

# Companion Life Insurance Company

## New York Regulation 180



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**Advanced  
Markets**

### *New York Regulation 180 Key Person Insurance*

On December 2, 2004, New York Regulation 180 became effective. The Regulation creates minimum standards to meet in order to issue key person life insurance policies. The legislation is the result of so-called "janitor insurance" that has been the focus of numerous negative press articles over the past several years. The Department of Insurance has historically been concerned about the potential for abusing the legitimate purposes of corporate-owned life insurance (COLI). Regulations were passed in 1996 requiring notice, consent and termination rights to employees whose lives were insured under corporate-owned policies. The new regulations seek to strengthen the protections against potential abuse.

The Regulation requires insurance companies to establish and apply appropriate underwriting guidelines to ensure that the employees or other persons on whose lives key person life insurance policies are written, are actually key persons. It also sets standards for determining who may be considered a key employee. According to Section 48.2 of the Regulation a key person is:

- (a) An employee who is one of the five highest paid officers of the employer;
- (b) An employee who is a five-percent owner of the employer. A "five-percent owner" shall mean:
  - (1) If the employer is a corporation, any person who owns or controls more than five percent of the outstanding stock of the corporation or stock possessing more than five percent of the total combined voting power of all stock of the corporation; or
  - (2) If the employer is not a corporation, any person who owns more than five percent of the capital or profits interest in the employer;
- (c) An employee who had compensation from the employer in excess of \$90,000 in the preceding year;
- (d) An employee who is among the highest paid 35 percent of all employees; or
- (e) An employee or other person who makes a significant economic contribution to the company, including but not limited to, an employee who is responsible for management decisions, has a significant impact on sales or a special rapport with customers and creditors, possesses special skills, or would be difficult to replace. Criteria for the employer's determination shall be included in the insurer's underwriting guidelines.

#### **How this impacts you.**

- When submitting key person business in New York, make sure you include a cover letter explaining the purpose for the insurance, how the amount of coverage was determined and any other information related to the purpose. Include information that would satisfy one of the regulatory standards for establishing an employee's key person status in New York.
- Submit the Business Insurance Questionnaire (Y5330 for New York) for all cases.

Please call our Advanced Markets area with questions at 1-800-693-6083 and ask for Tom Fridrich, Ext. 5693