sought from a financial adviser.

(9) Disclosure to an owner shall include distribution of a brochure describing the process of life settlements. The national association of insurance commissioners (NAIC) form for the brochure shall be used unless another form is developed or approved by the director.

(10) The disclosure document shall contain the following language: "All medical, financial or personal information solicited or obtained by a life settlement provider or life settlement broker about an insured, including the insured's identity or the identity of family members, a spouse or a significant other may be disclosed as necessary to effect the life settlement between the owner and the life settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two (2) years."

(11) Following execution of a life settlement contract, the insured may be contacted for the purpose of determining the insured's health status and to confirm the insured's residential or business street address and telephone number, or as otherwise provided in sections [41-1950](#) through [41-1965](#), Idaho Code. This contact shall be limited to once every three (3) months if the insured has a life expectancy of more than one (1) year, and no more than once per month if the insured has a life expectancy of one (1) year or less. All such contacts shall be made only by a life settlement provider licensed in the state in which the owner resided at the time of the life settlement, or by the authorized representative of a duly licensed life settlement provider.

[41-1956, added 2009, ch. 69, sec. 1, p. 198.]

41-1957. DISCLOSURE TO OWNER BY PROVIDER UPON SETTLEMENT CONTRACT. A life settlement provider shall provide the owner with at least the following disclosures prior to the time the owner signs the life settlement contract. The disclosures shall be conspicuously displayed in the life settlement contract or in a separate document signed by the owner and shall provide the following information:

(1) The affiliation, if any, between the life settlement provider and the issuer of the insurance policy to be settled;

(2) The name, business address and telephone number of the life settlement provider;

(3) If an insurance policy to be settled has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be settled, the possible loss of coverage on the other lives under the policy and shall be advised to consult with his or her insurance producer or the insurer issuing the policy for advice on the proposed life settlement;

(4) The dollar amount of the current death benefit payable under the policy or certificate. If known, the life settlement provider shall also disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate and the extent to which the owner's interest in

those benefits will be transferred as a result of the life settlement contract; and

(5) The name, business address and telephone number of the independent third party escrow agent, and the fact that the owner may inspect or receive copies of the relevant escrow or trust agreements or documents.

[41-1957, added 2009, ch. 69, sec. 1, p. 199.]

41-1958. DISCLOSURE TO OWNER BY BROKER UPON SETTLEMENT CONTRACT. A life settlement broker shall provide the owner with at least the following disclosures prior to the time the owner signs the life settlement contract. The disclosures shall be conspicuously displayed in the life settlement contract or in a separate document signed by the owner and provide the following information:

(1) The name, business address and telephone number of the life settlement broker;

(2) A full, complete and accurate description of all offers, counteroffers, acceptances and rejections relating to the proposed life settlement contract;

(3) A written disclosure of any affiliations or contractual arrangements between the life settlement broker and any person making an offer in connection with the proposed life settlement contracts;

(4) The amount and method of calculating the broker's compensation, which term "compensation" includes anything of value to be paid or given to a life settlement broker for the placement of a policy; and

(5) Where any portion of the life settlement broker's compensation is taken from a proposed life settlement offer, the total amount of the life settlement offer and the percentage of the life settlement offer comprised by the life settlement broker's compensation.

[41-1958, added 2009, ch. 69, sec. 1, p. 199.]

41-1959. NOTICE OF CHANGE BY PROVIDER. If the life settlement provider transfers ownership or changes the beneficiary of the insurance policy, the provider shall communicate in writing the change in ownership or beneficiary to the insured within twenty (20) days after the change.

[41-1959, added 2009, ch. 69, sec. 1, p. 200.]

41-1960. GENERAL RULES. (1) A life settlement provider entering into a life settlement contract shall first obtain:

(a) If the owner is the insured, a written statement from a licensed attending physician that the owner is of sound mind and under no constraint or undue influence to enter into a life settlement contract; and

(b) A document in which the insured consents to the release of his or her medical records to a licensed life settlement provider, life settlement broker and the insurance company that issued the life insurance policy covering the life of the insured.

(2) Within twenty (20) days after an owner executes documents necessary to transfer any rights under an insurance policy or within twenty (20) days of entering any agreement, option, promise or any other form of understanding, expressed or implied, to settle the policy, the life settlement provider shall give written notice to the insurer that issued that insurance

policy that the policy has or will become a settled policy. The notice shall be accompanied by the documents required by subsection (3) of this section.

(3) The life settlement provider shall deliver:

- (a) A copy of the medical release required under subsection (1) (b) of this section;
- (b) A copy of the owner's application for the life settlement contract;
- (c) The notice required under subsection (2) of this section; and
- (d) A request for verification of coverage to the insurer that issued the life policy that is the subject of the life transaction. The NAIC's form for verification of coverage shall be used unless another form is developed and approved by the director.

(4) The insurer shall respond to a request for verification of coverage submitted on an approved form by a life settlement provider or life settlement broker within thirty (30) calendar days of the date the request is received and shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at that time regarding the validity of the insurance contract or possible fraud. The insurer shall accept a request for verification of coverage made on an NAIC form or any other form approved by the director. The insurer shall accept an original or facsimile or electronic copy of such request and any accompanying authorization signed by the owner. Failure by the insurer to meet its obligations under this subsection shall be a violation of section [41-1964](#), Idaho Code.

(5) Prior to or at the time of execution of the life settlement contract, the life settlement provider shall obtain a witnessed document in which the owner consents to the life settlement contract, represents that the owner has a full and complete understanding of the life settlement contract, that he or she has a full and complete understanding of the benefits of the life insurance policy, acknowledges that he or she is entering into the life settlement contract freely and voluntarily and, for persons with a terminal or chronic illness or condition, acknowledges that the insured has a terminal or chronic illness and that the terminal or chronic illness or condition was diagnosed after the life insurance policy was issued.

(6) If a life settlement broker performs these activities required of the life settlement provider, the provider is deemed to have fulfilled the requirements of this section.

(7) All medical information solicited or obtained by any licensee shall be subject to the applicable provisions of state and federal law relating to confidentiality of medical information.

(8) All life settlement contracts entered into in this state, or covering a resident of this state as owner, shall provide the owner with an absolute right to rescind the contract within twenty (20) calendar days of the date upon which the life settlement contract is executed by all parties. Rescission by the owner is conditioned upon the owner both giving notice and repaying to the life settlement provider within the rescission period all proceeds of the settlement and any premiums, loans and loan interest paid by or on behalf of the life settlement provider in connection with or as a consequence of the life settlement. If the insured dies during the rescission period, the life settlement contract shall be deemed to have been rescinded, subject to repayment to the life settlement provider or other person of all life settlement proceeds, and any premiums, loans and loan interest that have been paid by the life settlement provider or other person. In the event of any rescission, if the life settlement provider has paid

commissions or other compensation to a life settlement broker in connection with the rescinded transaction, the life settlement broker shall refund all such commissions and compensation to the life settlement provider within five (5) business days following receipt of written demand from the life settlement provider, which demand shall be accompanied by either the owner's notice of rescission if rescinded at the election of the owner, or notice of the death of the insured if rescinded by reason of the death of the insured within the applicable rescission period.

(9) The life settlement provider shall instruct the owner to send the executed documents required to effect the change in ownership, assignment or change in beneficiary directly to an independent escrow agent. Within three (3) business days after the date the escrow agent receives the documents, or from the date the life settlement provider receives the documents, if the owner erroneously provides the documents directly to the provider, the provider shall pay or transfer the proceeds of the life settlement into an escrow or trust account maintained in a state or federally-chartered financial institution whose deposits are insured by the federal deposit insurance corporation (FDIC). Upon payment of the settlement proceeds into the escrow account, the escrow agent shall deliver the original change in ownership, assignment or change in beneficiary forms to the life settlement provider or related provider trust or other designated representative of the life settlement provider. Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership, assignment or designation of beneficiary from the insurance company, the escrow agent shall pay the settlement proceeds to the owner.

(10) Failure to tender consideration to the owner for the life settlement contract within the time set forth in the disclosure pursuant to section [41-1956](#)(7), Idaho Code, renders the life settlement contract voidable by the owner for lack of consideration until the time consideration is tendered to and accepted by the owner.

(11) Contacts with the insured for the purpose of determining the health status of the insured by the life settlement provider or life settlement broker after the life settlement has occurred shall only be made by the life settlement provider or broker licensed in this state or its authorized representatives and shall be limited to once every three (3) months for insureds with a life expectancy of more than one (1) year, and to no more than once per month for insureds with a life expectancy of one (1) year or less. The provider or broker shall explain the procedure for these contacts at the time the life settlement contract is entered into. The limitations set forth in this subsection shall not apply to any contacts with an insured for reasons other than determining the insured's health status. Life settlement providers and life settlement brokers shall be responsible for the actions of their authorized representatives.

[41-1960, added 2009, ch. 69, sec. 1, p. 200.]

41-1961. PERMITTED LIFE SETTLEMENTS AND SUPPORTING DOCUMENTATION. (1) It is a violation of the provisions of sections [41-1950](#) through [41-1965](#), Idaho Code, for any person to enter into a life settlement contract at any time prior to the issuance of a policy which is the subject of a life settlement contract or within a two (2) year period commencing with the date of issuance of the insurance policy or certificate unless the owner certifies to the life settlement provider that one (1) or more of the following conditions have been met within the two (2) year period:

(a) The policy was issued upon the owner's exercise of conversion rights arising out of a group or individual policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least twenty-four (24) months. The time covered under a group policy shall be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship;

(b) As part of the certification, the owner submits independent evidence to the life settlement provider that one (1) or more of the following conditions have been met within the two (2) year period:

- (i) The owner or insured is terminally or chronically ill;
- (ii) The owner's spouse dies;
- (iii) The owner divorces his or her spouse;
- (iv) The owner retires from full-time employment;
- (v) The owner becomes physically or mentally disabled and a physician determines that the disability prevents the owner from maintaining full-time employment; or
- (vi) A final order, judgment or decree is entered by a court of competent jurisdiction on the application of a creditor or the owner, adjudicating the owner bankrupt or insolvent, or approving a petition seeking reorganization of the owner or appointing a receiver, trustee or liquidator to all or a substantial part of the owner's assets.

(2) Copies of the independent evidence described in subsection (1) (b) of this section and documents required in section [41-1960](#)(1) through (5), Idaho Code, shall be submitted to the insurer when the life settlement provider or other party entering into a life settlement contract with an owner submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the life settlement provider that the copies are true and correct copies of the documents received by the life settlement provider.

(3) If the life settlement provider submits to the insurer a copy of the owner or insured's certification described in and the independent evidence required by subsection (1) (b) of this section when the provider submits a request to the insurer to effect the transfer of the policy or certificate to the life settlement provider, the copy shall be deemed to conclusively establish that the life settlement contract satisfies the requirements of this section and the insurer shall timely respond to the request.

(4) No insurer may, as a condition of responding to a request for verification of coverage or effecting the transfer of a policy pursuant to a life settlement contract, require that the owner, insured, life settlement provider or life settlement broker sign any forms, disclosures, consent or waiver form that has not been filed with the director for use in connection with life settlement contracts in this state.

(5) Upon receipt of a properly completed request for change of ownership or beneficiary of a policy, the insurer shall respond in writing within thirty (30) days with written acknowledgment confirming that the change has been effected or specifying the reasons why the requested change cannot be processed. The insurer shall not unreasonably delay effecting change of ownership or beneficiary and shall not otherwise seek to interfere with any life settlement contract lawfully entered into in this state.

41-1962. PROHIBITED PRACTICES AND CONFLICTS OF INTEREST. (1) It is a violation of the provisions of sections [41-1950](#) through [41-1965](#), Idaho Code, for any person to engage in any act that constitutes or promotes a STOLI regarding any resident of this state.

(2) With respect to any life settlement contract or insurance policy, no life settlement broker knowingly shall solicit an offer from, effectuate a life settlement with or make a sale to any life settlement provider, life settlement purchaser, financing entity or related provider trust that is an affiliate of such life settlement broker unless such relationship is first disclosed to the owner.

(3) With respect to any life settlement contract or insurance policy, no life settlement provider knowingly shall enter into a life settlement contract with an owner, if, in connection with such life settlement contract, anything of value will be paid to a life settlement broker that is an affiliate of such life settlement provider or any investor, financing entity or related provider trust that is involved in such life settlement contract unless such relationship is first disclosed to the owner.

(4) No person shall enter into a premium finance agreement with any other person or affiliate thereof pursuant to which such person shall receive any proceeds, fees or other consideration, directly or indirectly, from the policy or owner of the policy or any other person with respect to the premium finance agreement or any life settlement contract or other transaction related to such policy that are in addition to the amounts required to pay the principal, interest and service charges related to policy premiums pursuant to the premium finance agreement or subsequent sale of such agreement; provided further that any payments, charges, fees or other amounts in addition to the amounts required to pay the principal, interest and service charges related to policy premiums paid under the premium finance agreement shall be remitted to the original owner of the policy or to his or her estate if he or she is not living at the time of the determination of overpayment.

(5) In the solicitation, application or issuance of a life insurance policy, no person shall employ any device, scheme or artifice that would result in a violation of section [41-1804](#), Idaho Code.

(6) No life settlement provider shall enter into a life settlement contract unless the life settlement promotional, advertising and marketing materials, as may be prescribed by rule, have been filed with the director. In no event shall any marketing materials expressly reference that the insurance is "free" for any period of time. The inclusion of any reference in the marketing materials that would cause an owner to reasonably believe that the insurance is free for any period of time shall be considered a violation of the provisions of sections [41-1950](#) through [41-1965](#), Idaho Code.

(7) No life insurance producer, insurance company, life settlement broker or life settlement provider shall make any statement or representation to the applicant or policyholder in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder for any period of time unless provided in the policy.

[41-1962, added 2009, ch. 69, sec. 1, p. 203.]

41-1963. ADVERTISING FOR LIFE SETTLEMENTS. No person required to be licensed pursuant to sections [41-1950](#) through [41-1965](#), Idaho Code, shall engage in any false or misleading advertising, solicitation, or practice. In no case shall a life settlement broker or provider directly or indirectly

market, advertise, solicit or otherwise promote the purchase of a new policy with the primary emphasis on settling the policy or use the words "free," "no cost" or words of similar import in the marketing, advertising, soliciting, or otherwise promoting of the purchase of a policy.

[41-1963, added 2009, ch. 69, sec. 1, p. 204.]

41-1964. PENALTY -- UNFAIR TRADE PRACTICES. A violation of the provisions of sections [41-1950](#) through [41-1965](#), Idaho Code, shall be considered an unfair trade practice under [chapter 13, title 41](#), Idaho Code, subject to the penalties contained in that chapter.

[41-1964, added 2009, ch. 69, sec. 1, p. 204.]

41-1965. AUTHORITY TO PROMULGATE RULES. The director shall have the authority to promulgate rules implementing the provisions of sections [41-1950](#) through [41-1964](#), Idaho Code.

[41-1965, added 2009, ch. 69, sec. 1, p. 204.]