§ 3201. Approval of life, accident and health, credit unemployment, and annuity policy forms. (a) In this article, "policy form" means any policy, contract, certificate, or evidence of insurance and any application therefor, or rider or endorsement thereto, affording benefits of the kinds of insurance specified in paragraph one, two, three or twenty-four of subsection (a) of section one thousand one hundred thirteen of this chapter, a group annuity certificate to which subsection (a) of section three thousand two hundred nineteen of this article applies, and a funding agreement authorized by section three thousand two hundred twenty-two of this article. The term "policy form" shall not include an agreement, special rider, or endorsement relating only to the manner of distribution of benefits or to the reservation of rights and benefits used at the request of the individual policyholder, contract holder or certificate holder.

(b) (1) No policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the superintendent as conforming to the requirements of this chapter and not inconsistent with law. A group life, group accident, group health, group accident and health or blanket accident and health insurance certificate evidencing insurance coverage on a resident of this state shall be deemed to have been delivered in this state, regardless of the place of actual delivery, unless the insured group is of the type described in: (A) section four thousand two hundred sixteen, except paragraph four where the group policy is issued to a trustee or trustees of a fund established or participated in by two or more employers not in the same industry with respect to an employer principally located within the state, paragraph twelve, thirteen or fourteen of subsection (b) thereof; (B) section four thousand two hundred thirty-five except subparagraph (D) where the group policy is issued to a trustee or trustees of a fund established or participated in by two or more employers not in the same industry with respect to an employer principally located within the state, subparagraph (K), (L) or (M) of paragraph one of subsection (c) thereof; or (C) section four thousand two hundred thirty-seven (except subparagraph (F) of paragraph three of subsection (a) thereof; of this chapter; and where the master policies or contracts were lawfully issued without this state in a jurisdiction where the insurer was authorized to do an insurance business. With regard to any certificate deemed to have

been delivered in this state by virtue of this paragraph, the superintendent shall (i) require that the premiums charged be reasonable in relation to the benefits provided, except in cases where the policyholder pays the entire premium; (ii) have power to issue regulations prescribing the required, optional and prohibited provisions in such certificates; (iii) establish an accelerated certificate form approval procedure available to an insurer which includes a statement in its policy form submission letter that it is the company's opinion that the certificate form or forms comply with applicable New York law and regulations. The superintendent, upon receipt of such a filing letter, shall grant conditional approval of such certificate form or forms in reliance on the aforementioned statement by the company upon the condition that the company will retroactively modify such certificate form or forms, to the extent necessary, if it is found by the superintendent that the certificate form fails to comply with applicable New York laws and regulations. The superintendent may, with regard to the approval of any certificate deemed to have been delivered in this state by virtue of this paragraph, approve such certificate if the superintendent finds that the certificate affords insureds protections substantially similar to those which have been provided by certificates delivered in this state. Any regulations issued by the superintendent pursuant to this paragraph may not impose stricter requirements than those applicable to similar policies and certificates actually delivered in this state.

(2) No unallocated group annuity contract or funding agreement, or policy form for accident and health insurance or any other policy form specified by the superintendent pursuant to regulation shall be issued by a domestic insurer or fraternal benefit society for delivery outside this state unless it has been filed with the superintendent.

(3) In exercising the authority granted by this subsection and by subsection (c) hereof, with respect to a policy or certificate form under which additional amounts may be credited pursuant to subsection (b) of section four thousand two hundred thirty-two or section four thousand five hundred eighteen of this chapter, the superintendent shall take into account the tax aspects of the policy form as they relate to all parties concerned.

(4) (A) No credit insurance or credit unemployment insurance policy

form shall be issued unless it and its premium rates have been filed with and approved by the superintendent. In this section "credit insurance" and "credit unemployment insurance" mean insurance on a debtor, including an intended borrower, pursuant to a program as defined in paragraph three of subsection (b) of section four thousand two hundred sixteen of this chapter for defraying the costs of attendance of a student at a college or university, in connection with a specified loan or other credit transaction to provide payment to the creditor in the event of the death of the debtor or indemnity to the creditor for the installment payments on the indebtedness becoming due while the debtor is disabled as defined in the policy, or payment to the creditor for the installment payments on the indebtedness becoming due while the debtor is unemployed as set forth in section three thousand four hundred thirty-six of this chapter.

(B) The superintendent shall from time to time prescribe regulations which, among other things, shall require that, in the event of the termination of the insurance prior to the scheduled maturity date of the indebtedness or the last maturing instalment thereof, there shall be an appropriate refund by the insurer to the policyholder of any amount collected from or charged to the policyholder for such terminated insurance, and an appropriate refund or credit by the policyholder or creditor to the debtor of an amount collected from or charged to the debtor for such terminated insurance, if such refund amounts to one dollar or more.

(5) Notwithstanding the other provisions of this section, on and after June first, nineteen hundred eighty no policy form of industrial life insurance, industrial accident insurance or industrial health insurance shall be approved by the superintendent for delivery or issuance for delivery in this state.

(6) (A) As an alternative procedure to the policy form filing requirements of paragraph (1) of this subsection, an insurer has the option to file an expedited policy form approval application with the superintendent pursuant to this paragraph. If this option is elected, the filing shall include the proposed policy form, including rates as required, and all necessary supporting material requested by the superintendent pursuant to rule, and a certification signed by an officer of the insurer, who is knowledgeable with respect to the law and

regulation applicable to the type of policy form, that such form is in compliance with the applicable law and regulations to the best of his or her knowledge and belief.

Within ninety days of receipt of a filing, the superintendent shall, in writing, either approve, submit a detailed list to the insurer requesting all additional information necessary to make a determination on the filing, or deny such filing, otherwise, such filing shall be deemed approved. Any denial issued by the superintendent shall state the reasons for such disapproval. If an insurer does not provide the additional information requested by the superintendent, or respond to the superintendent's objections within forty-five days of receipt of such request or denial, then such filing shall be deemed denied and such filing may not be resubmitted for a period not to exceed ninety days from the date that such information or response was due. The forty-five day limit for providing such additional information or response may be extended at the option of the superintendent.

In the event that an insurer properly submits the additional information or response, then such filing shall be deemed approved forty-five days after receipt of such information or response by the superintendent, unless the insurer is notified in writing prior to such date that the filing has been denied. Such denial shall state the reasons for such disapproval and cannot be based on any objection not specified in the superintendent's initial review of the filing, unless the objection arises from a modification of the policy forms made by the insurer in addressing the objections or new material submitted by the insurer. Notwithstanding anything to the contrary contained in this section, the superintendent may, at any time, before the filing is either deemed approved, affirmatively approved, or denied, raise objections to the policy form that is based on the explicit requirements of this chapter and any applicable regulations.

The superintendent shall, as soon as practicable, but no later than sixty days after receipt of the filing, notify the insurer if its filing is incomplete or fails to comply with applicable statutory or regulatory requirements. Such notice shall indicate that the filing is being

returned with no action by the superintendent and that the period for the superintendent's substantive review has not commenced.

(B) Nothing contained in this paragraph shall prohibit the superintendent from requiring an insurer to retroactively modify or withdraw a form approved pursuant to the expedited filing procedure if such form is found to fail to conform with the requirements of this chapter, provided that the order to withdraw or modify such form is issued in accordance with the provisions of section three thousand one hundred ten or section three thousand two hundred two of this chapter.

(C) In addition to any penalties for violations contained in this chapter, any insurer which receives approval under this subsection for a form which is found to fail to comply with the provisions of this chapter shall be ineligible to apply for an expedited review under this subsection for a period not to exceed one year.

(7) Notwithstanding any other provision of this section, an approved policy form that has been revised may continue to be delivered or issued for delivery in this state without further approval from the superintendent, provided that the policy form is revised solely to reflect:

(A) a change in the investment options of a separate account offered under the policy form, in accordance with an amended statement as to the methods of operation of the separate account approved by the superintendent pursuant to subsection (e) of section four thousand two hundred forty of this chapter, and further provided that an informational filing, in a form acceptable to the superintendent, identifying the policy forms that have been revised and the investment options offered in each policy form, is submitted to the superintendent no later than sixty days after the amended statement as to the methods of operation of the separate account has been approved; or

(B) any other type of change to a class or classes of policy forms for which the superintendent waives or otherwise modifies the filing and approval requirements of this section provided, however, that such determination to waive or otherwise modify shall be published in written guidance issued by the superintendent after such determination has been made.

(c) (1) The superintendent may disapprove any policy form for delivery or issuance for delivery in this state if he finds that the same

contains any provision or has any title, heading, backing or other indication of the contents of any or all of its provisions, which is likely to mislead the policyholder, contract holder or certificate holder.

(2) The superintendent may disapprove any life insurance policy form, or any form of annuity contract or group annuity certificate, or any form of funding agreement for delivery or issuance for delivery in this state, if its issuance would be prejudicial to the interests of policyholders or members or it contains provisions which are unjust, unfair or inequitable.

(3) The superintendent may disapprove any accident and health insurance policy form for delivery or issuance for delivery in this state if the benefits provided therein are unreasonable in relation to the premium charged or any such form contains provisions which encourage misrepresentation or are unjust, unfair, inequitable, misleading, deceptive, or contrary to law or to the public policy of this state.

(4) The superintendent shall not approve any life insurance policy form containing any war or travel exclusion or restriction, for delivery or issuance for delivery in this state, unless such policy form shall have printed or stamped across its face in red and in capital letters not smaller than twelve point type, or in an equally prominent manner established at the discretion of the superintendent and promulgated through regulations, the following:

"Read your policy (certificate) carefully.

"Certain (war, travel) risks are not assumed.

_____

(state which or both)

In case of any doubt write your company (society) for further explanation."

(5) The superintendent shall not approve any annuity or life insurance policy form which is subject to the provisions of section four thousand two hundred twenty, four thousand two hundred twenty-one or four thousand five hundred eleven of this chapter, unless a detailed statement of the method used by the insurer in calculating any cash surrender value and any paid-up nonforfeiture benefit in the policy form

is stated therein or, in lieu thereof, 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 unless a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available on any anniversary beyond the last anniversary for which such value and benefits are consecutively shown in the policy form is included therein, and, with respect to policy forms under which additional amounts may be credited pursuant to subsection (b) of section four thousand two hundred thirty-two or section four thousand five hundred eighteen of this chapter, the insurer shall also furnish such further information to the superintendent as the superintendent may require.

(6) (a) The superintendent may disapprove any policy form specified in paragraph two of subsection (b) of this section issued by a domestic life insurer or fraternal benefit society for delivery outside the state if its issuance would be prejudicial to the interests of its policyholders or members.

(b) Except for the policy forms specified in paragraph two of subsection (b) of this section, every domestic life insurer and fraternal benefit society shall file annually with the superintendent a list identifying and describing the policy forms issued by the insurer or fraternal benefit society for delivery outside the state in a form prescribed by the superintendent. If the superintendent determines that the issuance of a policy form has been or may be prejudicial to the interests of policyholders or members, the superintendent may take any action he or she deems appropriate, including issuing an order, after a hearing, to cease and desist issuing the policy form.

(7) If any policy of individual accident and health insurance is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the superintendent that any such policy form is not subject to approval or disapproval by such official, the superintendent may by ruling require that such policy form meet the standards set forth in subsections (c) and (d) of section three thousand two hundred sixteen of this article.

(8) Without limitation on his other powers and duties under this

section, the superintendent shall not approve any credit insurance or credit unemployment insurance policy forms or premium rates if the premium rates are unreasonable in relation to the benefits provided.

(9) Each insurer shall file with the superintendent of financial services any change in the premium rates for policies authorized under subparagraph (J) of paragraph one of subsection (c) of section four thousand two hundred thirty-five of this chapter, and the same shall be subject to his approval.

(10) The superintendent shall not approve any form of life insurance policy that is subject to the provisions of section four thousand two hundred twenty-one of this chapter or any form of annuity contract that is subject to the provisions of section four thousand two hundred twenty-three of this chapter if such form of policy or contract provides for the adjustment of any cash surrender benefit or policy loan value in accordance with a market-value adjustment formula, unless there shall have been filed with the superintendent a memorandum, in form and substance satisfactory to the superintendent, describing the market-value adjustment formula and stating that, in the opinion of the insurer, the formula provides reasonable equity to terminating and continuing policy and contract holders and to the insurer and complies with the nonforfeiture provisions of this chapter.

(11) (A) The superintendent shall not approve a life insurance policy which provides for accelerated payment of death benefits or special surrender values pursuant to subparagraph (B), (C), (D), (E) or (F) of paragraph one of subsection (a) of section one thousand one hundred thirteen of this chapter unless it also provides for such accelerated payments or special surrender values pursuant to subparagraph (A) of paragraph one of subsection (a) of such section.

(B) The superintendent shall promulgate a regulation establishing rules for advertising, disclosure, benefit levels, benefit eligibility, payment of long term care benefits, nonforfeiture, and reserves for accelerated payment of death benefits or special surrender values provided under a life insurance policy. The regulation shall establish reasonable disclosure requirements concerning the percentage of the death benefit payable when accelerated payment of the death benefit or special surrender value occurs, the impact of accelerated payment of the death benefit or special surrender value on eligibility for public

assistance (as determined by the commissioner of social services), the prohibition that no health care facility as defined in section twenty of the public health law can require any person to accelerate payment of a death benefit or obtain a special surrender value as a condition of admission, providing or continuing care, and notice of possible tax obligations.

(12) The superintendent shall promulgate a regulation relating to waiver of premium for unemployment as authorized by paragraph one of subsection (a) of section one thousand one hundred thirteen of this chapter establishing minimum standards for benefit levels, benefits eligibility and exclusions. The premium charged shall be reasonable in relation to the benefit provided.

(d) The superintendent shall, within a reasonable time after the filing of any policy form requiring approval, notify the insurer filing the form of his approval or disapproval of it.