

# Transmittal Sheet

W. J. "Bill" McCuen  
Secretary of State  
State Capitol Rm. 010  
Little Rock, Arkansas 72201-1094

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Name of Agency ARKANSAS INSURANCE DEPARTMENT

Department Legal Division

Contact Person Jean Langford

Statutory Authority for Promulgating Rules \_\_\_\_\_

Re: Rule & Regulation 36: "Investments in Medium Grade..."; Rule & Regulation 60: "Accelerated Benefits..."; Rule & Regulation 61: "Insurer Reports... Act 166..."; Rule & Regulation 62: "Reserves for Funeral Expense..."

- Emergency Legal Notice Published 10/11-26/93
- 20 Days After Filing Final Date for Public Comment . . . . . 12/3/93
- Other Filed With Legislative Council . . . . . 10/4/93
- Reviewed by Legislative Council . . . . . 11/4/93
- Adopted by State Agency . . . . . \_\_\_\_\_

## CERTIFICATION OF AUTHORIZED OFFICER

I hereby Certify That The Attached Rules Were Adopted in Compliance with Act 434 of 1967 As Amended.

*Jean Langford*  
Signature

Chief Counsel  
Title

7-26-94  
Date

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W.J. "BILL" MCCUEN  
SECRETARY OF STATE  
LITTLE ROCK, ARKANSAS

RULE AND REGULATION 60  
ACCELERATED BENEFITS PROVISIONS  
IN LIFE INSURANCE POLICIES

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- 4 Section 1. Purpose
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19 SECTION 1. PURPOSE.

20 The purpose of this Regulation is to regulate accelerated benefit  
21 provisions of individual and group life insurance policies and to provide  
22 required standards of disclosure.

23 SECTION 2. AUTHORITY AND SCOPE. This Rule shall be issued under the  
24 authority of the Commissioner pursuant to Ark. Code Ann. §23-61-108,  
25 §§25-15-201, et seq., and other applicable laws. This Regulation shall  
26 apply to all licensed domestic, foreign and alien life insurers. This Rule  
27 shall apply to all accelerated benefits provisions of individual and group  
28 life insurance policies and riders attached thereto issued or issued for  
29 delivery in this State, except long term care insurance policies.

30 SECTION 3. EFFECTIVE DATE. The provisions of this Rule shall be effective  
31 August 1, 1994, upon signature of the Commissioner, and upon filing with  
32 the Arkansas Secretary of State and the Arkansas State Library, pursuant to  
33 Ark. Code Ann. §§25-15-201, et seq., as amended by Act 1106 of 1993.  
34 Insurers' compliance with this Rule and Regulation shall commence on  
35 and after November 1, 1994.

36 SECTION 4. DEFINITIONS.

37 A. "Accelerated benefits" covered under this Regulation are benefits  
38 payable under a life insurance contract:

- 39 (1) To a policyowner or certificate holder, during the lifetime of  
40 the insured, in anticipation of death or upon the occurrence of a  
41 life-threatening or catastrophic conditions as defined by the policy  
42 rider; and
- 43 (2) Which may reduce or eliminate the death benefit, or otherwise  
44 payable under the life insurance contract; and
- 45 (3) Which are payable upon the occurrence of a single qualifying  
46 event which results in the payment of a benefit amount fixed at the  
47 acceleration.

48 B. "Qualifying event" shall mean one (1) or more of the following:

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1 (1) A medical condition which would result in a drastically  
2 limited life span as specified in the contract (for example, twenty-four  
3 (24) months or less); or

4 (2) A medical condition which has required or requires  
5 extraordinary medical intervention, such as, but not limited to, major  
6 organ transplant or continuous artificial life support, without which the  
7 insured would die; or

8 (3) Any condition which usually requires continuous confinement in  
9 an eligible institution as defined in the contract if the insured is  
10 expected to remain there for the rest of his or her life; or

11 (4) A medical condition which would, in the absence of extensive  
12 or extraordinary medical treatment, result in a drastically limited life  
13 span. Such conditions may include, BUT ARE NOT LIMITED TO, one or more of  
14 the following:

15 (a) Coronary artery disease resulting in an acute infarction  
16 or requiring surgery;

17 (b) Permanent neurological deficit resulting from cerebral  
18 vascular accident;

19 (c) End stage renal failure;

20 (d) Acquired Immune Deficiency Syndrome; or

21 (e) Other medical conditions which the Commissioner shall  
22 approve for any particular filing; or

23 (5) Other qualifying events which the Commissioner shall approve for  
24 any particular filing.

25 SECTION 5. TYPE OF PRODUCT. Accelerated benefit riders and life insurance  
26 policies with accelerated benefit provisions are primarily mortality risks  
27 rather than morbidity risks. They are life insurance benefits subject to  
28 Ark. Code Ann. §§23-79-101, et seq., and §§23-81-101, et seq.

29 SECTION 6. ASSIGNEE/BENEFICIARY. Prior to the payment of the accelerated  
30 benefit, the insurer is required to obtain from any assignee or irrevocable  
31 beneficiary a signed acknowledgement of concurrence for payout. If the  
32 insurer making the accelerated benefit payment is itself the assignee under  
33 the policy, no such acknowledgement is required.

34 SECTION 7. CRITERIA FOR PAYMENT. A. Lump Sum Settlement Option  
35 Required. Contract payment options shall include the option to take the  
36 benefit as a lump sum. The benefit shall not be made available as an  
37 annuity contingent upon the life of the insured.

38 B. Restrictions on Use of Proceeds. No restrictions are permitted on  
39 the use of the proceeds.

40 C. Accidental Death Benefit Provision. If any death benefit remains  
41 after payment of an accelerated benefit, the accidental death benefit  
42 provision, if any, in the policy or rider shall not be affected by the  
43 payment of the accelerated benefit.

44 SECTION 8. DISCLOSURES. A. Descriptive Title. The terminology  
45 "accelerated benefit" shall be included in the descriptive title. Products  
46 regulated under this Regulation shall not be described or marketed as  
47 long-term care insurance or as providing long-term care benefits.

48 B. Tax Consequences. A disclosure statement is required at the time of  
49 application for the policy or rider and at the time the accelerated benefit

1 payment request is submitted; disclosing that receipt of these accelerated  
2 benefits may be taxable and that assistance should be sought from a  
3 personal tax advisor. The disclosure statement shall be prominently  
4 displayed on the first page of the policy or rider and any other related  
5 documents.

6 C. Solicitations. (1) A written disclosure including, but not  
7 necessarily limited to, a brief description of the accelerated benefit and  
8 definitions of the conditions or occurrences triggering payment of the  
9 benefits shall be given to the applicant. The description shall include an  
10 explanation of any effect of the payment of a benefit on the policy's cash  
11 value, accumulation account, death benefit, premium, policy loans and  
12 policy liens.

13 (a) In the case of agent solicited insurance, the agent shall  
14 provide the disclosure form to the applicant prior to or concurrently with  
15 the application. Acknowledgment of the disclosure shall be signed by the  
16 applicant and writing agent.

17 (b) In the case of a solicitation by direct response methods, the  
18 insurer shall provide the disclosure form to the applicant at the time the  
19 policy is delivered, with a notice that a full premium refund shall be  
20 received if the policy is returned to the company within the free look  
21 period. Insurers shall provide a ten day free look period for individual  
22 contracts in compliance with Ark. Code Ann. §23-79-112 (f).

23 (c) In the case of group insurance policies, the disclosure form  
24 shall be contained as part of the certificate of coverage or any related  
25 document furnished by the insurer for the certificate holder.

26 (2) If there is a premium or cost of insurance charge, the insurer  
27 shall give the applicant a generic illustration numerically demonstrating  
28 any effect of the payment of a benefit on the policy's cash value,  
29 accumulation account, death benefit, premium, policy loans and policy  
30 liens.

31 (a) In the case of agent solicited insurance, the agent shall  
32 provide the illustration to the applicant prior to or concurrently with the  
33 application.

34 (b) In the case of a solicitation by direct response methods, the  
35 insurer shall provide the illustration to the applicant at the time the  
36 policy is delivered.

37 (c) In the case of group insurance policies, the disclosure form  
38 shall be contained as part of the certificate of coverage or any related  
39 document furnished by the insurer for the certificate holder.

40 (3) Disclosure of Premium Charge. (a) Insurers with financing options  
41 other than as described in Section 12 (A)(2) and (3) of this Regulation  
42 shall disclose to the policy owner any premium or cost of insurance charge  
43 for the accelerated benefit. These insurers shall make a reasonable effort  
44 to assure that the certificate holder is aware of any additional premium or  
45 cost of insurance charge if the certificate holder is required to pay such  
46 charge.

47 (b) Insurers shall furnish an actuarial demonstration to this  
48 Department when filing the product disclosing the method of arriving at  
49 their cost for the accelerated benefit.

50 (4) Disclosure of Administrative Expense Charge. The insurer shall  
51 disclose to the policy owner any administrative expense charge. The  
52 insurer shall make a reasonable effort to assure that the certificate

1 holder is aware of any administrative expense charge if the certificate  
2 holder is required to pay such charge.

3 D. Effect of the Benefit Payment. When a policyowner or certificate  
4 holder requests an acceleration, the insurer shall send a statement to the  
5 policy owner or certificate holder and irrevocable beneficiary showing any  
6 effect that the payment of the accelerated benefit will have on the  
7 policy's cash value, accumulation account, death benefit, premium, policy  
8 loans and policy liens. The statement shall disclose that receipt of  
9 accelerated benefit payments may adversely affect the recipient's  
10 eligibility for Medicaid or other government benefits or entitlements; and  
11 disclose that receipt of an accelerated benefit payment may be taxable and  
12 assistance should be sought from a personal tax advisor. When a previous  
13 disclosure statement becomes invalid as a result of an acceleration of the  
14 death benefit, the insurer shall send a revised disclosure statement to the  
15 policy owner or certificate holder and irrevocable beneficiary. When the  
16 insurer agrees to accelerate death benefits, the insurer shall issue an  
17 amended schedule page to the policyholder or notify the certificate holder  
18 under a group policy to reflect any new, reduced in-force face amount of  
19 the contract.

20 SECTION 9. EFFECTIVE DATE OF THE ACCELERATED BENEFITS. The accelerated  
21 benefit provision shall be effective for accidents on the effective date of  
22 the policy or rider. The accelerated benefit provision shall only be  
23 effective for illnesses which first manifest themselves more than sixty  
24 (60) days following the effective date of the policy or rider.

25 SECTION 10. WAIVER OF PREMIUMS. The insurer may offer a waiver of premium  
26 for the accelerated benefit provision in the absence of a regular waiver of  
27 premium provision being in effect. At the time the benefit is claimed, the  
28 insurer shall explain any continuing premium requirement to keep the policy  
29 in force.

30 SECTION 11. DISCRIMINATION. Insurers shall not unfairly discriminate among  
31 insureds with differing qualifying events covered under the policy or among  
32 insureds with similar qualifying events covered under the policy. Insurers  
33 shall not apply further conditions on the payment of the accelerated  
34 benefits other than those conditions specified in the policy or rider.

35 SECTION 12. ACTUARIAL STANDARDS. A. Financing Options. (1) The insurer  
36 may require a premium charge or cost of insurance charge for the  
37 accelerated benefit. These charges shall be based on sound actuarial  
38 principles. In the case of group insurance, the additional cost may also  
39 be reflected in the experience rating.

40 (2) The insurer may pay a present value of the face amount. The  
41 calculation shall be based on any applicable actuarial discount appropriate  
42 to the policy design. The interest rate or interest rate methodology used  
43 in the calculation shall be based on sound actuarial principles and  
44 disclosed in the contract or actuarial memorandum. Subject to any  
45 applicable limitations contained in the Arkansas State Constitution on  
46 interest rates or applicable Code sections thereon, the maximum interest  
47 rate used shall be no greater than the greater of:

- 48 (a) The current yield on 90 day treasury bills; or

1 (b) The current maximum statutory adjustable policy loan interest  
2 rate under Ark. Code Ann. §23-81-109.

3 (3) The insurer may accrue an interest charge on the amount of the  
4 accelerated benefits. The interest rate or interest rate methodology used  
5 in the calculation shall be based on sound actuarial principles and  
6 disclosed in the contract or actuarial memorandum. Subject to any  
7 applicable limitations contained the Arkansas State Constitution or Code  
8 sections on interest rates, the maximum interest rate used shall be no  
9 greater than the greater of: (a) The current yield on 90 day treasury  
10 bills; or (b) the current maximum statutory adjustable policy loan interest  
11 rate, under Ark. Code Ann. §23-81-109. The interest rate accrued on the  
12 portion of the lien which is equal in amount to the cash value of the  
13 contract at the time of the benefit acceleration shall be no more than the  
14 policy loan interest rate stated in the contract.

15 B. Effect on Cash Value. (1) Except as provided in Section 12 (B)(2),  
16 when an accelerated benefit is payable, there shall be no more than a pro  
17 rata reduction in the cash value based on the percentage of death benefits  
18 accelerated to produce the accelerated benefit payment.

19 (2) Alternatively, the payment of accelerated benefits, any  
20 administrative expense charges, any future premiums and any accrued  
21 interest can be considered a lien against the death benefit of the policy  
22 or rider and the access to the cash value may be restricted to any excess  
23 of the cash value over the sum of any other outstanding loans and the  
24 lien. Future access to additional policy loans could also be limited to  
25 any excess of the cash value over the sum of the lien and any other  
26 outstanding policy loans.

27 C. Effect of Any Outstanding Policy Loans on Accelerated Death  
28 Benefit Payment. When payment of an accelerated benefit results in a pro  
29 rata reduction in the cash value, the payment may not be applied toward  
30 repaying an amount greater than a pro rata portion of any outstanding  
31 policy loans.

32 SECTION 13. ACTUARIAL DISCLOSURE AND RESERVES. A. Actuarial Memorandum.  
33 An actuary qualified under Department Rule and Regulation 16, "Actuaries",  
34 should describe the accelerated benefits, the risks, the expected costs and  
35 the calculation of statutory reserves in an actuarial memorandum  
36 accompanying each state filing. The insurer shall maintain in its files  
37 descriptions of the bases and procedures used to calculate benefits payable  
38 under these provisions. These descriptions shall be made available for  
39 examination by the Commissioner upon request.

40 B. Reserves. (1) When benefits are provided through the acceleration of  
41 benefits under group or individual life policies or riders to such  
42 policies, policy reserves shall be determined in accordance with the  
43 Standard Valuation Law, Ark. Code Ann. §§23-84-101, et seq. All valuation  
44 assumptions used in constructing the reserves shall be determined as  
45 appropriate for statutory valuation purposes by a Member in good standing  
46 of the American Academy of Actuaries or by an actuary otherwise qualified  
47 under the provisions of Department Rule and Regulation 16, "Actuaries".  
48 Mortality tables in compliance with Ark. Code Ann. §§23-81-201, et seq.,  
49 and Department Rules and Regulations 39 and 40, and interest currently  
50 recognized for life insurance reserves by the NAIC may be used as well as  
51 appropriate assumptions for the other provisions incorporated in the policy  
52 form. The actuary must follow both actuarial standards and certification

1 for good and sufficient reserves. Reserves in the aggregate should be  
2 sufficient to cover:

3 (a) Policies upon which no claim has yet arisen. (b) Policies upon  
4 which an accelerated claim has arisen.

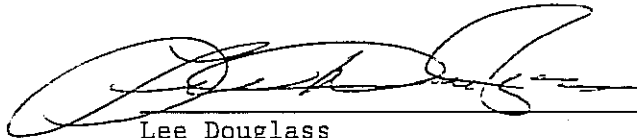
5 (2) For policies and certificates which provide actuarially equivalent  
6 benefits, no additional reserves need to be established.

7 (3) Policy liens and policy loans, including accrued interest,  
8 represent assets of the insurer for statutory reporting purposes. For any  
9 policy on which the policy lien exceeds the policy's statutory reserve  
10 liability, such excess must be held as a non-admitted asset.

11 SECTION 14. FILING REQUIREMENT. Notwithstanding other sections to the  
12 contrary, the filing and prior approval of forms for both individual and  
13 group life insurance policies containing an accelerated benefit are  
14 required, under the provisions of Ark. Code Ann. §23-79-109 and other  
15 applicable provisions, despite or notwithstanding any form filing  
16 requirements to the contrary and despite any form filing exemptions  
17 contained in §§23-79-109, et seq., as customarily applicable. Policy  
18 forms shall be filed not less than sixty (60) days in advance of intended  
19 use in Arkansas, although the Commissioner may waive all or any part of  
20 that period upon written application by the filer which demonstrates good  
21 cause. No unapproved form shall be issued or issued for delivery in  
22 Arkansas.

23 SECTION 15. SEVERABILITY. Any section or provision of this Rule held by a  
24 court to be invalid or unconstitutional will not affect the validity of any  
25 other section or provision of this Rule.

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Lee Douglass  
Insurance Commissioner  
State of Arkansas

7-21-94

Date