

**11 NCAC 12 .0422            CONTRACTS PROVIDING FOR VARIABLE BENEFITS**

Any variable contract providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the company in determining the dollar amount of such variable benefits. Any such contract, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will vary to reflect investment experience and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

Illustrations of benefits payable under any variable contract shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided that nothing contained herein is intended to prohibit use of hypothetical assumed rates of return to illustrate possible levels of benefits. Any individual variable annuity contract delivered or issued for delivery in this state shall stipulate the investment increment factors to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts.

In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

- (1) The annual new investment increment assumption shall not exceed five percent, except with the approval of the commissioner.
- (2) To the extent that the level of benefits may be affected by mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a lower life expectancy at any age, or, if approved by the commissioner, from another table.

"Expense," as used in this Rule, may exclude some or all taxes, as stipulated in the contract.

*History Note:    Authority G.S. 58-2-40; 58-7-95;  
Eff. February 1, 1976;  
Readopted Eff. September 26, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*