

1 ENROLLED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 4432**

5
6 (By Delegates Guthrie, Hartman, Perry and Ashley)

7
8 [Passed March 8, 2014; in effect ninety days from passage.]

9
10 AN ACT to amend and reenact §33-7-9 of the Code of West Virginia,
11 1931, as amended; and to amend and reenact §33-13-30 of said
12 code, all relating to adopting Principle Based Reserving as
13 the method by which reserves for life insurance policies,
14 accident and health insurance policies and deposit-type
15 contracts are calculated; removing unnecessary language; and
16 providing a phase-in of the new method upon adoption of
17 Principle Based Reserving by forty-two states representing
18 seventy-five percent of applicable premiums.

19 *Be it enacted by the Legislature of West Virginia:*

20 That §33-7-9 of the Code of West Virginia, 1931, as amended,
21 be amended and reenacted; and that §33-13-30 of said code be
22 amended and reenacted, all to read as follows:

23 **ARTICLE 7. ASSETS AND LIABILITIES.**

24 **§33-7-9. Standard valuation law.**

25 (a) This section shall be known as the standard valuation law.

1 For the purposes of this section, the following definitions apply
2 on or after the operative date of the valuation manual:

3 (1) The term "accident and health insurance" means contracts
4 that incorporate morbidity risk and provide protection against
5 economic loss resulting from accident, sickness, or medical
6 conditions and as may be specified in the valuation manual.

7 (2) The term "appointed actuary" means a qualified actuary who
8 is appointed in accordance with the valuation manual to prepare the
9 actuarial opinion required in subdivision (2), subsection (c) of
10 this section.

11 (3) The term "company" means an entity that has written,
12 issued, or reinsured life insurance contracts, accident and health
13 insurance contracts, or deposit-type contracts in this state and
14 has at least one such policy in force or on claim, or has written,
15 issued, or reinsured life insurance contracts, accident and health
16 insurance contracts, or deposit-type contracts in any state and is
17 required to hold a certificate of authority to write life
18 insurance, accident and health insurance, or deposit-type contracts
19 in this state.

20 (4) The term "deposit-type contract" means contracts that do
21 not incorporate mortality or morbidity risks, and as may be
22 specified in the valuation manual.

23 (5) The term "life insurance" means contracts that incorporate
24 mortality risk, including annuity and pure endowment contracts, and
25 as may be specified in the valuation manual.

1 (6) The term "NAIC" means the National Association of
2 Insurance Commissioners.

3 (7) The term "policyholder behavior" means any action a
4 policyholder, contract holder or any other person with the right to
5 elect options, such as a certificate holder, may take under a
6 policy or contract subject to this section including, but not
7 limited to, lapse, withdrawal, transfer, deposit, premium payment,
8 loan, annuitization, or benefit elections prescribed by the policy
9 or contract but excluding events of mortality or morbidity that
10 result in benefits prescribed in their essential aspects by the
11 terms of the policy or contract.

12 (8) The term "principle-based valuation" means a reserve
13 valuation that uses one or more methods or one or more assumptions
14 determined by the insurer and is required to comply with subsection
15 (o) of this section as specified in the valuation manual.

16 (9) The term "qualified actuary" means an individual who is
17 qualified to sign the applicable statement of actuarial opinion in
18 accordance with the American Academy of Actuaries qualification
19 standards for actuaries signing such statements and who meets the
20 requirements specified in the valuation manual.

21 (10) The term "tail risk" means a risk that occurs either
22 where the frequency of low probability events is higher than
23 expected under a normal probability distribution or where there are
24 observed events of very significant size or magnitude.

25 (11) The term "valuation manual" means the manual of valuation

1 instructions adopted by the commissioner in accordance with
2 subsection (n) of this section.

3 (b) *Reserve valuation. -- (1) Policies and Contracts Issued*
4 *Prior to the Operative Date of the Valuation Manual.*

5 (A) The commissioner shall annually value, or cause to be
6 valued, the reserve liabilities (hereinafter called reserves) for
7 all outstanding life insurance policies and annuity and pure
8 endowment contracts of every life insurance company doing business
9 in this state issued on or after January 1, 1958 and prior to the
10 operative date of the valuation manual. In calculating reserves,
11 the commissioner may use group methods and approximate averages for
12 fractions of a year or otherwise. In lieu of the valuation of the
13 reserves herein required of any foreign or alien company, the
14 commissioner may accept any valuation made, or caused to be made,
15 by the insurance supervisory official of any state or other
16 jurisdiction when the valuation complies with the minimum standard
17 provided in this section.

18 (B) Subsections (d), (e), (f), (g), (h), (i), (j), (k), (l)
19 and (m) of this section apply to all policies and contracts, as
20 appropriate, subject to this section issued on or after January 1,
21 1958 and prior to the operative date of the valuation manual, and
22 subsections (n) and (o) of this section do not apply to any such
23 policies and contracts.

24 (C) The minimum standard for the valuation of policies and
25 contracts issued prior to January 1, 1958 shall be that provided by

1 the laws in effect immediately prior to that date.

2 (2) *Policies and Contracts Issued On or After the Operative*
3 *Date of the Valuation Manual.*

4 (A) The commissioner shall annually value, or cause to be
5 valued, the reserve liabilities (hereinafter called reserves) for
6 all outstanding life insurance contracts, annuity and pure
7 endowment contracts, accident and health contracts, and
8 deposit-type contracts of every company issued on or after the
9 operative date of the valuation manual. In lieu of the valuation of
10 the reserves required of a foreign or alien company, the
11 commissioner may accept a valuation made, or caused to be made, by
12 the insurance supervisory official of any state or other
13 jurisdiction when the valuation complies with the minimum standard
14 provided in this section.

15 (B) Subsection (n) and (o) of this section apply to all
16 policies and contracts issued on or after the operative date of the
17 valuation manual.

18 (c) *Actuarial opinion of reserves. -- (1) Actuarial Opinion*
19 *Prior to the Operative Date of the Valuation Manual.*

20 (A) *General.* -- Every life insurance company doing business in
21 this state shall annually submit the opinion of a qualified actuary
22 as to whether the reserves and related actuarial items held in
23 support of the policies and contracts specified by the commissioner
24 by rule are computed appropriately, are based on assumptions which
25 satisfy contractual provisions, are consistent with prior reported

1 amounts and comply with applicable laws of this state. The
2 commissioner shall define the specifics of this opinion and add any
3 other items deemed to be necessary to its scope.

4 (B) *Actuarial analysis of reserves and assets supporting the*
5 *reserves.* --

6 (i) Every life insurance company, except as exempted by or
7 pursuant to rule, shall also annually include in the opinion
8 required by paragraph (A) of this subdivision an opinion of the
9 same qualified actuary as to whether the reserves and related
10 actuarial items held in support of the policies and contracts
11 specified by the commissioner by rule, when considered in light of
12 the assets held by the company with respect to the reserves and
13 related actuarial items, including, but not limited to, the
14 investment earnings on the assets and the considerations
15 anticipated to be received and retained under the policies and
16 contracts, make adequate provision for the company's obligations
17 under the policies and contracts, including, but not limited to,
18 the benefits under and expenses associated with the policies and
19 contracts.

20 (ii) The commissioner may provide, by rule, for a transition
21 period for establishing any higher reserves that the qualified
22 actuary may deem necessary in order to render the opinion required
23 by this subdivision.

24 (C) *Requirement for opinion under paragraph (B).* -- Each
25 opinion required by paragraph (B) of this subdivision shall be

1 governed by the following provisions:

2 (i) A memorandum in form and substance acceptable to the
3 commissioner as specified by rule shall be prepared to support each
4 actuarial opinion.

5 (ii) If the insurance company fails to provide a supporting
6 memorandum at the request of the commissioner within a period
7 specified by rule or the commissioner determines that the
8 supporting memorandum provided by the insurance company fails to
9 meet the standards prescribed by the rules or is otherwise
10 unacceptable to the commissioner, the commissioner may engage a
11 qualified actuary at the expense of the company to review the
12 opinion and the basis for the opinion and prepare the supporting
13 memorandum required by the commissioner.

14 (D) *Requirement for all opinions subject to this subdivision.*

15 -- Every opinion subject to this subdivision is governed by the
16 following:

17 (i) The opinion shall be submitted with the annual statement
18 reflecting the valuation of such reserve liabilities for each year
19 ending on or after December 31, 1995.

20 (ii) The opinion shall apply to all business in force,
21 including individual and group health insurance plans, in form and
22 substance acceptable to the commissioner as specified by rule.

23 (iii) The opinion shall be based on standards adopted, from
24 time to time, by the actuarial standards board and on such
25 additional standards as the commissioner may by rule prescribe.

1 (iv) In the case of an opinion required to be submitted by a
2 foreign or alien company, the commissioner may accept the opinion
3 filed by that company with the insurance supervisory official of
4 another state if the commissioner determines that the opinion
5 reasonably meets the requirements applicable to a company domiciled
6 in this state.

7 (v) For the purposes of this section, "qualified actuary"
8 means a member in good standing of the American academy of
9 actuaries who meets the requirements set forth in such regulations.

10 (vi) Except in cases of fraud or willful misconduct, the
11 qualified actuary is not liable for damages to any person (other
12 than the insurance company and the commissioner) for any act,
13 error, omission, decision or conduct with respect to the actuary's
14 opinion.

15 (vii) Disciplinary action by the commissioner against the
16 company or the qualified actuary shall be defined in rules by the
17 commissioner.

18 (viii) Except as provided in subparagraphs (xii), (xiii), and
19 (xiv) of this paragraph, documents, materials or other information
20 in the possession or control of the commissioner that are a
21 memorandum in support of the opinion and any other material
22 provided by the company to the commissioner in connection therewith
23 are confidential by law and privileged, exempt from disclosure
24 under article one, chapter twenty-nine-a of this code and are not
25 be subject to subpoena and, additionally, are not subject to

1 discovery or admissible in evidence in any private civil action.
2 However, the commissioner is authorized to use the documents,
3 materials or other information in the furtherance of any regulatory
4 or legal action brought as a part of the commissioner's official
5 duties.

6 (ix) Neither the commissioner nor any person who received
7 documents, materials or other information while acting under the
8 authority of the commissioner is permitted or required to testify
9 in any private civil action concerning any confidential documents,
10 materials or information subject to subparagraph (viii) of this
11 paragraph.

12 (x) In order to assist in the performance of the
13 commissioner's duties, the commissioner:

14 (I) May share documents, materials or other information,
15 including the confidential and privileged documents, materials or
16 information subject to subparagraph viii with other state, federal
17 and international regulatory agencies, with the NAIC and its
18 affiliates and subsidiaries, and with state, federal and
19 international law-enforcement authorities, provided that the
20 recipient agrees to maintain the confidentiality and privileged
21 status of the document, material or other information;

22 (II) May receive documents, materials or information,
23 including otherwise confidential and privileged documents,
24 materials or information, from the NAIC and its affiliates and
25 subsidiaries, and from regulatory and law-enforcement officials of

1 other foreign or domestic jurisdictions, and shall maintain as
2 confidential or privileged any document, material or information
3 received with notice or the understanding that it is confidential
4 or privileged under the laws of the jurisdiction that is the source
5 of the document, material or information; and

6 (III) May enter into agreements governing sharing and use of
7 information consistent with subparagraphs (viii) and (ix) and this
8 subparagraph.

9 (xi) No waiver of any applicable privilege or claim of
10 confidentiality in the documents, materials or information occurs
11 as a result of disclosure to the commissioner under this section or
12 as a result of sharing as authorized in subparagraph (ix).

13 (xii) A memorandum in support of the opinion, and any other
14 material provided by the company to the commissioner in connection
15 with the memorandum, may be subject to subpoena for the purpose of
16 defending an action seeking damages from the actuary submitting the
17 memorandum by reason of an action required by this subsection or by
18 rules.

19 (xiii) The memorandum or other material may otherwise be
20 released by the commissioner with the written consent of the
21 company or to the American Academy of Actuaries upon request
22 stating that the memorandum or other material is required for the
23 purpose of professional disciplinary proceedings and setting forth
24 procedures satisfactory to the commissioner for preserving the
25 confidentiality of the memorandum or other material.

1 (xiv) Once any portion of the confidential memorandum is
2 cited by the company in its marketing or is cited before a
3 governmental agency other than a state insurance department or is
4 released by the company to the news media, all portions of the
5 confidential memorandum shall be no longer confidential.

6 (2) *Actuarial Opinion of Reserves after the Operative Date of*
7 *the Valuation Manual.*

8 (A) *General.* Every company with outstanding life insurance
9 contracts, accident and health insurance contracts or deposit-type
10 contracts in this state and subject to rule of the commissioner
11 shall annually submit the opinion of the appointed actuary as to
12 whether the reserves and related actuarial items held in support of
13 the policies and contracts are computed appropriately, are based on
14 assumptions that satisfy contractual provisions, are consistent
15 with prior reported amounts and comply with applicable laws of this
16 state. The valuation manual will prescribe the specifics of this
17 opinion including any items deemed to be necessary to its scope.

18 (B) *Actuarial Analysis of Reserves and Assets Supporting*
19 *Reserves.* Every company with outstanding life insurance contracts,
20 accident and health insurance contracts or deposit-type contracts
21 in this state and subject to rule of the commissioner, except as
22 exempted in the valuation manual, shall also annually include in
23 the opinion required by paragraph (A) of this subdivision, an
24 opinion of the same appointed actuary as to whether the reserves
25 and related actuarial items held in support of the policies and

1 contracts specified in the valuation manual, when considered in
2 light of the assets held by the company with respect to the
3 reserves and related actuarial items, including, but not limited
4 to, the investment earnings on the assets and the considerations
5 anticipated to be received and retained under the policies and
6 contracts, make adequate provision for the company's obligations
7 under the policies and contracts, including, but not limited to,
8 the benefits under and expenses associated with the policies and
9 contracts.

10 (C) *Requirements for Opinions Subject to paragraph (B),*
11 *subdivision (2), subsection (c).* Each opinion required by
12 subdivision (2), subsection (c) of this section shall be governed
13 by the following:

14 (i) A memorandum, in form and substance as specified in the
15 valuation manual, and acceptable to the commissioner, shall be
16 prepared to support each actuarial opinion.

17 (ii) If the insurance company fails to provide a supporting
18 memorandum at the request of the commissioner within a period
19 specified in the valuation manual or the commissioner determines
20 that the supporting memorandum provided by the insurance company
21 fails to meet the standards prescribed by the valuation manual or
22 is otherwise unacceptable to the commissioner, the commissioner may
23 engage a qualified actuary at the expense of the company to review
24 the opinion and the basis for the opinion and prepare the
25 supporting memorandum required by the commissioner.

1 (D) *Requirement for All Opinions Subject to subdivision (2),*
2 *subsection (c) of this section -* Every opinion is governed by the
3 following:

4 (i) The opinion shall be in form and substance as specified in
5 the valuation manual and acceptable to the commissioner.

6 (ii) The opinion shall be submitted with the annual statement
7 reflecting the valuation of such reserve liabilities for each year
8 ending on or after the operative date of the valuation manual.

9 (iii) The opinion shall apply to all policies and contracts
10 subject to paragraph (B), subdivision (2), subsection (c) of this
11 section, plus other actuarial liabilities as may be specified in
12 the valuation manual.

13 (iv) The opinion shall be based on standards adopted from time
14 to time by the Actuarial Standards Board or its successor, and on
15 such additional standards as may be prescribed in the valuation
16 manual.

17 (v) In the case of an opinion required to be submitted by a
18 foreign or alien company, the commissioner may accept the opinion
19 filed by that company with the insurance supervisory official of
20 another state if the commissioner determines that the opinion
21 reasonably meets the requirements applicable to a company domiciled
22 in this state.

23 (vi) Except in cases of fraud or willful misconduct, the
24 appointed actuary is not liable for damages to any person, other
25 than the insurance company and the commissioner, for any act,

1 error, omission, decision or conduct with respect to the appointed
2 actuary's opinion.

3 (vii) Disciplinary action by the commissioner against the
4 company or the appointed actuary shall be defined in rules.

5 (d) *Computation of minimum standards.* -- Except as otherwise
6 provided in subsections (e), (f) and (m) of this section, the
7 minimum standard for the valuation of all policies and contracts
8 issued prior to January 1, 1958 shall be that provided by the laws
9 in effect immediately prior to that date. Except as otherwise
10 provided in subsections (e), (f) and (m) of this section, the
11 minimum standard for the valuation of all policies and contracts
12 issued on or after January 1, 1958 of this section shall be the
13 commissioners reserve valuation methods defined in subsections (g),
14 (h), (k) and (m) of this section, three and one-half percent
15 interest or in the case of life insurance policies and contracts,
16 other than annuity and pure endowment contracts, issued on or after
17 June 1, 1974, four percent interest for policies issued prior to
18 April 6, 1977, five and one-half percent interest for single
19 premium life insurance policies and four and one-half percent
20 interest for all other policies issued on and after April 6, 1977,
21 and the following tables:

22 (1) For all ordinary policies of life insurance issued on the
23 standard basis, excluding any disability and accidental death
24 benefits in the policies:

25 (A) The commissioner's 1941 standard ordinary mortality table

1 for policies issued prior to the operative date of subsection (e),
2 section thirty, article thirteen of this chapter;

3 (B) The commissioner's 1958 standard ordinary mortality table
4 for policies issued on or after the operative date of subsection
5 (e), section thirty, article thirteen of this chapter and prior to
6 the operative date of subsection (g) of that section: *Provided,*
7 That for any category of policies issued on female risks, all
8 modified net premiums and present values referred to in this
9 section may be calculated according to an age not more than six
10 years younger than the actual age of the insured; and

11 (C) For policies issued on or after the operative date of
12 subsection (g), section thirty, article thirteen of this chapter:

13 (i) The commissioner's 1980 standard ordinary mortality table;
14 or

15 (ii) At the election of the company for any one or more
16 specified plans of life insurance, the commissioner's 1980 standard
17 ordinary mortality table with ten-year select mortality factors; or

18 (iii) Any ordinary mortality table adopted after the year 1980
19 by the national association of Insurance Commissioners that is
20 approved by rule promulgated by the commissioner for use in
21 determining the minimum standard of valuation for the policies.

22 (2) For all industrial life insurance policies issued on the
23 standard basis, excluding any disability and accidental death
24 benefits in the policies: The 1941 standard industrial mortality
25 table for policies issued prior to the operative date of subsection

1 (f), section thirty, article thirteen of this chapter and for
2 policies issued on or after the operative date, the commissioner's
3 1961 standard industrial mortality table or any industrial
4 mortality table adopted after the year 1980 by the national
5 association of Insurance Commissioners that is approved by rule
6 promulgated by the commissioner for use in determining the minimum
7 standard of valuation for the policies.

8 (3) For individual annuity and pure endowment contracts,
9 excluding any disability and accidental death benefits in policies:
10 The 1937 standard annuity mortality table or, at the option of the
11 company, the annuity mortality table for 1949, ultimate, or any
12 modification of either of these tables approved by the
13 commissioner.

14 (4) For group annuity and pure endowment contracts, excluding
15 any disability and accidental death benefits in the policies: The
16 group annuity mortality table for 1951, any modification of the
17 table approved by the commissioner or, at the option of the
18 company, any of the tables or modifications of tables specified for
19 individual annuity and pure endowment contracts.

20 (5) For total and permanent disability benefits in or
21 supplementary to ordinary policies or contracts: For policies or
22 contracts issued on or after January 1, 1966, the tables of period
23 two disablement rates and the 1930 to 1950 termination rates of the
24 1952 disability study of the society of actuaries, with due regard
25 to the type of benefit or any tables of disablement rates and

1 termination rates adopted after the year 1980 by the national
2 association of Insurance Commissioners that are approved by rule
3 promulgated by the commissioner for use in determining the minimum
4 standard of valuation for the policies; for policies or contracts
5 issued on or after January 1, 1961, and prior to January 1, 1966,
6 either those tables or, at the option of the company, the Class (3)
7 disability table (1926); and for policies issued prior to January
8 1, 1961, the Class (3) disability table (1926).

9 Any table shall, for active lives, be combined with a
10 mortality table permitted for calculating the reserves for life
11 insurance policies.

12 (6) For accidental death benefits in or supplementary to
13 policies issued on or after January 1, 1966, the 1959 accidental
14 death benefits table or any accidental death benefits table adopted
15 after the year 1980 by the national association of Insurance
16 Commissioners, that is approved by rules promulgated by the
17 commissioner for use in determining the minimum standard of
18 valuation for such policies, for policies issued on or after
19 January 1, 1961, and prior to January 1, 1966, either such table
20 or, at the option of the company, the intercompany double indemnity
21 mortality table; and for policies issued prior to January 1, 1961,
22 the intercompany double indemnity mortality table. Either table
23 shall be combined with a mortality table for calculating the
24 reserves for life insurance policies.

25 (7) For group life insurance, life insurance issued on the

1 substandard basis and other special benefits: Tables as may be
2 approved by the commissioner.

3 (e) *Computation of minimum standard for annuities.* -- Except
4 as provided in subsection (f) of this section, the minimum standard
5 for the valuation of all individual annuity and pure endowment
6 contracts issued on or after the operative date of this subsection,
7 and for all annuities and pure endowments purchased on or after the
8 operative date under group annuity and pure endowment contracts
9 shall be the commissioner's reserve valuation methods defined in
10 subsections (g) and (h) of this section and the following tables
11 and interest rates:

12 (1) For individual annuity and pure endowment contracts issued
13 prior to April 6, 1977, excluding any disability and accidental
14 death benefits in the contracts: The 1971 individual annuity
15 mortality table or any modification of this table approved by the
16 commissioner and six percent interest for single premium immediate
17 annuity contracts and four percent interest for all other
18 individual annuity and pure endowment contracts;

19 (2) For individual single premium immediate annuity contracts
20 issued on or after April 6, 1977, excluding any disability and
21 accidental death benefits in such contracts: The 1971 individual
22 annuity mortality table or any individual annuity mortality table
23 adopted after the year 1980 by the national association of
24 Insurance Commissioners that is approved by rule promulgated by the
25 commissioner for use in determining the minimum standard of

1 valuation for the contracts or any modification of these tables
2 approved by the commissioner and seven and one-half percent
3 interest;

4 (3) For individual annuity and pure endowment contracts issued
5 on or after April 6, 1977, other than single premium immediate
6 annuity contracts, excluding any disability and accidental death
7 benefits in those contracts: The 1971 individual annuity mortality
8 table or any individual annuity mortality table adopted after the
9 year 1980 by the national association of Insurance Commissioners
10 that is approved by rule promulgated by the commissioner for use in
11 determining the minimum standard of valuation for the contracts or
12 any modification of these tables approved by the commissioner and
13 five and one-half percent interest for single premium deferred
14 annuity and pure endowment contracts and four and one-half percent
15 interest for all other individual annuity and pure endowment
16 contracts;

17 (4) For all annuities and pure endowments purchased prior to
18 April 6, 1977, under group annuity and pure endowment contracts,
19 excluding any disability and accidental death benefits purchased
20 under those contracts: The 1971 group annuity mortality table or
21 any modification of this table approved by the commissioner and six
22 percent interest;

23 (5) For all annuities and pure endowments purchased on or
24 after April 6, 1977, under group annuity and pure endowment
25 contracts, excluding any disability and accidental death benefits

1 purchased under the contracts: The 1971 group annuity mortality
2 table or any group annuity mortality table adopted after the year
3 1980 by the national association of Insurance Commissioners that is
4 approved by rule promulgated by the commissioner for use in
5 determining the minimum standard of valuation for annuities and
6 pure endowments or any modification of these tables approved by the
7 commissioner and seven and one-half percent interest.

8 After June 3, 1974, any company may file with the commissioner
9 a written notice of its election to comply with the provisions of
10 this subsection after a specified date before January 1, 1979,
11 which shall be the operative date of this subsection for the
12 company provided, if a company makes no election, the operative
13 date of this section for the company shall be January 1, 1979.

14 (f) *Computation of minimum standard by calendar year of issue.*

15 --

16 (1) The interest rates used in determining the minimum
17 standard for the valuation of the following shall be the calendar
18 year statutory valuation interest rates as defined in this section:

19 (A) All life insurance policies issued in a particular
20 calendar year, on or after the operative date of subsection (g),
21 section thirty, article thirteen of this chapter, as amended;

22 (B) All individual annuity and pure endowment contracts issued
23 in a particular calendar year on or after January 1, 1982;

24 (C) All annuities and pure endowments purchased in a
25 particular calendar year on or after January 1, 1982, under group

1 annuity and pure endowment contracts; and

2 (D) The net increase, if any, in a particular calendar year
3 after January 1, 1982, in amounts held under guaranteed interest
4 contracts.

5 (2) *Calendar year statutory valuation interest rates.* --

6 (A) The calendar year statutory valuation interest rates, I,
7 shall be determined as follows and the results rounded to the
8 nearer one quarter of one percent:

9 (i) For life insurance, $I = .03 + W(R1 - .03) + W/2(R2 - .09)$;

10 (ii) For single premium immediate annuities and for annuity
11 benefits involving life contingencies arising from other annuities
12 with cash settlement options and from guaranteed interest contracts
13 with cash settlement options, $I = .03 + W(R1) - .03$ where R1 is the
14 lesser of R and .09, R2 is the greater of R and .09, R is the
15 reference interest rate defined in this subsection and W is the
16 weighting factor defined in this section;

17 (iii) For other annuities with cash settlement options and
18 guaranteed interest contracts with cash settlement options, valued
19 on an issue-year basis, except as stated in subparagraph (ii) of
20 this paragraph, the formula for life insurance stated in
21 subparagraph (i) of this paragraph shall apply to annuities and
22 guaranteed interest contracts with guarantee durations in excess of
23 ten years and the formula for single premium immediate annuities
24 stated in subparagraph (ii) of this paragraph shall apply to
25 annuities and guaranteed interest contracts with guarantee duration

1 of ten years or less;

2 (iv) For other annuities with no cash settlement options and
3 for guaranteed interest contracts with no cash settlement options,
4 the formula for single premium immediate annuities stated in
5 subparagraph (ii) of this paragraph shall apply;

6 (v) For other annuities with cash settlement options and
7 guaranteed interest contracts with cash settlement options, valued
8 on a change in fund basis, the formula for single premium immediate
9 annuities stated in subparagraph (ii) of this paragraph shall
10 apply.

11 (B) However, if the calendar year statutory valuation interest
12 rate for any life insurance policies issued in any calendar year
13 determined without reference to this sentence differs from the
14 corresponding actual rate for similar policies issued in the
15 immediately preceding calendar year by less than one half of one
16 percent, the calendar year statutory valuation interest rate for
17 such life insurance policies shall be equal to the corresponding
18 actual rate for the immediately preceding calendar year. For
19 purposes of applying the immediately preceding sentence, the
20 calendar year statutory valuation interest rate for life insurance
21 policies issued in a calendar year shall be determined for the year
22 1980 (using the reference interest rate defined for the year 1979)
23 and shall be determined for each subsequent calendar year
24 regardless of when subsection (g), section thirty, article thirteen
25 of this chapter, as amended, becomes operative.

1 (3) *Weighting factors.* --

2 (A) The weighting factors referred to in the formulas stated
3 above are given in the following tables:

4 (i) Weighting Factors for Life Insurance:

5 Guarantee

6 Duration	Weighting
7 (Years)	Factors

8 10 or less	.50
--------------	-----

9 More than 10, but not more than 20	.45
--------------------------------------	-----

10 More than 20	.35
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11 For life insurance, the guarantee duration is the maximum
12 number of years the life insurance can remain in force on a basis
13 guaranteed in the policy or under options to convert to plans of
14 life insurance with premium rates or nonforfeiture values or both
15 which are guaranteed in the original policy;

16 (ii) Weighting factor for single premium immediate annuities
17 and for annuity benefits involving life contingencies arising from
18 other annuities with cash settlement options and guaranteed
19 interest contracts with cash settlement options: .80;

20 (iii) Weighting factors for other annuities and for guaranteed
21 interest contracts, except as stated in subparagraph (ii) of this
22 paragraph, shall be as specified in clauses (I), (II) and (III) of
23 this subparagraph, according to the rules and definitions in
24 clauses (IV), (V) and (VI) of this subparagraph:

25 (I) For annuities and guaranteed interest contracts valued on

1 an issue year basis:

2 Guarantee	Weighting Factor		
3 Duration	for Plan Type		
4 (Years)	A	B	C
5 5 or less:	.80	.60	.50
6 More than 5, but not more than 10:	.75	.60	.50
7 More than 10, but not more than 20:	.65	.50	.45
8 More than 20:	.45	.35	.35

9 (II) For annuities and guaranteed interest contracts valued on
10 a change in fund basis, the factors shown in clause (I) of this
11 subparagraph increased by:

12	Weighting Factor		
13	for Plan Type		
14	A	B	C1
15	.15	.25	.05

16 (III) For annuities and guaranteed interest contracts valued
17 on an issue-year basis (other than those with no cash settlement
18 options) which do not guarantee interest on considerations received
19 more than one year after issue or purchase and for annuities and
20 guaranteed interest contracts valued on a change in fund basis
21 which do not guarantee interest rates on considerations received
22 more than twelve months beyond the valuation date, the factors
23 shown in clause (I) of this subparagraph or derived in clause (II)
24 of this subparagraph increased by:

25	Weighting Factor		
----	------------------	--	--

1		for Plan Type		
2		A	B	C1
3		.05	.05	.05

4 (IV) For other annuities with cash settlement options and
5 guaranteed interest contracts with cash settlement options, the
6 guarantee duration is the number of years for which the contract
7 guarantees interest rates in excess of the calendar year statutory
8 valuation interest rate for life insurance policies with guarantee
9 duration in excess of twenty years. For other annuities with no
10 cash settlement options and for guaranteed interest contracts with
11 no cash settlement options, the guaranteed duration is the number
12 of years from the date of issue or date of purchase to the date
13 annuity benefits are scheduled to commence.

14 (V) Plan type as used in the above tables is defined as
15 follows:

16 Plan Type A:

17 At any time policyholder may withdraw funds only: (1) With an
18 adjustment to reflect changes in interest rates or asset values
19 since receipt of the funds by the insurance company; or (2) without
20 such adjustment but in installments over five years or more; or (3)
21 as an immediate life annuity; or (4) no withdrawal permitted;

22 Plan Type B:

23 Before expiration of the interest rate guarantee, policyholder
24 may withdraw funds only: (1) With an adjustment to reflect changes
25 in interest rates or asset values since receipt of the funds by the

1 insurance company; or (2) without such adjustment but in
2 installments over five years or more; or (3) no withdrawal
3 permitted. At the end of interest rate guarantee, funds may be
4 withdrawn without such adjustment in a single sum or installments
5 over less than five years;

6 Plan Type C:

7 Policyholder may withdraw funds before expiration of interest
8 rate guarantee in a single sum or installments over less than five
9 years either: (1) Without adjustment to reflect changes in
10 interest rates or asset values since receipt of the funds by the
11 insurance company; or (2) subject only to a fixed surrender charge
12 stipulated in the contract as a percentage of the fund.

13 (VI) A company may elect to value guaranteed interest
14 contracts with cash settlement options and annuities with cash
15 settlement options on either an issue-year basis or on a change in
16 fund basis. Guaranteed interest contracts with no cash settlement
17 options and other annuities with no cash settlement options must be
18 valued on an issue-year basis. As used in this section, an
19 issue-year basis of valuation refers to a valuation basis under
20 which the interest rate used to determine the minimum valuation
21 standard for the entire duration of the annuity or guaranteed
22 interest contract is the calendar year valuation interest rate for
23 the year of issue or year of purchase of the annuity or guaranteed
24 interest contract and the change in fund basis of valuation refers
25 to a valuation basis under which the interest rate used to

1 determine the minimum valuation standard applicable to each change
2 in the fund held under the annuity or guaranteed interest contract
3 is the calendar year valuation interest rate for the year of the
4 change in the fund.

5 (4) *The reference interest rate.* --

6 (A) Reference interest rate referred to in subdivision (2) of
7 this subsection is defined as follows:

8 (i) For all life insurance, the lesser of the average over a
9 period of thirty-six months and the average over a period of twelve
10 months, ending on June 30 of the calendar year next preceding the
11 year of issue, of the monthly average of the composite yield on
12 seasoned corporate bonds as published by Moody's Investors Service,
13 Inc.

14 (ii) For single premium immediate annuities and for annuity
15 benefits involving life contingencies arising from other annuities
16 with cash settlement options and guaranteed interest contracts with
17 cash settlement options, the average over a period of twelve
18 months, ending on June 30 of the calendar year of issue or year of
19 purchase, of the monthly average of the composite yield on seasoned
20 corporate bonds as published by Moody's Investors Service, Inc.

21 (iii) For other annuities with cash settlement options and
22 guaranteed interest contracts with cash settlement options, valued
23 on a year of issue basis, except as stated in subparagraph (ii) of
24 this paragraph, with guarantee duration in excess of ten years, the
25 lesser of the average over a period of thirty-six months and the

1 average over a period of twelve months, ending on June 30 of the
2 calendar year of issue or purchase, of the monthly average of the
3 composite yield on seasoned corporate bonds as published by Moody's
4 Investors Service, Inc.

5 (iv) For other annuities with cash settlement options and
6 guaranteed interest contracts with cash settlement options, valued
7 on a year of issue basis, except as stated in subparagraph (ii) of
8 this paragraph, with guarantee duration of ten years or less, the
9 average over a period of twelve months, ending on June 30 of the
10 calendar year of issue or purchase, of the monthly average of the
11 composite yield on seasoned corporate bonds as published by Moody's
12 Investors Service, Inc.

13 (v) For other annuities with no cash settlement options and
14 for guaranteed interest contracts with no cash settlement options,
15 the average over a period of twelve months, ending on June 30 of
16 the calendar year of issue or purchase, of the monthly average of
17 the composite yield on seasoned corporate bonds as published by
18 Moody's Investors Service, Inc.

19 (vi) For other annuities with cash settlement options and
20 guaranteed interest contracts with cash settlement options, valued
21 on a change in fund basis, except as stated in subparagraph (ii) of
22 this paragraph, the average over a period of twelve months, ending
23 on June 30 of the calendar year of the change in the fund, of the
24 monthly average of the composite yield on seasoned corporate bonds
25 as published by Moody's Investors Service, Inc.

1 (5) *Alternative method for determining reference interest*
2 *rates. --*

3 In the event that the monthly average of the composite yield
4 on seasoned corporate bonds is no longer published by Moody's
5 Investors Service, Inc., or in the event that the national
6 association of Insurance Commissioners determines that the monthly
7 average of the composite yield on seasoned corporate bonds as
8 published by Moody's Investors Service, Inc., is no longer
9 appropriate for the determination of the reference interest rate,
10 then an alternative method for determination of the reference
11 interest rate, which is adopted by the national association of
12 Insurance Commissioners and approved by rule promulgated by the
13 commissioner, may be substituted.

14 (g) *Reserve valuation method. --* Life insurance and endowment
15 benefits.

16 Except as otherwise provided in subsections (h), (k) and (m)
17 of this section, reserves according to the commissioners reserve
18 valuation method for the life insurance and endowment benefits of
19 policies providing for a uniform amount of insurance and requiring
20 the payment of uniform premiums shall be the excess, if any, of the
21 present value, at the date of valuation, of the future guaranteed
22 benefits provided by the policies, over the then present value of
23 any future modified net premiums therefor. The modified net
24 premiums for any such policy shall be the uniform percentage of the
25 respective contract premiums for the benefits that the present

1 value, at the date of issue of the policy, of all the modified net
2 premiums shall be equal to the sum of the then present value of the
3 benefits provided by the policy and the excess of subdivision (1)
4 of this subsection over subdivision (2) of this subsection, as
5 follows:

6 (1) A net level annual premium equal to the present value, at
7 the date of issue, of such benefits provided for after the first
8 policy year, divided by the present value, at the date of issue, of
9 an annuity of one per annum payable on the first and each
10 subsequent anniversary of such policy on which a premium falls due:
11 *Provided*, That such net level annual premium shall not exceed the
12 net level annual premium on the nineteen-year premium whole life
13 plan for insurance of the same amount at an age one year higher
14 than the age at issue of such policy.

15 (2) A net one-year term premium for such benefits provided for
16 in the first policy year: *Provided*, That for any life insurance
17 policy issued on or after January 1, 1985, for which the contract
18 premium in the first policy year exceeds that of the second year
19 and for which no comparable additional benefit is provided in the
20 first year for such excess and which provides an endowment benefit
21 or a cash surrender value or a combination thereof in an amount
22 greater than such excess premium, the reserve according to the
23 commissioners' reserve valuation method as of any policy
24 anniversary occurring on or before the assumed ending date defined
25 herein as the first policy anniversary on which the sum of any

1 endowment benefit and any cash surrender value then available is
2 greater than such excess premium shall, except as otherwise
3 provided in subsection (k) of this section, be the greater of the
4 reserve as of such policy anniversary calculated as described in
5 the preceding paragraph and the reserve as of the policy
6 anniversary calculated as described in that paragraph, but with:
7 (i) The value defined in subdivision (1) of that paragraph being
8 reduced by fifteen percent of the amount of such excess first-year
9 premium; (ii) all present values of benefits and premiums being
10 determined without reference to premiums or benefits provided by
11 the policy after the assumed ending date; (iii) the policy being
12 assumed to mature on the date as an endowment; and (iv) the cash
13 surrender value provided on such date being considered as an
14 endowment benefit. In making the above comparison, the mortality
15 and interest bases stated in subsections (d) and (f) of this
16 section shall be used.

17 Reserves according to the commissioners' reserve valuation
18 method shall be calculated by a method consistent with the
19 principles of the preceding paragraphs of this section for: (i)
20 Life insurance policies providing for a varying amount of insurance
21 or requiring the payment of varying premiums; (ii) group annuity
22 and pure endowment contracts purchased under a retirement plan or
23 plan of deferred compensation, established or maintained by an
24 employer (including a partnership or sole proprietorship) or by an
25 employee organization, or by both, other than a plan providing

1 individual retirement accounts or individual retirement annuities
2 under section 408 of the Internal Revenue Code (26 U.S.C. §408) as
3 now or hereafter amended; (iii) disability and accidental death
4 benefits in all policies and contracts; and (iv) all other
5 benefits, except life insurance and endowment benefits in life
6 insurance policies and benefits provided by all other annuity and
7 pure endowment contracts, shall be calculated by a method
8 consistent with the principles of the preceding paragraphs of this
9 section.

10 (h) *Reserve valuation method.* -- Annuity and pure endowment
11 benefits.

12 (1) This subsection shall apply to all annuity and pure
13 endowment contracts other than group annuity and pure endowment
14 contracts purchased under a retirement plan or plan of deferred
15 compensation established or maintained by an employer (including a
16 partnership or sole proprietorship) or by an employee organization,
17 or by both, other than a plan providing individual retirement
18 accounts or individual retirement annuities under section 408 of
19 the Internal Revenue Code (26 U.S.C. §408) as now or hereafter
20 amended.

21 (2) Reserves according to the commissioners' annuity reserve
22 method for benefits under annuity or pure endowment contracts,
23 excluding any disability and accidental death benefits in such
24 contracts, shall be the greatest of the respective excesses of the
25 present values, at the date of valuation, of the future guaranteed

1 benefits, including guaranteed nonforfeiture benefits, provided by
2 such contracts at the end of each respective contract year over the
3 present value, at the date of valuation, of any future valuation
4 considerations derived from future gross considerations, required
5 by the terms of such contract, that become payable prior to the end
6 of the respective contract year.

7 The future guaranteed benefits shall be determined by using
8 the mortality table, if any, and the interest rate, or rates,
9 specified in the contracts for determining guaranteed benefits.
10 The valuation considerations are the portions of the respective
11 gross considerations applied under the terms of such contracts to
12 determine nonforfeiture values.

13 (i) *Minimum reserves.* --

14 (1) In no event shall a company's aggregate reserves for all
15 life insurance policies, excluding disability and accidental death
16 benefits, issued on or after January 1, 1958 be less than the
17 aggregate reserves calculated in accordance with the methods set
18 forth in subsections (g), (h), (k) and (l) of this section and the
19 mortality table or tables and rate or rates of interest used in
20 calculating nonforfeiture benefits for the policies.

21 (2) In no event shall the aggregate reserves for all policies,
22 contracts and benefits be less than the aggregate reserves
23 determined by the qualified actuary to be necessary to render the
24 opinion required by subsection (c) of this section.

25 (j) *Optional reserve calculation.* --

1 (1) Reserves for all policies and contracts issued prior to
2 the effective date of this section may be calculated, at the option
3 of the company, according to any standards which produce greater
4 aggregate reserves for all policies and contracts than the minimum
5 reserves required by the laws in effect immediately prior to such
6 date.

7 (2) Reserves for any category of policies, contracts or
8 benefits as established by the commissioner issued on or after
9 January 1, 1958 may be calculated, at the option of the company,
10 according to any standards which produce greater aggregate reserves
11 for such category than those calculated according to the minimum
12 standard herein provided, but the rate or rates of interest used
13 for policies and contracts, other than annuity and pure endowment
14 contracts, shall not be higher than the corresponding rate or rates
15 of interest used in calculating any nonforfeiture benefits provided
16 therein.

17 (3) Any such company which at any time shall have adopted any
18 standard of valuation producing greater aggregate reserves than
19 those calculated according to the minimum standard herein provided
20 may, with the approval of the commissioner, adopt any lower
21 standard of valuation, but not lower than the minimum herein
22 provided: *Provided*, That for the purposes of this section, the
23 holding of additional reserves previously determined by the
24 appointed actuary to be necessary to render the opinion required by
25 subsection (c) of this section shall not be considered to be the

1 adoption of a higher standard of valuation.

2 (k) *Reserve calculation.* -- Valuation net premium exceeding
3 the gross premium charged.

4 (1) If in any contract year the gross premium charged by any
5 life insurance company on any policy or contract is less than the
6 valuation net premium for the policy or contract calculated by the
7 method used in calculating the reserve thereon but using the
8 minimum valuation standards of mortality and rate of interest, the
9 minimum reserve required for such policy or contract shall be the
10 greater of either the reserve calculated according to the mortality
11 table, rate of interest and method actually used for such policy or
12 contract or the reserve calculated by the method actually used for
13 such policy or contract but using the minimum valuation standards
14 of mortality and rate of interest and replacing the valuation net
15 premium by the actual gross premium in each contract year for which
16 the valuation net premium exceeds the actual gross premium. The
17 minimum valuation standards of mortality and rate of interest
18 referred to in this section are those standards stated in
19 subsections (d) and (f) of this section: *Provided,* That for any
20 life insurance policy issued on or after January 1, 1985, for which
21 the gross premium in the first policy year exceeds that of the
22 second year and for which no comparable additional benefit is
23 provided in the first year for such excess and which provides an
24 endowment benefit or a cash surrender value or a combination
25 thereof in an amount greater than such excess premium, the

1 foregoing provisions of this subsection shall be applied as if the
2 method actually used in calculating the reserve for such policy
3 were the method described in subsection (g) of this section,
4 ignoring the second paragraph of said subsection.

5 (2) The minimum reserve at each policy anniversary of such a
6 policy shall be the greater of the minimum reserve calculated in
7 accordance with subsection (g) of this section, including the
8 second paragraph of said section, and the minimum reserve
9 calculated in accordance with this subsection.

10 (1) *Reserve calculation.* -- Indeterminate premium plans.

11 In the case of any plan of life insurance which provides for
12 future premium determination, the amounts of which are to be
13 determined by the insurance company based on then estimates of
14 future experience, or in the case of any plan of life insurance or
15 annuity which is of such a nature that the minimum reserves cannot
16 be determined by the methods described in subsections (g), (h) and
17 (k) of this section, the reserves which are held under any such
18 plan must:

19 (1) Be appropriate in relation to the benefits and the pattern
20 of premiums for that plan; and

21 (2) Be computed by a method which is consistent with the
22 principles of this standard valuation law as determined by rules
23 promulgated by the commissioner.

24 (m) The commissioner may, by rule, establish alternative
25 methods of calculating reserve liabilities, which methods shall be

1 used to calculate reserve liabilities for the types of policies,
2 annuities or other contracts identified in the rule: *Provided,*
3 That the method specified in the rule shall be one which, in the
4 opinion of the commissioner and in light of the methods applied to
5 the contracts by the insurance regulators of other states, is
6 appropriate to the contracts. This power shall be in addition to,
7 and in no way diminish, rule-making power granted to the
8 commissioner elsewhere in this code.

9 (n) *Valuation Manual for Policies Issued On or After the*
10 *Operative Date of the Valuation Manual.* --

11 (1) The commissioner shall promulgate emergency rules adopting
12 a valuation manual that is substantially similar to the valuation
13 manual approved by the National Association of Insurance
14 Commissioners and any amendments to such manual as may be
15 subsequently approved by the National Association of Insurance
16 Commissioners, and such rules shall be effective in accordance with
17 subdivisions (2) and (3) of this subsection.

18 (2) The operative date of the valuation manual is January 1
19 of the first calendar year following the first July 1 as of which
20 all of the following have occurred:

21 (A) The valuation manual has been adopted by the National
22 Association of Insurance Commissioners by an affirmative vote of at
23 least forty-two members, or three fourths of the members voting,
24 whichever is greater;

25 (B) The Standard Valuation Law, as amended by the National

1 Association of Insurance Commissioners in 2009, or legislation
2 including substantially similar terms and provisions, has been
3 enacted by states representing greater than seventy-five percent of
4 the direct premiums written as reported in the following annual
5 statements submitted for 2008: Life, accident and health annual
6 statements; health annual statements; and fraternal annual
7 statements; and

8 (C) The Standard Valuation Law, as amended by the National
9 Association of Insurance Commissioners in 2009, or legislation
10 including substantially similar terms and provisions, has been
11 enacted by at least forty-two of the following fifty-five
12 jurisdictions: The fifty states of the United States, American
13 Samoa, the American Virgin Islands, the District of Columbia, Guam,
14 and Puerto Rico.

15 (3) Unless a change in the valuation manual specifies a later
16 effective date, changes to the valuation manual shall be effective
17 on January 1 following the date when such changes have been adopted
18 by the National Association of Insurance Commissioners by an
19 affirmative vote representing:

20 (A) At least three fourths of the members of the National
21 Association of Insurance Commissioners voting, but not less than a
22 majority of the total membership; and

23 (B) Members of the National Association of Insurance
24 Commissioners representing jurisdictions totaling greater than
25 seventy-five percent of the direct premiums written, as reported in

1 the following annual statements most recently available prior to
2 the vote in paragraph (A), of this subdivision: Life, accident and
3 health annual statements, health annual statements, or fraternal
4 annual statements.

5 (4) The valuation manual must specify all of the following:

6 (A) Minimum valuation standards for and definitions of the
7 policies or contracts subject to subdivision (2), subsection (b) of
8 this section. Such minimum valuation standards shall be:

9 (i) The commissioner's reserve valuation method for life
10 insurance contracts, other than annuity contracts, subject to
11 subdivision (2), subsection (b) of this section;

12 (ii) The commissioner's annuity reserve valuation method for
13 annuity contracts subject to subdivision (2), subsection (b) of
14 this section; and

15 (iii) Minimum reserves for all other policies or contracts
16 subject to subdivision (2), subsection (b) of this section.

17 (B) Which policies or contracts or types of policies or
18 contracts that are subject to the requirements of a principle-based
19 valuation in subdivision (1), subsection (o) of this section and
20 the minimum valuation standards consistent with those requirements.

21 (C) For policies and contracts subject to a principle-based
22 valuation under subsection (o) of this section:

23 (i) Requirements for the format of reports to the commissioner
24 under paragraph (C), subdivision (2), subsection (o) of this
25 section and which shall include information necessary to determine

1 if the valuation is appropriate and in compliance with this
2 section;

3 (ii) Assumptions shall be prescribed for risks over which the
4 company does not have significant control or influence; and

5 (iii) Procedures for corporate governance and oversight of the
6 actuarial function and a process for appropriate waiver or
7 modification of such procedures.

8 (D) For policies not subject to a principle-based valuation
9 under subsection (o), the minimum valuation standard shall either:

10 (i) Be consistent with the minimum standard of valuation prior
11 to the operative date of the valuation manual; or

12 (ii) Develop reserves that quantify the benefits and
13 guarantees, and the funding, associated with the contracts and
14 their risks at a level of conservatism that reflects conditions
15 that include unfavorable events that have a reasonable probability
16 of occurring.

17 (E) Other requirements, including, but not limited to, those
18 relating to reserve methods, models for measuring risk, generation
19 of economic scenarios, assumptions, margins, use of company
20 experience, risk measurement, disclosure, certifications, reports,
21 actuarial opinions and memorandums, transition rules and internal
22 controls; and

23 (F) The data and form of the data required under subsection
24 (p) of this section, with whom the data must be submitted, and may
25 specify other requirements including data analyses and reporting of

1 analyses.

2 (5) For policies issued on or after the operative date of the
3 valuation manual, the standard prescribed in the valuation manual
4 is the minimum standard of valuation required under subdivision
5 (2), subsection (b) of this section, except as provided under
6 subdivision (6) or (8) of this subsection.

7 (6) In the absence of a specific valuation requirement or if
8 a specific valuation requirement in the valuation manual is not, in
9 the opinion of the commissioner, in compliance with this section,
10 then the company shall, with respect to such requirements, comply
11 with minimum valuation standards prescribed by rule.

12 (7) The commissioner may engage a qualified actuary, at the
13 expense of the company, to perform an actuarial examination of the
14 company and opine on the appropriateness of any reserve assumption
15 or method used by the company, or to review and opine on a
16 company's compliance with any requirement set forth in this
17 section. The commissioner may rely upon the opinion, regarding
18 provisions contained within this section, of a qualified actuary
19 engaged by the commissioner of another state, district or territory
20 of the United States. As used in this subdivision, term "engage"
21 includes employment and contracting.

22 (8) The commissioner may require a company to change any
23 assumption or method that in the opinion of the commissioner is
24 necessary in order to comply with the requirements of the valuation
25 manual or this section, and the company shall adjust the reserves

1 as required by the commissioner.

2 (o) *Requirements of a Principle-Based Valuation.* --

3 (1) A company must establish reserves using a principle-based
4 valuation that meets the following conditions for policies or
5 contracts as specified in the valuation manual:

6 (A) Quantify the benefits and guarantees, and the funding,
7 associated with the contracts and their risks at a level of
8 conservatism that reflects conditions that include unfavorable
9 events that have a reasonable probability of occurring during the
10 lifetime of the contracts. For policies or contracts with
11 significant tail risk, reflects conditions appropriately adverse to
12 quantify the tail risk.

13 (B) Incorporate assumptions, risk analysis methods and
14 financial models and management techniques that are consistent
15 with, but not necessarily identical to, those utilized within the
16 company's overall risk assessment process, while recognizing
17 potential differences in financial reporting structures and any
18 prescribed assumptions or methods.

19 (C) Incorporate assumptions that are derived in one of the
20 following manners:

21 (i) The assumption is prescribed in the valuation manual; or

22 (ii) For assumptions that are not prescribed, the assumptions
23 shall either:

24 (I) Be established utilizing the company's available
25 experience, to the extent it is relevant and statistically

1 credible; or

2 (II) To the extent that company data is not available,
3 relevant or statistically credible, be established utilizing other
4 relevant, statistically credible experience.

5 (D) Provide margins for uncertainty including adverse
6 deviation and estimation error, such that the greater the
7 uncertainty, the larger the margin and resulting reserve.

8 (2) A company using a principle-based valuation for one or
9 more policies or contracts subject to this section as specified in
10 the valuation manual shall:

11 (A) Establish procedures for corporate governance and
12 oversight of the actuarial valuation function consistent with those
13 described in the valuation manual.

14 (B) Provide to the commissioner and the board of directors an
15 annual certification of the effectiveness of the internal controls
16 with respect to the principle-based valuation. Such controls shall
17 be designed to assure that all material risks inherent in the
18 liabilities and associated assets subject to such valuation are
19 included in the valuation, and that valuations are made in
20 accordance with the valuation manual. The certification shall be
21 based on the controls in place as of the end of the preceding
22 calendar year.

23 (C) Develop, and file with the commissioner upon request, a
24 principle-based valuation report that complies with standards
25 prescribed in the valuation manual.

1 (3) A principle-based valuation may include a prescribed
2 formulaic reserve component.

3 (p) *Experience Reporting for Policies In Force On or After the*
4 *Operative Date of the Valuation Manual.* -- A company shall submit
5 mortality, morbidity, policyholder behavior, or expense experience
6 and other data as prescribed in the valuation manual.

7 (q) *Confidentiality.* --

8 (1) For purposes of this subsection, "confidential
9 information" means:

10 (A) A memorandum in support of an opinion submitted under
11 subsection (c) of this section and any other documents, materials
12 and other information, including, but not limited to, all working
13 papers, and copies thereof, created, produced or obtained by or
14 disclosed to the commissioner or any other person in connection
15 with such memorandum;

16 (B) All documents, materials and other information, including,
17 but not limited to, all working papers, and copies thereof,
18 created, produced or obtained by or disclosed to the commissioner
19 or any other person in the course of an examination made under
20 subdivision (7), subsection (n) of this section, but only to the
21 same extent as such documents, materials and other information
22 would be held confidential were they created, produced or obtained
23 in connection with an examination made under the general
24 examination law set forth in section nine, article two of this
25 chapter;

1 (C) Any reports, documents, materials and other information
2 developed by a company in support of, or in connection with, an
3 annual certification by the company under paragraph (B),
4 subdivision (2), subsection (o) of this section evaluating the
5 effectiveness of the company's internal controls with respect to a
6 principle-based valuation and any other documents, materials and
7 other information, including, but not limited to, all working
8 papers, and copies thereof, created, produced or obtained by or
9 disclosed to the commissioner or any other person in connection
10 with such reports, documents, materials and other information;

11 (D) Any principle-based valuation report developed under
12 paragraph (C), subdivision (2), subsection (o) of this section and
13 any other documents, materials and other information, including,
14 but not limited to, all working papers, and copies thereof,
15 created, produced or obtained by or disclosed to the commissioner
16 or any other person in connection with such report; and

17 (E) Any documents, materials, data and other information
18 submitted by a company under subsection (p) of this section
19 (collectively, "experience data") and any other documents,
20 materials, data and other information, including, but not limited
21 to, all working papers, and copies thereof, created or produced in
22 connection with such experience data, in each case that include any
23 potentially company-identifying or personally identifiable
24 information, that is provided to or obtained by the commissioner
25 (together with any "experience data", the "experience materials")

1 and any other documents, materials, data and other information,
2 including, but not limited to, all working papers, and copies
3 thereof, created, produced or obtained by or disclosed to the
4 commissioner or any other person in connection with such experience
5 materials.

6 (2) *Privilege for, and Confidentiality of, Confidential*
7 *Information.*

8 (A) Except as otherwise provided in this subsection, a
9 company's confidential information is confidential by law and
10 privileged, is exempt from disclosure under article one, chapter
11 twenty-nine-a of this code, is not subject to subpoena, and is not
12 subject to discovery or admissible in evidence in any private civil
13 action: *Provided,* That the commissioner is authorized to use the
14 confidential information in the furtherance of any regulatory or
15 legal action brought against the company as a part of the
16 commissioner's official duties.

17 (B) Neither the commissioner nor any person who received
18 confidential information while acting under the authority of the
19 commissioner is permitted or required to testify in any private
20 civil action concerning any confidential information.

21 (C) In order to assist in the performance of the
22 commissioner's duties, the commissioner may share confidential
23 information:

24 (i) With other state, federal and international regulatory
25 agencies and with the National Association of Insurance

1 Commissioners and its affiliates and subsidiaries;

2 (ii) In the case of confidential information specified in
3 paragraphs (A) and (D), subdivision (1) of this subsection only,
4 with the Actuarial Board for Counseling and Discipline or its
5 successor upon request stating that the confidential information is
6 required for the purpose of professional disciplinary proceedings
7 and with state, federal and international law-enforcement
8 officials; and

9 (iii) In the case of subparagraphs (i) and (ii) of this
10 paragraph, provided that such recipient agrees and has the legal
11 authority to agree, to maintain the confidentiality and privileged
12 status of such documents, materials, data and other information in
13 the same manner and to the same extent as required for the
14 commissioner.

15 (D) The commissioner may receive documents, materials, data
16 and other information, including otherwise confidential and
17 privileged documents, materials, data or information, from the
18 National Association of Insurance Commissioners and its affiliates
19 and subsidiaries, from regulatory or law-enforcement officials of
20 other foreign or domestic jurisdictions, and from the Actuarial
21 Board for Counseling and Discipline or its successor, and he or she
22 shall maintain as confidential or privileged any document,
23 material, data or other information received with notice or the
24 understanding that it is confidential or privileged under the laws
25 of the jurisdiction that is the source of the document, material or

1 other information.

2 (E) The commissioner may enter into agreements governing
3 sharing and use of information consistent with this subdivision.

4 (F) No waiver of any applicable privilege or claim of
5 confidentiality in the confidential information occurs as a result
6 of disclosure to the commissioner under this section or as a result
7 of sharing as authorized in paragraph (C) of this subdivision.

8 (G) A privilege established under the law of any state or
9 jurisdiction that is substantially similar to the privilege
10 established under this subdivision is available and may be enforced
11 in any proceeding in, and in any court of, this state. (H) In this
12 subsection "regulatory agency," "law-enforcement agency" and the
13 "NAIC" include, but are not limited to, their employees, agents,
14 consultants and contractors.

15 (3) Notwithstanding subdivision (2) of this subsection, any
16 confidential information specified in paragraphs (A) and (D),
17 subdivision (1) of this subsection:

18 (A) May be subject to subpoena for the purpose of defending
19 an action seeking damages from the appointed actuary submitting the
20 related memorandum in support of an opinion submitted under
21 subsection (c) of this section or principle-based valuation report
22 developed under paragraph (C), subdivision (2), subsection (o) of
23 this section by reason of an action required by this section or by
24 rules promulgated hereunder;

25 (B) May otherwise be released by the commissioner with the

1 written consent of the company; and

2 (C) Once any portion of a memorandum in support of an opinion
3 submitted under subsection (c) of this section or a principle-based
4 valuation report developed under paragraph (C), subdivision (2),
5 subsection (o) of this section is cited by the company in its
6 marketing or is publicly volunteered to or before a governmental
7 agency other than a state insurance department or is released by
8 the company to the news media, all portions of such memorandum or
9 report are no longer be confidential.

10 **ARTICLE 13. LIFE INSURANCE.**

11 **§33-13-30. Standard nonforfeiture law for life insurance.**

12 (a) In the case of policies issued on or after the original
13 operative date of this subsection as set forth in subsection (l) of
14 this section, no policy of life insurance, except as stated in
15 subsection (k) of this section, shall be delivered or issued for
16 delivery in this state unless it shall contain in substance the
17 following provisions, or corresponding provisions which in the
18 opinion of the commissioner are at least as favorable to the
19 defaulting or surrendering policyholder as are the minimum
20 requirements hereinafter specified and are essentially in
21 compliance with subsection subsection (j) of this section:

22 (1) That, in the event of default in any premium payment, the
23 insurer will grant, upon proper request not later than sixty days
24 after the due date of the premium in default, a paid-up
25 nonforfeiture benefit on a plan stipulated in the policy, effective

1 as of such due date, of such amount as may be hereinafter
2 specified. In lieu of such stipulated paid-up nonforfeiture
3 benefit, the insurer may substitute, upon proper request not later
4 than sixty days after the due date of the premium in default, an
5 actuarially equivalent alternative paid-up nonforfeiture benefit
6 which provides a greater amount or longer period of death benefits
7 or, if applicable, a greater amount or earlier payment of endowment
8 benefits;

9 (2) That, upon surrender of the policy within sixty days after
10 the due date of any premium payment in default after premiums have
11 been paid for at least three full years in the case of ordinary
12 insurance or five full years in the case of industrial insurance,
13 the insurer will pay, in lieu of any paid-up nonforfeiture benefit,
14 a cash surrender value of such amount as may be hereinafter
15 specified;

16 (3) That a specified paid-up nonforfeiture benefit shall
17 become effective as specified in the policy unless the person
18 entitled to make such election elects another available option not
19 later than sixty days after the due date of the premium in default;

20 (4) That, if the policy shall have become paid up by
21 completion of all premium payments or if it is continued under any
22 paid-up nonforfeiture benefit which became effective on or after
23 the third policy anniversary in the case of ordinary insurance or
24 the fifth policy anniversary in the case of industrial insurance
25 the insurer will pay, upon surrender of the policy within thirty

1 days after any policy anniversary, a cash surrender value of such
2 amount as may be hereinafter specified;

3 (5) In the case of policies which cause on a basis guaranteed
4 in the policy unscheduled changes in benefits or premiums, or which
5 provide an option for changes in benefits or premiums other than a
6 change to a new policy, a statement of the mortality table,
7 interest rate and method used in calculating cash surrender values
8 and the paid-up nonforfeiture benefits available under the policy.
9 In the case of all other policies, a statement of the mortality
10 table and interest rate used in calculating the cash surrender
11 values and the paid-up nonforfeiture benefits available under the
12 policy, together with a table showing the cash surrender value, if
13 any, and paid-up nonforfeiture benefits, if any, available under
14 the policy on each policy anniversary either during the first
15 twenty policy years or during the term of the policy, whichever is
16 shorter, such values and benefits to be calculated upon the
17 assumption that there are no dividends or paid-up additions
18 credited to the policy and that there is no indebtedness to the
19 insurer on the policy; and

20 (6) A statement that the cash surrender values and the paid-up
21 nonforfeiture benefits available under the policy are not less than
22 the minimum values and benefits required by or pursuant to the
23 insurance law of the state in which the policy is delivered; an
24 explanation of the manner in which the cash surrender values and
25 the paid-up nonforfeiture benefits are altered by the existence of

1 any paid-up additions credited to the policy or any indebtedness to
2 the company on the policy; if a detailed statement of the method of
3 computation of the values and benefits shown in the policy is not
4 stated therein a statement that such method of computation has been
5 filed with the insurance supervisory official of the state in which
6 the policy is delivered; and a statement of the method to be used
7 in calculating the cash surrender value and paid-up nonforfeiture
8 benefits available under the policy on any policy anniversary
9 beyond the last anniversary for which such values and benefits are
10 consecutively shown in the policy.

11 Any of the foregoing provisions or portions thereof, not
12 applicable by reason of the plan of insurance may, to the extent
13 inapplicable, be omitted from the policy.

14 The insurer shall reserve the right to defer the payment of
15 any cash surrender value for a period of six months after demand
16 therefor with surrender of the policy.

17 (b) *Computation of Cash Surrender Value.* --

18 (1) Any cash surrender value available under the policy in the
19 event of default in a premium payment due on any policy
20 anniversary, whether or not required by subsection (a) of this
21 section, shall be an amount not less than the excess, if any, of
22 the present value, on such anniversary, of the future guaranteed
23 benefits which would have been provided by the policy, including
24 any existing paid-up additions, if there had been no default, over
25 the sum of:

1 (A) The then present value of the adjusted premiums as defined
2 in subsections (d), (e), (f) and (g) of this section, corresponding
3 to premiums which would have fallen due on and after such
4 anniversary; and

5 (B) The amount of any indebtedness to the insurer on the
6 policy: *Provided*, That for any policy issued on or after the
7 operative date of subsection (g) of this section as defined
8 therein, which provides supplemental life insurance or annuity
9 benefits at the option of the insured and for an identifiable
10 additional premium by rider or supplemental policy provision, the
11 cash surrender value referred to in subdivision (1) of this
12 subsection shall be an amount not less than the sum of the cash
13 surrender value for an otherwise similar policy issued at the same
14 age without such rider or supplemental policy provision and the
15 cash surrender value as defined in subdivision (1) of this
16 subsection for a policy which provides only the benefits otherwise
17 provided by such rider or supplemental policy provision: *Provided*,
18 *however*, That for any family policy issued on or after the
19 operative date of subsection (g) of this section, which defines a
20 primary insured and provides term insurance on the life of the
21 spouse of the primary insured expiring before the spouse's age
22 seventy-one, the cash surrender value referred to in the first
23 paragraph of this subsection shall be an amount not less than the
24 sum of the cash surrender value as defined in such paragraph for an
25 otherwise similar policy issued at the same age without such term

1 insurance on the life of the spouse and the cash surrender value as
2 defined in such paragraph for a policy which provides only the
3 benefits otherwise provided by such term insurance on the life of
4 the spouse.

5 (2) Any cash surrender value available within thirty days
6 after any policy anniversary under any policy paid up by completion
7 of all premium payments or any policy continued under any paid-up
8 nonforfeiture benefit, whether or not required by subsection one,
9 shall be an amount not less than the present value, on such
10 anniversary, of the future guaranteed benefits provided by the
11 policy, including any existing paid-up additions decreased by any
12 indebtedness to the insurer on the policy.

13 (c) Any paid-up nonforfeiture benefit available under the
14 policy in the event of default in a premium payment due on any
15 policy anniversary shall be such that its present value as of such
16 anniversary shall be at least equal to the cash surrender value
17 then provided for by the policy or, if none is provided for, that
18 cash surrender value which would have been required by this section
19 in the absence of the condition that premiums shall have been paid
20 for at least a specific period.

21 (d) *Calculation of Adjusted Premiums.* --

22 (1) This subsection does not apply to policies issued on or
23 after the operative date of subsection (g) of this section. Except
24 as provided in subdivision (4) of this subsection, the adjusted
25 premiums for any policy shall be calculated on an annual basis and

1 shall be such uniform percentage of the respective premiums
2 specified in the policy for each policy year, excluding amounts
3 stated in the policy as extra premiums to cover impairments or
4 special hazards, that the present value, at the date of issue of
5 the policy, of all such adjusted premiums shall be equal to the sum
6 of:

7 (A) The then present value of the future guaranteed benefits
8 provided by the policy;

9 (B) Two percent of the amount of insurance, if the insurance
10 be uniform in amount, or of the equivalent uniform amount, as
11 hereinafter defined, if the amount of insurance varies with
12 duration of the policy;

13 (C) Forty percent of the adjusted premium for the first policy
14 year;

15 (D) Twenty-five percent of either the adjusted premium for the
16 first policy year or the adjusted premium for a whole life policy
17 of the same uniform or equivalent uniform amount with uniform
18 premiums for the whole of life issued at the same age for the same
19 amount of insurance, whichever is less.

20 (2) In applying the percentages specified in, no adjusted
21 premium shall be deemed to exceed four percent of the amount of
22 insurance or uniform amount equivalent thereto. The date of issue
23 of a policy for the purpose of this subsection shall be the date as
24 of which the rated age of the insured is determined.

25 (3) In the case of a policy providing an amount of insurance

1 varying with duration of the policy, the equivalent uniform amount
2 for the purpose of this subsection shall be deemed to be the
3 uniform amount of insurance provided by an otherwise similar
4 policy, containing the same endowment benefit or benefits, if any,
5 issued at the same age and for the same term, the amount of which
6 does not vary with duration and the benefits under which have the
7 same present value at the date of issue as the benefits under the
8 policy.

9 (4) The adjusted premiums for any policy providing term
10 insurance benefits by rider or supplemental policy provision shall
11 be equal to:

12 (A) The adjusted premiums for an otherwise similar policy
13 issued at the same age without such term insurance benefits,
14 increased, during the period for which premiums for such term
15 insurance benefits are payable, by;

16 (B) The adjusted premiums for such term insurance; and

17 (C) Paragraphs (A) and (B) of this subdivision being
18 calculated separately and as specified in subdivisions (1), (2)
19 and (3) of this subsection except that, for the purposes of
20 paragraphs (B), (C) and (D), subdivision (1) of this subsection,
21 the amount of insurance or equivalent uniform amount of insurance
22 used in the calculation of the adjusted premiums referred to in
23 paragraph (B), subdivision (1) of this subsection shall be equal to
24 the excess of the corresponding amount determined for the entire
25 policy over the amount used in the calculation of the adjusted

1 premiums in paragraph (A), subdivision (4) of this subsection.

2 (5) Except as otherwise provided in subsections (e) and (f) of
3 this section, all adjusted premiums and present values referred to
4 in this section shall for all policies of ordinary insurance be
5 calculated on the basis of the Commissioners 1941 Standard Ordinary
6 Mortality Table: *Provided*, That for any category of ordinary
7 insurance issued on female risks, adjusted premiums and present
8 values may be calculated according to an age not more than three
9 years younger than the actual age of the insured, and such
10 calculations for all policies of industrial insurance shall be made
11 on the basis of the 1941 Standard Industrial Mortality Table. All
12 calculations shall be made on the basis of the rate of interest,
13 not exceeding three and one-half percent per annum, specified in
14 the policy for calculating cash surrender values and paid-up
15 nonforfeiture benefits: *Provided, however*, That in calculating the
16 present value of any paid-up term insurance with accompanying pure
17 endowment, if any, offered as a nonforfeiture benefit, the rates of
18 mortality assumed may be not more than one hundred and thirty
19 percent of the rates of mortality according to such applicable
20 table: *Provided further*, That for insurance issued on a
21 substandard basis, the calculation of any such adjusted premiums
22 and present values may be based on such other table of mortality as
23 may be specified by the insurer and approved by the commissioner.

24 (e) This subsection does not apply to ordinary policies issued
25 on or after the operative date of subsection (g) of this section.

1 In the case of ordinary policies issued on or after the operative
2 date of this subsection, all adjusted premiums and present values
3 referred to in this section shall be calculated on the basis of the
4 Commissioners 1958 Standard Ordinary Mortality Table and the rate
5 of interest specified in the policy for calculating cash surrender
6 values and paid-up nonforfeiture benefits provided that such rate
7 of interest shall not exceed three and one-half percent per annum
8 except that a rate of interest not exceeding four percent per annum
9 may be used for policies issued on or after June 3, 1974 and prior
10 to April 6, 1977, and a rate of interest not exceeding five and
11 one-half percent per annum may be used for policies issued on or
12 after April 6, 1977, except that for any single premium whole life
13 or endowment insurance policy a rate of interest not exceeding six
14 and one-half percent per annum may be used: *Provided*, That for any
15 category of ordinary insurance issued on female risks, adjusted
16 premiums and present values may be calculated according to an age
17 not more than six years younger than the actual age of the insured:
18 *Provided, however*, That in calculating the present value of any
19 paid-up term insurance with accompanying pure endowment, if any,
20 offered as a nonforfeiture benefit, the rates of mortality assumed
21 may be not more than those shown in the Commissioners 1958 Extended
22 Term Insurance Table: *Provided further*, That for insurance issued
23 on a substandard basis, the calculation of any such adjusted
24 premiums and present values may be based on such other table of
25 mortality as may be specified by the company and approved by the

1 commissioner.

2 After June 3, 1959, any company may file with the commissioner
3 a written notice of its election to comply with the provisions of
4 this subsection after a specified date before January 1, 1966.
5 After the filing of such notice, then upon such specified date
6 (which shall be the operative date of this subsection for such
7 company), this subsection shall become operative with respect to
8 the ordinary policies thereafter issued by such company. If a
9 company makes no such election, the operative date of this
10 subsection for such company shall be January 1, 1966.

11 (f) This subsection does not apply to industrial policies
12 issued on or after the operative date of subsection (g) of this
13 section. In the case of industrial policies issued on or after the
14 operative date of this subsection, all adjusted premiums and
15 present values referred to in this section shall be calculated on
16 the basis of the Commissioners 1961 Standard Industrial Mortality
17 Table and the rate of interest specified in the policy for
18 calculating cash surrender values and paid-up nonforfeiture
19 benefits provided that such rate of interest shall not exceed three
20 and one-half percent per annum except that a rate of interest not
21 exceeding four percent per annum may be used for policies issued on
22 or after June 3, 1974 and prior to April 6, 1977, and a rate of
23 interest not exceeding five and one-half percent per annum may be
24 used for policies issued on or after April 6, 1977, except that for
25 any single premium whole life or endowment insurance policy a rate

1 of interest not exceeding six and one-half percent per annum may be
2 used: *Provided*, That in calculating the present value of any
3 paid-up term insurance with accompanying pure endowment, if any,
4 offered as a nonforfeiture benefit, the rates of mortality assumed
5 may be not more than those shown in the Commissioners 1961
6 Industrial Extended Term Insurance Table: *Provided, however*, That
7 for insurance issued on a substandard basis, the calculation of any
8 such adjusted premiums and present values may be based on such
9 other table of mortality as may be specified by the company and
10 approved by the commissioner.

11 After May 31, 1965, any company may file with the commissioner
12 a written notice of its election to comply with the provisions of
13 this subsection after a specified date before January 1, 1968.
14 After the filing of such notice, then upon such specified date
15 (which shall be the operative date of this subsection for such
16 company), this subsection shall become operative with respect to
17 the industrial policies thereafter issued by such company. If a
18 company makes no such election, the operative date of this
19 subsection for such company shall be January 1, 1968.

20 (g) (1) This subsection applies to all policies issued on or
21 after the operative date of this subsection. Except as provided in
22 subdivision (7) of this subsection, the adjusted premiums for any
23 policy shall be calculated on an annual basis and shall be such
24 uniform percentage of the respective premiums specified in the
25 policy for each policy year, excluding amounts payable as extra

1 premiums to cover impairments or special hazards and also excluding
2 any uniform annual contract charge or policy fee specified in the
3 policy in a statement of the method to be used in calculating the
4 cash surrender values and paid-up nonforfeiture benefits, that the
5 present value, at the date of issue of the policy, of all adjusted
6 premiums shall be equal to the sum of;

7 (A) The then present value of the future guaranteed benefits
8 provided for by the policy;

9 (B) One percent of either the amount of insurance, if the
10 insurance be uniform in amount, or the average amount of insurance
11 at the beginning of each of the first ten policy years; and

12 (C) One hundred twenty-five percent of the nonforfeiture net
13 level premium as hereinafter defined: *Provided*, That in applying
14 this percentage no nonforfeiture net level premium shall be deemed
15 to exceed four percent of either the amount of insurance, if the
16 insurance be uniform in amount, or the average amount of insurance
17 at the beginning of each of the first ten policy years. The date
18 of issue of a policy for the purpose of this subsection shall be
19 the date as of which the rated age of the insured is determined;

20 (2) The nonforfeiture net level premium shall be equal to the
21 present value, at the date of issue of the policy, of the
22 guaranteed benefits provided by the policy divided by the present
23 value, at the date of issue of the policy, of an annuity of one per
24 annum payable on the date of issue of the policy and on each
25 anniversary of such policy on which a premium falls due;

1 (3) In the case of policies which cause on a basis guaranteed
2 in the policy unscheduled changes in benefits or premiums, or which
3 provide an option for changes in benefits or premiums other than a
4 change to a new policy, the adjusted premiums and present values
5 shall initially be calculated on the assumption that future
6 benefits and premiums do not change from those stipulated at the
7 date of issue of the policy. At the time of any such change in the
8 benefits or premiums the future adjusted premiums, nonforfeiture
9 net level premiums and present values shall be recalculated on the
10 assumption that future benefits and premiums do not change from
11 those stipulated by the policy immediately after the change;

12 (4) Except as otherwise provided in subdivision (7) of this
13 subsection, the recalculated future adjusted premiums for any such
14 policy shall be such uniform percentage of the respective future
15 premiums specified in the policy for each policy year, excluding
16 amounts payable as extra premiums to cover impairments and special
17 hazards, and also excluding any uniform annual contract charge or
18 policy fee specified in the policy in a statement of the method to
19 be used in calculating the cash surrender values and paid-up
20 nonforfeiture benefits, that the present value, at the time of
21 change to the newly defined benefits or premiums, of all such
22 future adjusted premiums shall be equal to the excess of:

23 (A) The sum of:

24 (i) The then present value of the then future guaranteed
25 benefits provided by the policy; and

1 (ii) The additional expense allowance, if any, over

2 (B) The then cash surrender value, if any, or present value of
3 any paid-up nonforfeiture benefit under the policy;

4 (5) The additional expense allowance, at the time of the
5 change to the newly defined benefits or premiums, shall be the sum
6 of:

7 (A) One percent of the excess, if positive, of the average
8 amount of insurance at the beginning of each of the first ten
9 policy years subsequent to the change over the average amount of
10 insurance prior to the change at the beginning of each of the first
11 ten policy years subsequent to the time of the most recent previous
12 change, or, if there has been no previous change, the date of issue
13 of the policy; and

14 (B) One hundred twenty-five percent of the increase, if
15 positive, in the nonforfeiture net level premium;

16 (6) The recalculated nonforfeiture net level premium shall be
17 equal to the result obtained by dividing paragraph (A) of this
18 subdivision by paragraph (B) of this subdivision where:

19 (A) Equals the sum of

20 (i) The nonforfeiture net level premium applicable prior to
21 the change times the present value of an annuity of one per annum
22 payable on each anniversary of the policy on or subsequent to the
23 date of the change on which a premium would have fallen due had the
24 change not occurred; and

25 (ii) The present value of the increase in future guaranteed

1 benefits provided for by the policy;

2 (B) Equals the present value of an annuity of one per annum
3 payable on each anniversary of the policy on or subsequent to the
4 date of change on which a premium falls due.

5 (7) Notwithstanding any other provisions of this subsection to
6 the contrary, in the case of a policy issued on a substandard basis
7 which provides reduced graded amounts of insurance so that, in each
8 policy year, such policy has the same tabular mortality cost as an
9 otherwise similar policy issued on the standard basis which
10 provides higher uniform amounts of insurance, adjusted premiums and
11 present values for such substandard policy may be calculated as if
12 it were issued to provide such higher uniform amounts of insurance
13 on the standard basis;

14 (8) All adjusted premiums and present values referred to in
15 this section shall for all policies of ordinary insurance be
16 calculated on the basis of (i) the Commissioners 1980 Standard
17 Ordinary Mortality Table or (ii) at the election of the company for
18 any one or more specified plans of life insurance, the
19 Commissioners 1980 Standard Ordinary Mortality Table with ten-year
20 select mortality factors; shall for all policies of industrial
21 insurance be calculated on the basis of the Commissioners 1961
22 Standard Industrial Mortality Table; and shall for all policies
23 issued in a particular calendar year be calculated on the basis of
24 a rate of interest not exceeding the nonforfeiture interest rate as
25 defined in this subsection for policies issued in that calendar

1 year: *Provided, That:*

2 (A) At the option of the company, calculations for all
3 policies issued in a particular calendar year may be made on the
4 basis of a rate of interest not exceeding the nonforfeiture
5 interest rate, as defined in this subsection, for policies issued
6 in the immediately preceding calendar year;

7 (B) Under any paid-up nonforfeiture benefit, including any
8 paid-up dividend additions, any cash surrender value available,
9 whether or not required by subsection (a) of this section, shall be
10 calculated on the basis of the mortality table and rate of interest
11 used in determining the amount of such paid-up nonforfeiture
12 benefit and paid-up dividend additions, if any;

13 (C) A company may calculate the amount of any guaranteed
14 paid-up nonforfeiture benefit including any paid-up additions under
15 the policy on the basis of an interest rate no lower than that
16 specified in the policy for calculating cash surrender values;

17 (D) In calculating the present value of any paid-up term
18 insurance with accompanying pure endowment, if any, offered as a
19 nonforfeiture benefit, the rates of mortality assumed may be not
20 more than those shown in the Commissioners 1980 Extended Term
21 Insurance Table for policies of ordinary insurance and not more
22 than the Commissioners 1961 Industrial Extended Term Insurance
23 Table for policies of industrial insurance;

24 (E) For insurance issued on a substandard basis, the
25 calculation of any such adjusted premiums and present values may be

1 based on appropriate modifications of the aforementioned tables;

2 (F) For policies issued prior to the operative date of the
3 valuation manual, any Commissioners Standard ordinary mortality
4 tables, adopted after 1980 by the National Association of Insurance
5 Commissioners, that are approved by rule promulgated by the
6 commissioner for use in determining the minimum nonforfeiture
7 standard may be substituted for the Commissioners 1980 Standard
8 Ordinary Mortality Table with or without ten-year select mortality
9 factors or for the Commissioners 1980 Extended Term Insurance
10 Table. For policies issued on or after the operative date of the
11 valuation manual the valuation manual shall provide the
12 Commissioner's Standard mortality table for use in determining the
13 minimum nonforfeiture standard that may be substituted for the
14 Commissioner's 1980 Standard Ordinary Mortality Table with or
15 without Ten-Year Select Mortality Factors or for the Commissioners
16 1980 Extended Term Insurance Table. If the commissioner approves
17 by rule any Commissioners Standard ordinary mortality table adopted
18 by the National Association of Insurance Commissioners for use in
19 determining the minimum nonforfeiture standard for policies issued
20 on or after the operative date of the valuation manual then that
21 minimum nonforfeiture standard supersedes the minimum nonforfeiture
22 standard provided by the valuation manual. For purposes of this
23 paragraph, paragraph (G) of this subdivision and subdivision (9) of
24 this subsection, the operative date of the valuation manual is that
25 date determined in accordance with subsection (n), section nine,

1 article seven of this chapter;

2 (G) For policies issued prior to the operative date of the
3 valuation manual, any industrial mortality tables, adopted after
4 1980 by the National Association of Insurance Commissioners, that
5 are approved by rule promulgated by the commissioner for use in
6 determining the minimum nonforfeiture standard may be substituted
7 for the Commissioners 1961 Standard Industrial Mortality Table or
8 the Commissioners 1961 Industrial Extended Term Insurance Table.
9 For policies issued on or after the operative date of the valuation
10 manual, the valuation manual shall provide the Commissioners
11 Standard Mortality Table for use in determining the minimum
12 nonforfeiture standard that may be substituted for the
13 Commissioners 1961 Standard Industrial Mortality Table or the
14 Commissioners 1961 Industrial Extended Term Insurance Table:
15 *Provided*, That if the Legislature approves a rule providing that a
16 Commissioners Standard Industrial Mortality Table adopted by the
17 National Association of Insurance Commissioners shall be used in
18 determining the minimum nonforfeiture standard for policies issued
19 on or after the operative date of the valuation manual, then that
20 minimum nonforfeiture standard supersedes the minimum nonforfeiture
21 standard provided by the valuation manual;

22 (9) The nonforfeiture interest rate per annum for any policy
23 issued in a particular calendar year shall be equal to one hundred
24 and twenty-five percent of the calendar year statutory valuation
25 interest rate for such policy as defined in the Standard Valuation

1 Law, rounded to the nearer one quarter of one percent: *Provided,*
2 That, that the nonforfeiture interest rate may not be less than
3 four percent. For policies issued on and after the operative date
4 of the valuation manual the nonforfeiture interest rate per annum
5 for any policy issued in a particular calendar year shall be
6 provided by the valuation manual;

7 (10) Notwithstanding any other provision in this code to the
8 contrary, any refiling of nonforfeiture values or their methods of
9 computation for any previously approved policy form which involves
10 only a change in the interest rate or mortality table used to
11 compute nonforfeiture values shall not require refiling of any
12 other provisions of that policy form; and

13 (11) After May 30, 1983, any company may file with the
14 commissioner a written notice of its election to comply with the
15 provisions of this section after a specified date before January 1,
16 1989, which shall be the operative date of this subsection for such
17 company. If a company makes no such election, the operative date
18 of this section for such company shall be January 1, 1989.

19 (h) In the case of any plan of life insurance which provides
20 for future premium determination, the amounts of which are to be
21 determined by the insurance company based on then estimates of
22 future experience, or in the case of any plan of life insurance
23 which is of such a nature that minimum values cannot be determined
24 by the methods described in subsection (a), (b), (c), (d), (e), (f)
25 or (g) of this section, then:

1 (1) The commissioner must be satisfied that the benefits
2 provided under the plan are substantially as favorable to
3 policyholders and insureds as the minimum benefits otherwise
4 required by subsection (a), (b), (c), (d), (e), (f) or (g) of this
5 section;

6 (2) The commissioner must be satisfied that the benefits and
7 the pattern of premiums of that plan are not such as to mislead
8 prospective policyholders or insureds; and

9 (3) The cash surrender values and paid-up nonforfeiture
10 benefits provided by such plan must not be less than the minimum
11 values and benefits required for the plan computed by a method
12 consistent with the principles of this Standard Nonforfeiture Law
13 for Life Insurance, as determined by rules promulgated by the
14 commissioner.

15 (i) Any cash surrender value and any paid-up nonforfeiture
16 benefit, available under the policy in the event of default in a
17 premium payment due at any time other than on the policy
18 anniversary, shall be calculated with allowance for the lapse of
19 time and the payment of fractional premiums beyond the last
20 preceding policy anniversary. All values referred to in
21 subsections (b), (c), (d), (e), (f) and (g) of this section may be
22 calculated upon the assumption that any death benefit is payable at
23 the end of the policy year of death. The net value of any paid-up
24 additions, other than paid-up term additions, shall be not less
25 than the amounts used to provide such additions. Notwithstanding

1 the provisions of subsection (2), additional benefits payable:

2 (1) In the event of death or dismemberment by accident or
3 accidental means;

4 (2) In the event of total and permanent disability;

5 (3) As reversionary annuity or deferred reversionary annuity
6 benefits;

7 (4) As term insurance benefits provided by a rider or
8 supplemental policy provision to which, if issued as a separate
9 policy, this subsection would not apply;

10 (5) As term insurance on the life of a child or on the lives
11 of children provided in a policy on the life of a parent of the
12 child, if such term insurance expires before the child's age is
13 twenty-six, is uniform in amount after the child's age is one, and
14 has not become paid up by reason of the death of a parent of the
15 child; and

16 (6) As other policy benefits additional to life insurance and
17 endowment benefits, and premiums for all such additional benefits,
18 shall be disregarded in ascertaining cash surrender values and
19 nonforfeiture benefits required by this section, and no such
20 additional benefits shall be required to be included in any paid-up
21 nonforfeiture benefits.

22 (j)(1) This subsection, in addition to all other applicable
23 subsections of this law, shall apply to all policies issued on or
24 after January 1, 1985. Any cash surrender value available under
25 the policy in the event of default in a premium payment due on any

1 policy anniversary shall be in an amount which does not differ by
2 more than two tenths of one percent of either the amount of
3 insurance, if the insurance be uniform in amount, or the average
4 amount of insurance at the beginning of each of the first ten
5 policy years, from the sum of;

6 (A) The greater of zero and the basic cash value hereinafter
7 specified; and

8 (B) The present value of any existing paid-up additions less
9 the amount of any indebtedness to the company under the policy.

10 (2) The basic cash value shall be equal to the present value,
11 on such anniversary, of the future guaranteed benefits which would
12 have been provided by the policy, excluding any existing paid-up
13 additions and before deduction of any indebtedness to the company,
14 if there had been no default, less the then present value of the
15 nonforfeiture factors, as hereinafter defined, corresponding to
16 premiums which would have fallen due on and after such anniversary:
17 *Provided*, That the effects on the basic cash value of supplemental
18 life insurance or annuity benefits or of family coverage, as
19 described in subsection (b) or (d) of this section, whichever is
20 applicable, shall be the same as are the effect specified in
21 subsection (b) or (d) of this section, whichever is applicable, on
22 the cash surrender values defined in that subsection.

23 (3) The nonforfeiture factor for each policy year shall be an
24 amount equal to a percentage of the adjusted premium for the policy
25 year, as defined in subsection (d) or (g), whichever is applicable.

1 Except as is required by the next succeeding sentence of this
2 paragraph, such percentage:

3 (A) Must be the same percentage for each policy year between
4 the second policy anniversary and the later of:

5 (i) The fifth policy anniversary; and

6 (ii) The first policy anniversary at which there is available
7 under the policy a cash surrender value in an amount, before
8 including any paid-up additions and before deducting any
9 indebtedness, of at least two tenths of one percent of either the
10 amount of insurance, if the insurance be uniform in amount, or the
11 average amount of insurance at the beginning of each of the first
12 ten policy years; and

13 (B) Must be such that no percentage after the later of the two
14 policy anniversaries specified in subparagraph (i), paragraph (A)
15 of this subdivision may apply to fewer than five consecutive policy
16 years: *Provided*, That no basic cash value may be less than the
17 value which would be obtained if the adjusted premiums for the
18 policy, as defined in subsection (g) of this section, were
19 substituted for the nonforfeiture factors in the calculation of the
20 basic cash value.

21 (4) All adjusted premiums and present values referred to in
22 this subsection shall for a particular policy be calculated on the
23 same mortality and interest bases as are used in demonstrating the
24 policy's compliance with the other sections of this law. The cash
25 surrender values referred to in this subsection shall include any

1 endowment benefits provided by the policy.

2 (5) Any cash surrender value available other than in the event
3 of default in a premium payment due on a policy anniversary, and
4 the amount of any paid-up nonforfeiture benefit available under the
5 policy in the event of default in a premium payment shall be
6 determined in manners consistent with the manners specified for
7 determining the analogous minimum amounts in subsections (a),
8 (b), (c), (g) and (i) of this section. The amounts of any cash
9 surrender values and of any paid-up nonforfeiture benefits granted
10 in connection with additional benefits such as those listed as
11 subdivisions (1) through (6), subsection (i) of this section shall
12 conform with the principles of this subsection.

13 (k) This section does not apply to any of the following:

14 (1) Reinsurance;

15 (2) Group insurance;

16 (3) Pure endowment;

17 (4) Annuity or reversionary annuity contract;

18 (5) Term policy of uniform amount, which provides no
19 guaranteed nonforfeiture or endowment benefits, or renewal thereof,
20 of twenty years or less expiring before age seventy-one, for which
21 uniform premiums are payable during the entire term of the policy;

22 (6) Term policy of decreasing amount, which provides no
23 guaranteed nonforfeiture or endowment benefits, on which each
24 adjusted premium, calculated as specified in subsections (d), (e),
25 (f) and (g) of this section, is less than the adjusted premium so

1 calculated on a policy of uniform amount, or renewal thereof, which
2 provides no guaranteed nonforfeiture or endowment benefits, issued
3 at the same age and for the same initial amount of insurance and
4 for a term of twenty years or less expiring before age seventy-one,
5 for which uniform premiums are payable during the entire term of
6 the policy;

7 (7) Policy, which provides no guaranteed nonforfeiture or
8 endowment benefits, for which no cash surrender value, if any, or
9 present value of any paid-up nonforfeiture benefit, at the
10 beginning of any policy year, calculated as specified in
11 subsections (b), (c), (d), (e) (f) and (g) of this section, exceeds
12 two and one-half percent of the amount of insurance at the
13 beginning of the same policy year; and

14 (8) Policy which shall be delivered outside this state through
15 an agent or other representative of the insurer issuing the policy.
16 For purposes of determining the applicability of this section, the
17 age at expiry for a joint term life insurance policy shall be the
18 age at expiry of the oldest life.

19 (1) After the effective date of the amendments made to this
20 section during the 2014 regular session of the Legislature, any
21 company may file with the commissioner a written notice of its
22 election to comply with the provisions of this section after a
23 specified date before January 1, 1948. After the filing of such
24 notice, then upon the specified date (which shall be the operative
25 date for the company), this section shall become operative with

1 respect to the policies thereafter issued by such company. If a
2 company makes no such election, the operative date of this section
3 for the company shall be January 1, 1948.