

11 NCAC 12 .0434 VARIABLE LIFE INSURANCE: DEFINITIONS

As used in this Rule and in 11 NCAC 12 .0435 through 11 NCAC 12 .0443:

- (1) "Affiliate" of an insurer means any person, directly or indirectly, controlling, controlled by, or under common control with such insurer; any person who regularly furnishes investment advice to such insurer with respect to its variable life insurance separate accounts for which a specific fee or commission is charged; or any director, officer, partner, or employee of any such insurer, controlled person, or person providing investment advice or any member of the immediate family of such person.
- (2) "Agent" means any person, corporation, partnership, or other legal entity which is licensed by this state as a life insurance agent.
- (3) "Assumed investment rate" means the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses and mortality and expense guarantees to maintain the variable death benefit equal at all times to the amount of death benefit, other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.
- (4) "Benefit base" means the amount not less than the amount specified under 11 NCAC 12 .0438(b)(2), specified by the terms of the variable life insurance policy to which the difference between the net investment return and the assumed investment rate is applied in determining the variable benefits of the policy.
- (5) "Commissioner" means the Insurance Commissioner of this state.
- (6) "Control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing more than 10 percent of the voting securities of any other person. This presumption may be rebutted by a showing made to the satisfaction of the commissioner that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.
- (7) "General account" means all assets of the insurer other than assets in separate accounts established pursuant to G.S. 58-7-95, or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer, whether or not for variable life insurance.
- (8) "Incidental insurance benefit" means all insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including but not limited to accidental death and dismemberment benefits, disability income benefits, guaranteed insurability options, family income, or fixed benefit term riders.
- (9) "May" is permissive.
- (10) "Minimum death benefit" means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.
- (11) "Net investment return" means the rate of investment return in a separate account to be applied to the benefit base after deduction of charges for taxes, investment expenses and mortality and expense guarantees in accordance with the terms of the policy.
- (12) "Person" means an individual, corporation, partnership, association, trust, or fund.
- (13) "Separate account" means a separate account established for variable life insurance pursuant to G.S. 58-7-95 or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.
- (14) "Shall" is mandatory.
- (15) "Variable death benefit" means the amount of the death benefit, other than incidental insurance benefits, payable under variable life insurance policy dependent on the investment performance of the separate account, which the insurer would have to pay in the absence of the minimum death benefit.

- (16) "Variable life insurance policy" means any individual or group policy which provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to such policy, pursuant to G.S. 58-7-95 or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

History Note: Authority G.S. 58-2-40; 58-7-95;
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