806 KAR 15:060. Universal life insurance.

RELATES TO: KRS 304.6-120, 304.6-130, 304.6-140, 304.6-143, 304.6-145, 304.6-150, 304.14-120, 304.15-010, 304.15-040, 304.15-300, 304.15-310, 304.15-340, 304.15-342
STATUTORY AUTHORITY: KRS 304.2-110, 304.6-143(5), 304.6-171(2)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation establishes requirements to accommodate the development and issuance of universal life insurance policies.

Section 1. Definitions.
(1) "Cash surrender value" means the net cash surrender value plus any amounts outstanding as policy loans.
(2) "Commissioner" is defined by KRS 304.1-050(1).
(3) "Fixed premium universal life insurance policy" means a universal life insurance policy other than a flexible premium universal life insurance policy.
(4) "Flexible premium universal life insurance policy" means a universal life insurance policy that permits the policyowner to vary, independently of each other, the amount or timing of one (1) or more premium payments or the amount of insurance.
(5) "Guaranteed maturity premium for fixed premium universal life insurance policies" means the premium defined in the policy that at the time of issue, provides the minimum policy guarantees.
(6) "Guaranteed maturity premium" means the level gross premium, that is paid at issue and periodically thereafter over the period which premiums are allowed to be paid, that will mature the policy on the latest maturity date, if any, permitted under the policy, or at the highest age in the valuation mortality table, for an amount which is in accordance with the policy structure.
(7) "Interest-indexed universal life insurance policy" means any universal life insurance policy in which the interest credits are linked to an external reference.
(8) "Net cash surrender value" means the maximum amount payable to the policyowner upon surrender.
(9) "Policy value" means the amount that shall separately identify interest credits and mortality, expense, or other charges made under a universal life insurance policy.
(10) "Universal life insurance policy" means a life insurance policy:
(a) That shall separately identify interest credits, other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts, and mortality and expense charges made to the policy; and
(b) That may provide for other credits and charges, such as charges for the cost of benefits provided by the rider.

Section 2. Application. This administrative regulation shall apply to all individual universal life insurance policies except variable universal life insurance policies.

Section 3. Valuation.
(1) Requirements:
(a) The minimum valuation standard for universal life insurance policies shall be the Commissioners Reserve Valuation Method, as described in this section, and the tables and interest rates established in paragraphs (b) through (m) in this subsection.
(b) The terminal reserves for the basic policy and riders for premiums that are not paid separately as of any policy anniversary shall be equal to the net level premium reserves

calculated pursuant to paragraph (c) of this subsection, minus the calculations established in paragraphs (h) and (j) of this subsection.

(c) Reserves by the net level premium method shall be equal to the formula "((d)-(e))r", with:

1. The letter "(d)" equaling the calculation as established in paragraph (d) of this subsection;
2. The letter "(e)" equaling the calculation as established in paragraph (e) of this subsection; and
3. The letter "r" equaling the calculation as established in paragraph (f) of this subsection.

(d) The letter "(d)" shall be determined by calculating the present value of all future guaranteed benefits at the date of valuation.

(e) The letter "(e)" shall be determined by calculating the formula "PVFBax+t/ax" as established in this paragraph.

1. "PVFB" shall be the present value of all benefits guaranteed at policy issue assuming future guaranteed maturity premiums are paid by the policyowner and taking into account all guarantees contained in the policy or declared by the insurer.
2. "ax" and "ax+t" shall be present values of an annuity of one (1) per year payable on policy anniversaries beginning at ages "x" and "x+t", respectively, and continuing until the highest attained age that a premium may be paid under the policy. The letter "x" shall be the policy issue age and the letter "t" shall be the duration of the policy.
3. The guaranteed maturity premium shall be calculated at issue based on all policy guaranteed at issue, excluding guarantees linked to an external referent. The guaranteed maturity premium for fixed premium universal life insurance policies shall be the premium defined in the policy which at policy issue shall provide the minimum policy guarantees.

(f) The letter "r" shall be:

1. Equal to one (1); or
2. If the policy is a flexible premium policy and the policy value is less than the guaranteed maturity fund, the ratio of the policy value to guaranteed maturity fund.

(g) The guaranteed maturity fund at any duration shall be that amount that, together with future guaranteed maturity premiums, will mature the policy based on all policy guarantees at issue.

(h) The numerical value for this paragraph shall be the quantity that results from the formula "r((a)-(b))ax+t/ax", with:

1. The letter "r" equaling the calculation made pursuant to paragraph (f) of this subsection;
2. The value "(a)-(b)" equaling the calculation made pursuant to paragraph (i) of this section; and
3. The values for "ax+t" and "ax" established in paragraph (e)2, of this subsection.

(i) The value of "(a)-(b)" shall be as established in KRS 304.6-150(1) for the plan of insurance defined at policy issue by the guaranteed maturity premiums and all guarantees contained in the policy or declared by the insurer.

(j) The numerical value for this paragraph shall be the sum of any additional quantities analogous to paragraph (h) of this subsection which arise because of structural changes in the policy, with each quantity being determined on a basis consistent with that of paragraph (h) of this subsection using the maturity date in effect at the time of the change.

(k) The guaranteed maturity premium, the guaranteed maturity fund, and paragraph (e) of this subsection shall be recalculated to reflect any structural changes in the policy. This recalculation shall be done in a manner consistent with the requirements established in this subsection.

(l) Future guaranteed benefits shall be determined by:

1. Projecting the greater of the guaranteed maturity fund and the policy value, taking into account future guaranteed maturity premiums, if any, and using all guarantees of interest, mortality and expense deductions, contained in the policy or declared by the insurer; and

2. Taking into account any benefits guaranteed in the policy or by declaration that do not depend on the policy value.

(m) All present values shall be determined using:

1. An interest rate or rates specified by KRS 304.6-145(2) for policies issued in the same year;

2. The mortality rates specified by KRS 304.6-140 for policies issued in the same year or contained in another table approved by the commissioner for this purpose; and

3. Any other tables needed to value supplementary benefits provided by a rider that is being valued together with the policy.

(2) Alternative Minimum Reserve.

(a) If, in any policy, the guaranteed maturity premium on any universal life insurance policy is less than the valuation net premium for such policy, calculated by the valuation method actually used in calculating the reserve but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the contract shall be the greater of:

1. The reserve calculated according to the method, the mortality table, and the rate of interest actually used; or

2. The reserve calculated according to the method actually used by using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the guaranteed maturity premium in each policy year for which the valuation net premium exceeds the guaranteed maturity premium.

(b) For universal life insurance reserves on a net level premium basis, the valuation net premium shall be "PVFB/ax", where "PVFB" and "ax" shall be determined pursuant to subsection(1)(e), (l), and (m) of this section.

(c) For reserves on a Commissioners Reserve Valuation Method, the valuation net premium shall be "PVFB/ax + (9a)-(b)/ax", where "(a)-(b)" shall be determined pursuant to subsection (1)(i) of this section.

Section 4. Nonforfeiture.

(1) Minimum cash surrender values for flexible premium universal life insurance policies.

(a) Minimum cash surrender values for flexible premium universal life insurance policies shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately.

(b) The requirements established in this paragraph shall pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

1. The minimum cash surrender value before adjustment for indebtedness and dividend credits available on a date as of which interest is credited to the policy shall be equal to the accumulation to that date of the premiums paid minus the accumulations to that date of:

a. The benefit charges;

b. The averaged administrative expense charge for the first policy year and any insurance increase years;

c. The actual administrative expense charge for other years;

d. An initial and additional acquisition expense charge not exceeding the initial or additional expense allowances, respectively;

e. The service charge actually made excluding charges for cash surrender or election of a paid up nonforfeiture benefit; and

f. Deductions made for partial withdrawals.

2. All accumulations shall be at the actuarial rate or rates of interest at which interest credits have been made unconditionally to the policy or have been made unconditionally, but for the conditions that have since been met, and minus any unamortized unused initial and additional expense allowances.

3. Interest on the premiums and on all charges referred to in subparagraph 1. of this paragraph shall be accumulated from and to dates consistent with the manner in which interest is credited in determining the policy value.

4. The benefit charge shall include the charge made for mortality and the charge made for riders or supplementary benefits for premiums that are not paid separately.

5. If benefit charges are substantially level by duration and develop low or no cash values, the commissioner shall require higher cash values unless the insurer provides justification that the cash values are appropriate in relation to the policy's other characteristics.

6. An administrative expense charge shall include:

a. A charge per premium payment;

b. A charge per dollar of premium paid;

c. A periodic charge per $1,000 of insurance;

d. A periodic per policy charge; and

e. Any other charge permitted by the policy to be imposed without regard to the policyowner's request for the service of the insurer.

7. The averaged administrative expense charge for any year shall be those which would have been imposed in that year if the charge rate or rates for each transaction or period within the year had been equal to the arithmetic average of the corresponding charge rates that the policy states will be imposed in policy years two (2) through twenty (20) in determining the policy value.

8. The initial acquisition expense charge shall be the excess of the expense charge, other than service charge, actually made in the first policy year over the averaged administrative expense charge for that year.

9. Additional acquisition expense charge shall be the excess of the expense charge, other than the service charge, actually made in an insurance-increase year over the averaged administrative expense charge for that year.

10. An insurance-increase year shall be the year beginning on the date of increase in the amount of insurance by policyowner request or by the terms of the policy.

11. The service charge shall include any charge permitted by the policy to be imposed as the result of a policyowner's request for a service by the insurer or a special transaction.

12. The initial expense allowance shall be the allowance established in KRS 304.15-342(1) for a fixed premium, fixed benefit endowment policy with a face amount equal to the initial face amount of the flexible premium universal life insurance policy, with level premiums paid annually until the highest attained age at which a premium may be paid under the flexible premium universal life insurance policy, and maturing on the latest maturity date permitted under the policy.

13. If there is no maturity date in the policy, the highest age in the valuation mortality table shall be used.

14. The unused initial expense allowance shall be the excess of the initial expense allowance over the initial acquisition expense charge.

15. If the amount of insurance is subsequently increased upon request of the policyowner or by the terms of the policy, an additional expense allowance and an unused additional expense allowance shall be determined on a basis consistent with

this paragraph and as established in KRS 304.15-342(5) using the face amount and the latest maturity date permitted at the time under the policy.

16. The unamortized unused initial expense allowance shall be:

a. Calculated during the policy year beginning on the policy anniversary at age "x+t", with "x" equaling the same issue age; and

b. The unused initial expense allowance multiplied by "(ax + t)/ax", with "ax+t" and "ax" being the present values of an annuity of one (1) per year payable on the anniversary of the policy beginning at ages "x+t" and "x", respectively, and continuing until the highest attained age at which a premium may be paid under the policy, both on the mortality and interest bases guaranteed in the policy.

17. An unamortized unused additional expense allowance shall be the unused additional expense allowance multiplied by a similar ratio of annuities, with "ax" replaced by an annuity beginning on the date as of which the additional expense allowance was determined.

(2) The minimum cash surrender value for a fixed premium universal life insurance policy.

(a) For a fixed premium universal life insurance policy, the minimum cash surrender value shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately.

(b) The requirements established in paragraph (c) of this subsection shall pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

(c) The minimum cash surrender value before adjustment for indebtedness and dividend credits available on a date as of which interest is credited to the policy shall be equal to "(d)-(e)-(f)-(g)", with:

1. The letter "(d)" equaling the calculation made pursuant to paragraph (d) of this subsection;

2. The letter "(e)" equaling the calculation made pursuant to paragraph (e) of this subsection;

3. The letter "(f)" equaling the calculation made pursuant to paragraph (f) of this subsection; and

4. The letter "(g)" equaling the calculation made pursuant to paragraph (g) of this subsection.

(d) The letter "(d)" shall be the present value of all future guaranteed benefits.

(e) The letter "(e)" shall be the present value of future adjusted premiums. The adjusted premiums shall be calculated as established by KRS 304.15-342. The nonforfeiture net level premium shall be equal to the quantity "PVFB divided by ax".

1. "PVFB" shall be the present value of all benefits guaranteed at policy issue assuming future premium is paid by the policyowner and all guarantees contained in the policy or declared by the insurer.

2. "ax" shall be the present value of an annuity of one (1) per year payable on the anniversary of the policy beginning at age "x" and continuing until the highest attained age at which a premium may be paid under the policy.

(f) The letter "(f)" shall be the present value of any quantities analogous to the nonforfeiture net level premium which arise because of guarantees declared by the insurer after the issue date of the policy. "ax "shall be replaced by an annuity beginning on the date as of which the declaration became effective and payable until the end of the period covered by the declaration.

(g) The letter "(g)" shall be the sum of any quantities analogous to paragraph (e) which arise because of structural changes in the policy.

1. Any future guaranteed benefit shall be determined by:

a. Projecting the policy value, taking into account the future premiums, and using all guarantees of interest, mortality, and expense deductions contained in the policy or declared by the insurer; and

b. Taking into account any benefit guaranteed in the policy or by declaration that do not depend on the policy value.

2. All present values shall be determined using:

a. An interest rate established by KRS 304.15-342(9) for policies issued in the same year; and

b. The mortality rates established by KRS 304.15-342(8) for policies issued in the same year or contained in other table that may be approved by the commissioner for this purpose.

(3) The minimum paid-up nonforfeiture benefit.

(a) If a universal life insurance policy provides for the optional election of a paid-up nonforfeiture benefit, it shall have a present value at least equal to the cash surrender value provided for by the policy on the effective date of the election.

(b) The present value shall be based on mortality and interest standards at least as favorable to the policyowner as:

1. In the case of a flexible premium universal life insurance policy, the mortality and interest basis guaranteed in the policy for determining the policy value; or

2. In the case of a fixed premium policy, the mortality and interest standards permitted for paid-up nonfeiture benefits as established by KRS 304.15-342(8) and (9).

(c) In lieu of the paid-up nonforfeiture benefit, the insurer may substitute, upon 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 the death benefit, or, if applicable, a greater amount or earliest payment of the endowment benefit.

Section 5. Mandatory Policy Provisions. The policy shall provide:

(1) A report which shall be sent at least annually to the policyowner to inform the policyowner of the status of the policy:

(a) The end of the current reporting period shall not be more than three (3) months prior to the date of the mailing of the report; and

(b) The report shall comply with the requirements established in Section 7 of this administrative regulation;

(2) Notice that the policyholder may request an illustration of the current and future benefits and values;

(3) The guarantee of minimum interest credit and the maximum mortality and expense charge:

(a) All values and data shown in the policy shall be based on guarantees; and

(b) Any figure based on nonguarantees shall not be included in the policy;

(4) A general description of the calculation of the cash surrender value including:

(a) The guaranteed maximum expense charge and the load;

(b) Any limitation on the crediting of additional interest. Any interest credit shall not remain conditional for a period longer than twenty-four (24) months;

(c) The guaranteed minimum rate or rates of interest;

(d) The guaranteed maximum mortality charge;

(e) Any other guaranteed charge; and

(f) Any surrender or partial withdrawal charge;

(5)

(a) If the policyowner has the right to change the basic coverage, that any limitation on the amount or timing of the change in basic coverage shall be stated in the policy; and

(b) If the policyowner has the right to increase the basic coverage, whether the additional coverage shall be subject to the same provisions as the original policy;

(6) Written notice to be sent to the policyowner's last known address at least thirty (30) days prior to termination of coverage:

(a) A flexible premium policy shall allow for a grace period of at least thirty (30) days after lapse; and

(b) Unless otherwise defined in the policy, lapse shall occur on that date on which the net cash surrender value is first equal to zero;

(7) If there is a misstatement of age or sex in the policy, that the amount of death benefit shall be that of what would be purchased by the most recent mortality charge at the correct age or sex; and

(8) If a policy provides for a maturity date, end date, or similar date, that the policy shall contain a statement, in close proximity to that date, that it is possible that coverage may not continue to the maturity date even if the scheduled premium is paid in a timely manner.

Section 6. Disclosure of information about the policy being applied for shall follow the standards established in 806 KAR 12:140.

Section 7. Periodic Disclosure to Policyowner.

(1)

(a) The policy shall provide that the policyowner shall be sent, without charge at least annually, a report which shall inform the policyowner of the status of the policy.

(b) The end of the current report period shall not be more than three (3) months prior to the date of the mailing of the report.

(2) The report shall include:

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

(b) The policy value at the end of the previous report period and at the end of the current report period;

(c) The total amount that has been credited or debited to the policy value during the current report period, identifying each by type;

(d) The current death benefit at the end of the current report period on each life covered by the policy;

(e) The net cash surrender value of the policy as of the end of the current report period;

(f) The amount of any outstanding loan, if any, as of the end of the current report period;

(g) For a fixed premium policy, if applicable, a notice to the effect that based on the calculation of the guaranteed interest, mortality, and expense load and the continued scheduled premium payment, the policy's net cash surrender value is at a level that will not maintain insurance in force until the end of the next reporting period; and

(h) For a flexible premium policy, if applicable, a notice to the effect that based on the guaranteed interest, mortality, and expense load, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made.

Section 8. The Interest-indexed Universal Life Insurance Policy.

(1)

(a) All information received in accordance with paragraph (c) of this subsection shall be treated confidentially to the extent permitted by law.

(b) The information required by paragraph (c) of this subsection shall be submitted in addition to the requirements established by KRS 304.14-120.

(c) Any filing of an interest indexed universal life insurance policy shall include:

1. A description of how the interest credit shall be determined, including:

a. A description of the index;

b. The relationship between the value of the index and the actual interest rate to be credited;
c. The frequency and timing of determining the interest rate; and
d. The allocation of the interest credit, if more than one (1) rate of interest shall be applied to different portions of the policy value;
2. The insurer's investment policy, which shall include a description of:
a. How the insurer addressed the reinvestment risks;
b. How the insurer plans to address the risk of capital loss on cash outflows;
c. How often the insurer plans to address the risk that appropriate investments may not be available or not available in sufficient quantities;
d. How the insurer plans to address the risk that the indexed interest rate may fall below the minimum contractual interest rate guaranteed in the policy;
e. The amount and type of assets currently held for interest indexed policies; and
f. The amount and type of assets expected to be acquired in the future;
3. If policies are linked to an index for a specified period less than to the maturity date of the policy, a description of the method used to determine interest credits upon the expiration of such period;
4. A description of any interest guarantee in addition to or in lieu of the index; and
5. A description of any maximum premium limitations and the conditions under which they apply.

(2) Reporting requirements:
(a) Annually, every insurer shall submit a Statement of Actuarial Opinion by the insurer's actuary as established in subsection (3) of this section;
(b) Annually, an insurer shall submit a description of the amount and type of assets currently held by the insurer with respect to its interest-indexed policies; and
(c)
1. Prior to implementation, a domestic insurer shall submit a description of any material change in the insurer's investment strategy or method of determining the interest credits.
2. A change shall be material if it would:
a. Affect the form or definition of the index; or
b. Significantly change the amount or type of assets held for interest-indexed policies.

(3) Statement of Actuarial Opinion for Interest-Indexed Universal Life Insurance Policies shall state: I, ____, am (position or relationship to Insurer) for the ______________ Name of Life Insurance Company (the Insurer) in the state of _________________________________. (State of Domicile of Insurer) I am a member of the American Academy of Actuaries (or if not, state other qualifications to sign annual statement actuarial options). I have examined the interest-indexed universal life insurance policies of the Insurer in force as of December 31, ____, encompassing ______ number of policies and $______ of insurance in force. I have considered the provisions of the policies. I have considered any reinsurance agreements pertaining to the policies, the characteristics of the identified assets, and the investment policy adopted by the Insurer as they affect future insurance and investment cash flows under the policies and related assets. My examination included tests and calculations that I considered necessary to form an opinion concerning the insurance and investment cash flows arising from the policies and related assets. I relied on the investment policy of the Insurer and on projected investment cash flows as provided by ________________________, Chief Investment Officer of the Insurer. The tests were conducted under various assumptions as to future interest rates, and particular attention was given to those provisions and characteristics that may cause future insurance and investment cash flows to vary with changes in the level of prevailing interest rates. In my opinion, the anticipated insurance

and investment cash flows referred to above make a sufficient provision for the contractual obligations of the Insurer under these insurance policies.

(806 KAR 015:060. 33 Ky.R. 4307, 34 Ky.R. 300, 741; eff. 11-2-2007; 47 Ky.R. 1668, 2390; eff. 8-3-2021.)

Signature of Actuary.