§ 3215. Disability benefits in connection with life insurance and annuities. (a) No policy of life insurance or contract of deferred annuity, which provides benefits by reason of the disability of the insured, including waiver of premium, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions or provisions which in the opinion of the superintendent are more favorable to policyholders:

(1) That disability benefits be paid or allowed only in case of total disability and defining total disability in either of the following forms:

(A) Total disability is incapacity of the insured, resulting from injury or disease, to engage in any occupation for remuneration or profit. Such a policy shall be known and described as a "total disability" policy or contract.

(B) Total disability, shall exist whenever the insured's average monthly earned income for a period of four months next preceding has, as a result of the insured's injury or disease, not exceeded one-fourth of his former earned income averaged monthly for a period (next preceding said four months) which shall be prescribed in the policy and shall be not less than twelve months. Such a policy shall be known and described as an "earned income disability" policy or contract.

(2) That disability benefits will be paid or allowed only in case such total disability is also permanent as defined in either of the following forms:

(A) If such policy is a total disability policy, as defined in paragraph one hereof, a provision that total disability which has been continuous for a period specified in the contract, and which shall be not less than four months nor more than one year, shall be deemed to be permanent only with respect to determining the commencement of disability benefits.

(B) If such policy is an earned income disability policy, as defined in paragraph one hereof, a provision that total disability shall be deemed to continue as long as the insured's earned monthly income shall, as a result of injury or disease, not exceed one-fourth of his average monthly earned income as determined at the commencement of total disability.

(3) That written notice of claim be given to the insurer during the

lifetime of the insured and during the period of total disability. Failure to give such notice shall not invalidate or reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

(4) That there be reasonable requirements as to the time, method and form of proof of disability and as to the continuance of disability, including an examination of the insured by the insurer at reasonable intervals. Failure to furnish proof of disability within the time required shall not invalidate or reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

(5) That the contract of disability insurance shall be incontestable after it shall have been in force, during the lifetime of the insured and without the occurrence of total disability of the insured, for a period of three years from date of issue, except for nonpayment of premiums and except for the conditions of the contract relating to military or naval service.

(b) Any provision in such policy or contract that total disability resulting from any specified cause shall be excluded from coverage, shall contain only the following exclusions:

(1) (A) a provision terminating disability coverage when the insured becomes a member of the military, naval or air forces of any country at war, declared or undeclared; or

(B) a provision terminating disability coverage when the insured becomes a member of any auxiliary or civilian non-combatant unit serving with the military, naval or air forces of any country at war, declared or undeclared; or

(C) a provision excluding from coverage disability commencing within five years from the date of issue of the policy as a result of an act of war or any act incident thereto, whether such war be declared or undeclared, provided such act takes place while the insured is outside the geographical limits specified in the policy.

(2) A provision excluding from the coverage disability resulting from aviation under conditions specified in the policy.

(3) A provision excluding from the coverage disability directly

resulting from injuries wilfully and intentionally self-inflicted.

(c) No policy or contract shall contain any provision set forth in this subsection, unless it conforms substantially to the following:

(1) Any provision excluding from the coverage disability resulting from disease or injury occurring before the date of issue of the policy or contract, except provisions excluding from the coverage a specific disease or injury by name or description, shall be applicable only to such disability commencing not later than two years after date of issue.

(2) A provision for a reasonable adjustment of income disability benefits if the aggregate monthly amount of such benefits payable to the insured, under all contracts of insurance, exceeds a specified percentage not to exceed one hundred percent of the average monthly earned income of the insured as may be ascertained in any reasonable manner.

(d) No such policy shall provide that the face amount of life insurance shall be reduced because of any disability benefits paid, except that such policy may provide, in lieu of income payments, an annuity certain for a period of not more than ten years, the value of which at its inception shall be equal to the face amount of insurance, with the provision that upon recovery such annuity shall cease and the insurance shall be restored at a proportionate premium for an amount equal to the present value of the instalments not yet due.

(e) No such policy which provides income disability benefits shall contain any provision whereby the income disability benefits shall exceed a monthly rate equal to one percent of the face amount of the policy, such face amount not to include any additional benefits payable in case of accidental death and of any pure endowment benefits.

(f) No such contract which provides income disability benefits shall contain any provision whereby monthly income disability benefits exceed one-twelfth of the annual annuity which would ordinarily be payable thereunder at age seventy.

(g) The provisions of this section shall not apply to any group life insurance policies or group annuity contracts.

(h) Within the meaning of this section:

(1) "waiver of premiums" includes refund of waived premiums, if paid;

(2) "income payments" means payments made monthly or at less frequent regular intervals in addition to waiver of premiums and to all benefits

otherwise provided by the contract;

(3) "disability benefits" means waiver of premiums, or both waiver of premium and income payments, whichever may be specified in the contract;

(4) "income disability benefits" means income payments contingent upon total disability of the insured.