

**INSURANCE DEPARTMENT OF THE STATE OF NEW YORK  
FIRST AMENDMENT TO REGULATION NO. 149  
11 NYCRR 42**

**TERM LIFE ISSUANCE AND RENEWAL RESTRICTIONS; NONFORFEITURE VALUES FOR  
CERTAIN LIFE INSURANCE POLICIES**

I, Eric R. Dinallo, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 3201, 4221, and 4511 of the Insurance Law of the State of New York, do hereby promulgate the following First Amendment to Part 42 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 149), to take effect on January 1, 2008 to read as follows:

**MATTER IN BRACKETS IS DELETED  
MATTER UNDERLINED IS NEW**

The title of Part 42 is amended to read as follows;

**TERM LIFE ISSUANCE AND RENEWAL RESTRICTIONS; [CASH SURRENDER]  
NONFORFEITURE VALUES FOR CERTAIN LIFE INSURANCE [PLANS] POLICIES**

Part 42 is renumbered to Subpart 42-1, and titled as follows;

Subpart 42-1

**TERM LIFE ISSUANCE AND RENEWAL RESTRICTIONS; [CASH SURRENDER]  
NONFORFEITURE VALUES FOR CERTAIN LIFE INSURANCE [PLANS] POLICIES ISSUED ON  
OR AFTER NOVEMBER 22, 1995 AND BEFORE JANUARY 1, 2009**

Section 42.1 is renumbered as 42-1.1 and amended to read as follows:

**42-1.1 Purpose.**

The purpose of this [Part] Subpart is:

(a) to provide rules pertaining to limitations on the issuance, renewal or continuation of term life insurance; and

(b) to prescribe rules and guidelines for determining minimum cash values on certain increasing premium life insurance [plans] policies, including [plans] policies under section 4221(l)(3) of the Insurance Law, which states cash surrender values and paid[ ]-up nonforfeiture benefits provided by certain [plans] policies must not be less than the minimum values and benefits required for the [plan]

policy computed by a method consistent with section 4221 of the Insurance Law, as determined by the superintendent.

Section 42.2 is renumbered as 42-1.2 and amended to read as follows:

#### **42-1.2 Applicability.**

(a) This [Part] Subpart shall apply to policies delivered, issued for delivery or deemed to be delivered in this State by any authorized life insurance company or fraternal benefit society.

(b) The minimum cash surrender value requirements of this [Part] Subpart shall apply to term life and whole life [plans] policies with increasing (at advancing duration) gross premium scales, whether fixed premium or indeterminate premium, which are subject to section 4221, except policies subject to section 4232(b) or certificates subject to section 4518 of the Insurance Law.

(c) Except as stated in the next sentence, this [Part] Subpart shall apply to all policies issued on or after the effective date of this [Part] Subpart and before the operative date of Subpart 42-2. For policies issued under policy forms which were approved prior to the effective date of this [Part] Subpart, the minimum cash surrender value requirements of this [Part] Subpart shall apply one year after the effective date of this [Part] Subpart; however, if any such policy form is modified by endorsement or amendment after the effective date of this [Part] Subpart, such requirements shall apply to all such policies subsequently issued prior to the operative date of Subpart 42-2 under such policy form.

Section 42.3 is renumbered as 42-1.3.

The first line of section 42-1.3 is amended to read as follows:

As used in this [Part] Subpart, the following terms shall have the following meanings:

Section 42-1.3(d) is amended to read as follows:

(d) *Initial current gross premium scale* for an indeterminate premium policy means the schedule of gross premiums, based on the initial (current) pricing assumptions [as filed by the insurer,] that would be payable if there were no prospective premium readjustments.

Section 42.4 is renumbered as 42-1.4.

Section 42.5 is renumbered as 42-1.5.

Newly renumbered section 42-1.5(b)(1) is amended to read as follows:

(1) *Term life policy* for the purpose of this section means any fixed premium or indeterminate premium life insurance policy meeting the requirements of section [42.4] 42-1.4 of this [Part] Subpart and with at least one premium increase with advancing duration, with or without cash values, under which death proceeds are payable upon death occurring during the term period and which does not provide any endowment benefit during or at the end of the term period.

The opening paragraph of section 42-1.5(b)(3) is amended to read as follows:

(3) Appendix I and II of this [Part] Subpart illustrate the tests for a term policy with issue age 65 male, combined class, level death benefit, final expiry age 90 (employer-employee case where employer is paying the full premium) based on an initial current gross premium scale shown. The policy nonforfeiture is 1980 CSO combined without selection factors, age nearest birthdate, curtate functions, five percent interest.

Section 42-1.5(b)(3)(ii) is amended to read as follows:

(ii) Test 2 values in this example use start age 80 (65 + 15) and are shown in Appendix II of this [Part] Subpart. None of these Test 2 periods' values exceeds two and one-half percent of the amount of insurance at the beginning of a policy year. Therefore, using Test 2 no period values are needed. If any value exceeded two and one-half percent of the amount of insurance at the beginning of a policy year, then values based on such plan period, to the extent they exceeded the values under Test 1, will be required.

Section 42-1.5(c)(3)(v)(a) is amended to read as follows:

(a) Appendix III of this [Part] Subpart illustrates the Test 1 cash values for a policy with issue age 50 male, non-smoker class, final expiry age 95, maturity value at 95 is \$1,000, for the initial current gross premium scale shown. The policy nonforfeiture basis is 1980 CSO non-smoker without selection factors, age nearest birthdate, curtate functions, and five percent interest.

Section 42-1.5(c)(3)(vi) is amended to read as follows:

(vi) If the highest values at each duration are based upon a single period test, such values shall be deemed in compliance with this [Part] Subpart. If the highest values at each duration are based on more than a single period test, the insurer must also demonstrate that such cash value structure is fair, equitable and not misleading.

Section 42.6 is renumbered as 42-1.6.

Section 42-1.6 is amended to read as follows:

§ 42-1.6 [Severability] Appendixes.

[(a) If any provision of this [Part] Subpart or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this [Part] Subpart or the application thereof to other persons and circumstances.

(b) Appendixes.]

**NOTE: Appendix I, II, and III should remain as presently written.**

A new Subpart 42-2 is added to read as follows:

**ALL MATERIAL IS NEW**

Subpart 42-2

**TERM LIFE ISSUANCE AND RENEWAL RESTRICTIONS; NONFORFEITURE VALUES FOR CERTAIN LIFE POLICIES ISSUED ON OR AFTER JANUARY 1, 2008**

**42-2.1 Purpose.**

(a) The purpose of this Subpart is to prescribe rules and guidelines for minimum nonforfeiture values on individual life insurance policies other than policies subject to section 54.7(b) of this Title or policies subject to section 4221(n-1) of the Insurance Law. Section 4221 of the Insurance Law sets forth the nonforfeiture standards for individual life insurance policies.

(b) Section 4221(l)(3) of the Insurance Law requires that “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 section, as determined by the superintendent.” Such plans include those which provide for future premium determination, the amounts of which are to be determined by the insurer or fraternal benefit society based on their estimates of future experience, and plans which are of such a nature that minimum values cannot be determined by the methods described in section 4221 of the Insurance Law.

(c) Other than for policies subject to section 4221(n-1) of the Insurance Law, section 4221 of the Insurance Law sets forth the minimum requirements for the end of each policy year assuming annual premiums specified in the policy are paid. In practice, premiums are paid on a variety of modes and policies may be allowed to surrender or lapse at times other than on policy anniversaries. In addition, the benefits may not be level during each policy year and the death benefit may be affected by the premium mode used. Section 4221(m)(1) requires that any cash surrender value and any paid-up nonforfeiture benefit, available under any such policy or contract in the event of default in the payment of any premium or stipulated payment due at any time other than on the policy or contract anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums or stipulated payments beyond the beginning of the policy or contract year in which the default occurs.

**42-2.2 Applicability.**

(a) This Subpart shall apply to individual life insurance policies delivered or issued for delivery in this State after the operative date of this Subpart by any authorized life insurance company or fraternal benefit society other than policies subject to Part 54.7(b) of this Title or policies subject to section 4221(n-1) of the Insurance Law.

(b) This Subpart shall apply to all amendments, endorsements or other similar modifications made after the operative date of this Subpart to individual life insurance policies delivered or issued for delivery in this State by any authorized life insurance company or fraternal benefit society other than amendments, endorsements or other similar modifications subject to Part 54.7(b) of this Title or subject to section 4221(n-1) of the Insurance Law.

(c) Any insurer authorized in this state may file with the superintendent a written notice of the election to comply, with respect to any policy, with the provisions of this Subpart as of a specified date on or after the effective date of this Subpart and prior to January 1, 2009. That date shall be the operative date of this Subpart for that policy of insurance for such life insurance company or certificate of insurance for such fraternal benefit society. The operative date of this Subpart for all policies of a life insurance company and all certificates of a fraternal benefit society where such written election was not made shall be January 1, 2009.

### **42-2.3 Definitions.**

As used in this Subpart, the following terms shall have the following meanings:

(a) *Policy form* means any policy, certificate, and any application therefor, or rider or endorsement thereto, affording benefits of life insurance.

(b) *Policy* means every policy, rider or endorsement that collectively constitute the agreement between the insurer and insured.

(c) *Indeterminate premium policy* means an individual life insurance policy, whether participating or non-participating, providing for prospective readjustment of the rate of premium as specified in section 4231(g)(1)(D) of the Insurance Law, or any comparable policy.

(d) *Initial current gross premium scale* for an indeterminate premium policy means the schedule of gross premiums, based on the initial (current) pricing assumptions that would be payable if there were no prospective premium readjustments.

(e) *Guaranteed gross premium scale* for an indeterminate premium policy means the schedule of gross premiums guaranteed by policy provision to be the maximum premium that can be charged under the prospective readjustment of premium provision.

### **42-2.4 Rounding.**

Minimum nonforfeiture values may be rounded to the nearest dollar. If the requirement for a table of cash values appearing in the policy form is satisfied by using a rate per \$1,000 of insurance then multiplying the rate per \$1,000 times the face amount divided by 1,000 must result in a cash value that equals or exceeds the minimum nonforfeiture values. For example, a form provides cash values in dollars per \$1,000 of face. If the actual minimum required cash value for a given class at a specific anniversary is \$12.12 per \$1,000 then the cash value of a \$4,000 policy could be shown as

\$12 per thousand (\$48.48 rounded to \$48), but the cash value of a \$5,000 policy could not be shown as \$12 per thousand (\$60.60 can be rounded to \$61.00 but not to \$60.00).

#### **42-2.5 Joint life mortality.**

(a) Minimum nonforfeiture values are based on the exact joint life mortality using mortality tables that would be required for each single life and assuming that the mortality of the joint lives are independent.

(b) Minimum nonforfeiture values and policy disclosures may be based on the use of joint life mortality throughout the lifetime of the policy. Minimum nonforfeiture values and policy disclosures on each possible status of the lives under the terms of the policy is also acceptable if the disclosures and minimum value requirements of the Insurance Law are met for each possible status. For example, if the status of a second to die policy is based on a single life status after the first death, then the required disclosures under section 4221(a)(5) of the Insurance Law must be shown in the policy for each possible status of joint or single life.

#### **42-2.6 Minimum policy anniversary nonforfeiture value requirements for indeterminate premium policies.**

(a) This section shall not apply to one-year term life insurance coverage funded by dividends.

(b) The minimum nonforfeiture value at the end of any policy year is the greater of:

(1) the minimum nonforfeiture value required for that year based on the requirements of section 4221 of the Insurance Law and the provisions of this Subpart based on the guaranteed gross premium scale; and

(2) the minimum nonforfeiture value required for that year based on the requirements of section 4221 of the Insurance Law and the provisions of this Subpart based on the initial current premium scale.

(c) If any year-end nonforfeiture values are based on the initial current premium scale, then such scale must appear in the policy.

#### **42-2.7 Full description of nonforfeiture method and statement of mortality table.**

(a) A statement of the mortality table required by section 4221(a)(5) or section 4221(a)(6) of the Insurance Law shall specify the mortality table used, including smoking status variations, gender variations and method of determining ages.

(b) A statement of the method as required by section 4221(a)(6) of the Insurance Law shall include whether curtate, semi-continuous or continuous functions are used.

(c) 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. Acceptable statements of the nonforfeiture method shall include, but not be limited to, the following:

(1) The minimum nonforfeiture method;

(2) The net level premium method; and

(3) The present value of guaranteed benefits provided for by the policy less the present value of the nonforfeiture factors for each year after the date of determination for which a premium is due.

If the statement includes the use of nonforfeiture factors, the nonforfeiture factors needed for calculation of the nonforfeiture values must appear in the policy.

(d) If a policy does not give a complete description of the method of calculation of nonforfeiture values, including those available at any time between policy anniversaries, then:

(1) The policy shall contain a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy form is delivered; and

(2) A complete description of the method of calculation shall be in the actuarial memorandum included in the policy form filing.

#### **42-2.8 Anniversary values when insurance benefits are not level between anniversaries.**

(a) For the purposes of sections 4221(c)(1), 4221(k)(2) and 4221(k)(3) of the Insurance Law, the present value of the future guaranteed benefits payable between anniversaries are discounted to the anniversary preceding their payment using an effective rate of interest and assuming a uniform distribution of deaths or a constant force of mortality. The nonforfeiture interest rate and mortality assumptions for discounting are those required to demonstrate compliance with section 4221(c)(1) of the Insurance Law.

(b) Alternatively, at the option of the life insurance company or fraternal benefit society, for the purposes of sections 4221(c)(1), 4221(k)(2) and 4221(k)(3) of the Insurance Law, the present value of the future guaranteed death benefits may be determined by substituting, for the death benefits payable during any year, a time and amount weighted average of the death benefits provided as payable at the end of the year. As an example, for a death benefit of \$100,000 on an anniversary that increases after 8 months to \$160,000, a death benefit of \$120,000 payable at the end of the year may be substituted.

#### **42-2.9 Nonforfeiture values at times other than on policy anniversaries.**

(a)(1) *Gross modal premiums* means the premiums specified in the policy for the 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.

(2) *Modal adjusted nonforfeiture premiums* for a policy year means the modal equivalent of the annual adjusted nonforfeiture premium for that year as defined in section 4221 of the Insurance Law.

(3) *Calculated value* for a policy anniversary means the present value, on the anniversary of the future guaranteed benefits that are provided for by the policy, including any existing paid-up additions, over the sum of the then present value of the adjusted premiums as defined in section 4221 of the Insurance Law, corresponding to the premium that would have fallen due on and after the anniversary. The interest rate and mortality used for discounting shall be the same as required to demonstrate compliance with section 4221(c)(1) of the Insurance Law. The *calculated value* is not subject to a minimum value of zero.

(b) If a policy has nonforfeiture values, the nonforfeiture values during a policy year shall not be less than the nonforfeiture value produced by either subdivision (c) or (d) of this section. However, a policy does not have to provide for a voluntary surrender between premium due dates.

(c) Actuarial Method:

(1) The nonforfeiture value is the greater of zero or the following:

(i)(a) The present value at the end of the policy month of valuation of the calculated value on the next policy anniversary; and

(b) The present value at the end of the policy month of valuation of the guaranteed benefits that would have been provided for by the policy including any paid-up additions from the end of the policy month of valuation to the next policy anniversary; less

(ii)(a) The present value at the end of the policy month of valuation of the modal adjusted nonforfeiture premiums due on or after the end of the policy month of valuation and before the next policy anniversary;

(b) Any indebtedness to the life insurance company or fraternal benefit society on the policy including interest due or accrued; and

(c) The lesser of one dollar per one thousand dollars of death benefit or ten percent of the due and paid premium for the period beyond the date of valuation.

(2) The nonforfeiture interest rate and mortality assumptions for discounting in this subdivision are those required to demonstrate compliance with section 4221(c)(1) of the Insurance Law.

(3) The modal adjusted nonforfeiture premiums for a policy year shall be calculated such that:

(i) the ratio of the modal adjusted nonforfeiture premium for each premium due date during the policy to the corresponding premium due on each premium due date is a constant percentage throughout the policy year;

(ii) the present value of the modal adjusted nonforfeiture premiums for a policy year shall equal the annual adjusted nonforfeiture premium for that year as defined in section 4221 of the Insurance Law; and

(iii) the interest rate and mortality used for discounting in section 42-2.9(c)(3)(ii) of this Subpart shall be the same as required to demonstrate compliance with section 4221(c)(1) of the Insurance Law.

(d) Interpolation Method: For policies with level premium and level benefits during the policy year, the minimum nonforfeiture value is the greater of zero and the minimum nonforfeiture value calculated in accordance with either paragraph (1) or (2) of this subdivision. For policies that do not have level premium and level benefits during the policy year, the minimum nonforfeiture value is the greater of zero and the minimum nonforfeiture value calculated in accordance with paragraph (2) of this subdivision. The methods described in paragraphs (1) and (2) produce identical results for policies that have level premium and level benefits during the policy year.

(1) Straight line interpolation method: The minimum nonforfeiture values during a policy year using the straight line interpolation method are equal to:

(i) The sum of:

(a) The calculated value at the end of the prior policy anniversary times the fraction of the year from the end of the month of valuation to the next policy anniversary;

(b) The calculated value at the end of the next policy anniversary times the fraction of the year from the beginning of the year to the end of the month of valuation; and

(c) the fraction of the year from the end of the policy month of valuation to the next paid to date times, as elected by the insurer for that policy, either the sum of the gross modal premiums for the policy year or the adjusted nonforfeiture premium for the policy year; less

(ii) The sum of:

(a) any indebtedness to life insurance company or fraternal benefit society on the policy including interest due or accrued; and

(b) the lesser of one dollar per one thousand dollars of death benefit or ten percent of either the gross premiums or the adjusted premium, as elected under section 42-2.9(d)(1)(i)(c) of this Subpart, due and paid for the period beyond the date of valuation.

(2) Weighted linear interpolation method: The minimum nonforfeiture values during a policy year using the weighted linear interpolation method are equal to:

(i) The sum of:

(a) The calculated value at the end of the prior policy anniversary; and

(b) As elected by the insurer for that policy either the gross modal premium due and paid since the beginning of the policy year or the ratio of the gross modal premiums due and paid since the beginning of the policy year to the sum of the gross modal premiums for the policy year multiplied by adjusted nonforfeiture premium for the policy year; less

(ii) The sum of:

(a) the cost of insurance as calculated in accordance with paragraph (3) of this subdivision;

(b) any indebtedness to life insurance company or fraternal benefit society on the policy including interest due or accrued; and

(c) the lesser of one dollar per one thousand dollars of death benefit or ten percent of either the gross premiums or the adjusted premium, as elected under section 42-2.9(d)(2)(i)(b) of this Subpart, due and paid for the period beyond the date of valuation.

(3) The cost of insurance for section 42-2.9(d)(2)(ii) of this Subpart is found by multiplying the cost of insurance rate for the year by the sum of insurance provided at the beginning of each month, including any paid-up additions, from the prior policy anniversary through the end of the policy month of valuation. The cost of insurance rate is the result of dividing the difference of A minus B by C, where:

(i) A is either the gross modal premium for the policy year or the adjusted premium for the year consistent with the election made in section 42-2.9(d)(2)(i)(b) of this Subpart;

(ii) B is the calculated value at the next policy anniversary less the calculated value at the end of the prior policy anniversary; and

(iii) C is the sum of the amount of guaranteed insurance, including any paid-up additions, at the beginning of each month during the current policy year.

(e) The nonforfeiture value in subdivision (c) of this section may be calculated upon the assumption that the death benefit is payable either at the time of death or at the end of the policy year in which the death occurred. For non-level death benefits payable during a year or a part thereof, a time and amount weighted average of the death benefits may be substituted.

(f) The nonforfeiture value in subdivisions (c) and (d) of this section may be calculated as of the exact day of surrender instead of the end of the policy month.

(g) A policy may provide for a refund of premium actually paid for any period beyond the date of surrender. The refund shall not be considered a nonforfeiture benefit for the purposes of section 4221(o) of the Insurance Law.

#### **42-2.10 Supplemental yearly renewable term insurance.**

In the case of a level death benefit term policy where uniform premiums are payable each year for an initial period followed by a yearly renewable term premium paying period, at the option of the insurer the yearly renewable term portion may be considered supplemental insurance for purposes of section 4221(c)(2) of the Insurance Law, provided that the premiums increase each year and no nonforfeiture values would be required by section 4221 of the Insurance Law or this Subpart for the yearly renewable term portion if issued on a stand-alone basis.

**42-2.11 Calculation of minimum nonforfeiture values for policies with increases in either guaranteed death benefits or required premiums based on an index.**

This section shall apply to policies of life insurance that provide for periodic adjustments in either the amount of the death benefit or in the required premium based on the Consumer Price Index or other cost of living index.

(a) For the purposes of subdivision (b) of this section, the reasonable annual increase shall be based on the amount of death benefit and the contractual limitations, if any, on the annual increase in the death benefit.

(1) Multiple policies on a single life shall be aggregated and only those policies aggregating not more than \$10,000 in death benefits shall be considered under paragraph (4) of this subdivision.

(2) For the purposes of this section, the limitations on the annual increase in death benefit shall be defined as follows:

(i) *Annual and non-cumulative maximum* means a maximum where each annual increase is limited to the lower of the maximum or the increase in the index without carry forward of excess index increases.

(ii) *Annual and cumulative maximum* means a maximum where each annual increase is limited to the lower of the maximum or the increase in the index with carry forward of excess index increases.

(3) For policies where any death benefit for any policy year would exceed \$10,000 even in the absence of any annual increases based on the index, the assumption as to what is a reasonable annual increase in death benefits based on the index shall not be less than the greater of:

(i) one percent; and

(ii) maximum valuation interest rate for the year of issue less:

(a) two percent, if the annual increase is limited to an annual and non-cumulative maximum of zero percent through five percent;

(b) one and one half percent, if the annual increase is limited to an annual and cumulative maximum of zero percent through five percent;

(c) one and one half percent, if the annual increase is limited to an annual and non-cumulative maximum of greater than five percent and less than or equal to ten percent;

(d) One and one quarter percent, if the annual increase is limited to an annual and cumulative maximum greater than five percent and less than or equal to ten percent; or

(e) one percent for all other policies.

(4) For policies where any death benefit for any policy year would not exceed \$10,000 in the absence of any annual increases based on the index, the assumption as to what is a reasonable annual increase in death benefits based on the index shall not be less than:

(i) four and one half percent, if the annual increase based on the index is limited to a maximum of zero percent through five percent;

(ii) four and one quarter percent, if the annual increase based on the index is limited to a maximum of greater than five percent and less than or equal to ten percent; or

(iii) four percent for all other policies.

(b) For policies subject to this section, the value of the minimum nonforfeiture benefit at any time shall be based on the nonforfeiture interest rate and mortality table specified in section 4221(k) of the Insurance Law and based on the death benefit and premium pattern adjusted as provided in the policy by assumed reasonable annual increases. The assumed reasonable annual increases must satisfy the requirements of subdivision (a) of this section. The present value of future benefits component shall be further adjusted each year by the ratio of the then current amount of death benefit to the initially projected amount of death benefit. If the policy provides for future premiums and such premiums are also adjusted periodically with the Consumer Price Index or other cost of living index, the present value of future premiums component shall likewise be further adjusted each year by the ratio of the then current amount of death benefit to the initially projected amount of death benefit.

#### **42-2.12 Term policy maximum age.**

No policy of term life insurance shall be issued, renewed or continued beyond the last age in the mortality table for which minimum nonforfeiture values for whole life insurance are determined at the time of the term policy's issue. For a joint life first to die policy, this limitation is applied to the oldest age. For a joint life last to die policy this limitation is applied to the youngest age.

#### **42-2.13 Death proceeds not available in a lump sum.**

For determining the adjusted premiums in section 4221(k) of the Insurance Law, the present value of benefits payable only in installments shall be calculated using the applicable nonforfeiture interest rate and mortality table in section 4221(k) of the Insurance Law.

I, Eric R. Dinallo, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is the First Amendment to Part 42 of Title 11 of the Official Compilation and Codes, Rules, and Regulations of the State of New York (Regulation No. 149), entitled "Term Life Issuance and Renewal Restrictions; Nonforfeiture Values for Certain Life Insurance Policies," which was duly adopted by me on the date entered below, pursuant to the authority granted by Sections 201, 301, 3201, 4221, and 4511 of the Insurance Law, to take effect upon January 1, 2008.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed amendment was published in the State Register on October 10, 2007. No other publication or prior notice is required by statute.

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Eric R. Dinallo  
Superintendent of Insurance

November 13, 2007