PROPOSED RULES

NORTH DAKOTA ADMINISTRATIVE CODE
CHAPTER 45-04-04
VARIABLE LIFE INSURANCE

Subdivision a of subsection 4 of Section 45-04-04-03, relating to policy loan provisions in insurance policy requirements, is amended as follows:

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

a.   A provision for policy loans after the policy has been in force for ____ three full years which provides the following:

(1)   At least seventy-five percent of the policy's cash surrender value may be borrowed.

(2)   The amount borrowed must bear interest at a rate not to exceed that permitted by chapter 45-04-03.

(3)   Any indebtedness must be deducted from the proceeds payable on death.

(4)   Any indebtedness must be deducted from the cash surrender value upon surrender or in determining any nonforfeiture benefit.

(5)   For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within thirty-one days after the date of mailing of such notice. For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next following processing day exceed the amounts available under the policy to pay such charges, a report must be sent to the policyholder containing the information specified by subsection 3 of section 45-04-04-08.

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

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

(8) No policy loan provision is required if the policy is under extended insurance nonforfeiture option.

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

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

History: Effective June 1, 1984; amended effective _____.
General Authority: NDCC 26.1-33-17, 26.1-34-11
Law Implemented: NDCC 26.1-33, 26.1-34

Subdivision c of subsection 1 of Section 45-04-04-05, relating to establishment and administration of separate accounts, is amended as follows:

45-04-04-05. Separate accounts. The following requirements apply to the establishment and administration of variable life insurance separate accounts by any domestic insurer.

1. **Establishment and administration of separate accounts.** Any domestic insurer issuing variable life insurance shall establish one or more separate accounts pursuant to North Dakota Century Code sections 26.1-33-13 and 26.1-34-11.

. . .

      c.   All persons with access to the cash, securities, or other assets of the separate account must be under bond in the amount of not less than $~~~~~~ a value indexed to the fidelity bonding recommendations of the national association of insurance commissioners in effect in 2009 regarding personnel handling general account assets.

History: Effective June 1, 1984; amended effective _____.
General Authority: NDCC 26.1-33-17, 26.1-34-11
Law Implemented: NDCC 26.1-33, 26.1-34