

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4432**

4  
5 (By Delegates Guthrie, Hartman, Perry and Ashley)

6  
7 (Originating in the Committee on the Judiciary)

8 [February 20, 2014]

9  
10 A BILL 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) ~~Title.~~ This section shall be known as the standard

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

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

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

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

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

24 (5) The term "life insurance" means contracts that incorporate  
25 mortality risk, including annuity and pure endowment contracts, and

1 as may be specified in the valuation manual.

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

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

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

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

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

1        (11) The term "valuation manual" means the manual of valuation  
2 instructions adopted by the commissioner in accordance with  
3 subsection (n) of this section.

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

6        (A) The commissioner shall annually value, or cause to be  
7 valued, the reserve liabilities (hereinafter called reserves) for  
8 all outstanding life insurance policies and annuity and pure  
9 endowment contracts of every life insurance company doing business  
10 in this state ~~and may certify the amount of the reserves specifying~~  
11 ~~the mortality table or tables, rate or rates of interest and~~  
12 ~~methods (net level premium method or other) used in the calculation~~  
13 ~~of the reserves~~ issued on or after January 1, 1958 and prior to the  
14 operative date of the valuation manual. In calculating ~~the~~  
15 reserves, ~~he or she~~ the commissioner may use group methods and  
16 approximate averages for fractions of a year or otherwise. In lieu  
17 of the valuation of the reserves herein required of any foreign or  
18 alien company, ~~he or she~~ the commissioner may accept any valuation  
19 made, or caused to be made, by the insurance supervisory official  
20 of any state or other jurisdiction when the valuation complies with  
21 the minimum standard herein provided ~~and if the official of the~~  
22 ~~state or jurisdiction accepts as sufficient and for all valid legal~~  
23 ~~purposes the certificate of valuation of the commissioner when the~~  
24 ~~certificate states the valuation to have been made in a specified~~  
25 ~~manner according to which the aggregate reserves would be at least~~

1 ~~as large as if they had been computed in the manner prescribed by~~  
2 ~~the law of that state or jurisdiction in this section.~~

3 (B) Subsections (d), (e), (f), (g), (h), (i), (j), (k), (l)  
4 and (m) of this section apply to all policies and contracts, as  
5 appropriate, subject to this section issued on or after January 1,  
6 1958 and prior to the operative date of the valuation manual, and  
7 subsections (n) and (o) of this section do not apply to any such  
8 policies and contracts.

9 (C) The minimum standard for the valuation of policies and  
10 contracts issued prior to January 1, 1958 shall be that provided by  
11 the laws in effect immediately prior to that date.

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

14 (A) The commissioner shall annually value, or cause to be  
15 valued, the reserve liabilities (hereinafter called reserves) for  
16 all outstanding life insurance contracts, annuity and pure  
17 endowment contracts, accident and health contracts, and  
18 deposit-type contracts of every company issued on or after the  
19 operative date of the valuation manual. In lieu of the valuation of  
20 the reserves required of a foreign or alien company, the  
21 commissioner may accept a valuation made, or caused to be made, by  
22 the insurance supervisory official of any state or other  
23 jurisdiction when the valuation complies with the minimum standard  
24 provided in this section.

25 (B) Subsection (n) and (o) of this section apply to all

1 policies and contracts issued on or after the operative date of the  
2 valuation manual.

3 (c) *Actuarial opinion of reserves.* -- ~~This subsection shall~~  
4 ~~become operative on January 1, 1996.~~ (1) Actuarial Opinion Prior  
5 to the Operative Date of the Valuation Manual.

6 ~~(1)~~ (A) General. -- Every life insurance company doing  
7 business in this state shall annually submit the opinion of a  
8 qualified actuary as to whether the reserves and related actuarial  
9 items held in support of the policies and contracts specified by  
10 the commissioner by ~~regulation~~ rule are computed appropriately, are  
11 based on assumptions which satisfy contractual provisions, are  
12 consistent with prior reported amounts and comply with applicable  
13 laws of this state. The commissioner ~~by regulation,~~ shall define  
14 the specifics of this opinion and add any other ~~item considered~~  
15 items deemed to be necessary to its scope.

16 ~~(2)~~ (B) Actuarial analysis of reserves and assets supporting  
17 the reserves. --

18 ~~(A)~~ (i) Every life insurance company, except as exempted by or  
19 pursuant to ~~regulation~~ rule, shall also annually include in the  
20 opinion required by paragraph (A) of this subdivision ~~(1) of this~~  
21 ~~subsection~~ an opinion of the same qualified actuary as to whether  
22 the reserves and related actuarial items held in support of the  
23 policies and contracts specified by the commissioner by ~~regulation~~  
24 rule, when considered in light of the assets held by the company  
25 with respect to the reserves and related actuarial items,

1 including, but not limited to, the investment earnings on the  
2 assets and the considerations anticipated to be received and  
3 retained under the policies and contracts, make adequate provision  
4 for the company's obligations under the policies and contracts,  
5 including, but not limited to, the benefits under and expenses  
6 associated with the policies and contracts.

7 ~~(B)~~ (ii) The commissioner may provide, by ~~regulation,~~ rule,  
8 for a transition period for establishing any higher reserves ~~which~~  
9 that the qualified actuary may ~~consider~~ deem necessary in order to  
10 render the opinion required by this ~~subsection~~ subdivision.

11 ~~(3)~~ (C) *Requirement for opinion under ~~subdivision~~ (2)*  
12 paragraph (B). -- Each opinion required by paragraph (B) of this  
13 ~~subdivision (2) of this subsection~~ shall be governed by the  
14 following provisions:

15 ~~(A)~~ (i) A memorandum in form and substance acceptable to the  
16 commissioner as specified by ~~regulation~~ rule shall be prepared to  
17 support each actuarial opinion.

18 ~~(B)~~ (ii) If the insurance company fails to provide a  
19 supporting memorandum at the request of the commissioner within a  
20 period specified by ~~regulation~~ rule or the commissioner determines  
21 that the supporting memorandum provided by the insurance company  
22 fails to meet the standards prescribed by the ~~regulations~~ rules or  
23 is otherwise unacceptable to the commissioner, the commissioner may  
24 engage a qualified actuary at the expense of the company to review  
25 the opinion and the basis for the opinion and prepare ~~such~~ the

1 supporting memorandum ~~as is~~ required by the commissioner.

2       ~~(4)~~ (D) Requirement for all opinions subject to this  
3 subdivision. -- Every opinion ~~shall be~~ subject to this subdivision  
4 is governed by the following: ~~provisions:~~

5       ~~(A)~~ (i) The opinion shall be submitted with the annual  
6 statement reflecting the valuation of such reserve liabilities for  
7 each year ending on or after December 31, 1995.

8       ~~(B)~~ (ii) The opinion shall apply to all business in force,  
9 including individual and group health insurance plans, in form and  
10 substance acceptable to the commissioner as specified by ~~regulation~~  
11 rule.

12       ~~(C)~~ (iii) The opinion shall be based on standards adopted,  
13 from time to time, by the actuarial standards board and on such  
14 additional standards as the commissioner may by ~~regulation~~ rule  
15 prescribe.

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

22       ~~(E)~~ (v) For the purposes of this section, "qualified actuary"  
23 means a member in good standing of the American academy of  
24 actuaries who meets the requirements set forth in such regulations.

25       ~~(F)~~ (vi) Except in cases of fraud or willful misconduct, the



1 qualified actuary is not liable for damages to any person (other  
2 than the insurance company and the commissioner) for any act,  
3 error, omission, decision or conduct with respect to the actuary's  
4 opinion.

5 ~~(G)~~ (vii) Disciplinary action by the commissioner against the  
6 company or the qualified actuary shall be defined in ~~regulations~~  
7 rules by the commissioner.

8 ~~(H)~~ Any (viii) Except as provided in subparagraphs (xii),  
9 (xiii), and (xiv) of this paragraph, documents, materials or other  
10 information in the possession or control of the commissioner that  
11 are a memorandum in support of the opinion and any other material  
12 provided by the company to the commissioner in connection therewith  
13 ~~shall be kept~~ are confidential by ~~the commissioner and shall not be~~  
14 ~~made public~~ law and privileged, exempt from disclosure under  
15 article one, chapter twenty-nine-a of this code and shall are not  
16 be subject to subpoena ~~other than for the purpose of defending an~~  
17 ~~action seeking damages from any person by reason of any action~~  
18 ~~required by this section or by regulations promulgated hereunder:~~  
19 ~~Provided, That the memorandum or other material may otherwise be~~  
20 ~~released by the commissioner: (i) With the written consent of the~~  
21 ~~company; (ii) 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; or (iii) in~~

1 ~~accordance with section nineteen, article two of this chapter.~~  
2 ~~Once any portion of the confidential memorandum is cited by the~~  
3 ~~company in its marketing or is cited by the company before any~~  
4 ~~governmental agency other than a state insurance department or is~~  
5 ~~released by the company to the news media, all portions of the~~  
6 ~~confidential memorandum shall be no longer confidential. and,~~  
7 ~~additionally, are not subject to discovery or admissible in~~  
8 ~~evidence in any private civil action. However, the commissioner is~~  
9 ~~authorized to use the documents, materials or other information in~~  
10 ~~the furtherance of any regulatory or legal action brought as a part~~  
11 ~~of the commissioner's official duties.~~

12 (ix) Neither the commissioner nor any person who received  
13 documents, materials or other information while acting under the  
14 authority of the commissioner is permitted or required to testify  
15 in any private civil action concerning any confidential documents,  
16 materials or information subject to subparagraph (viii) of this  
17 paragraph.

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

20 (I) May share documents, materials or other information,  
21 including the confidential and privileged documents, materials or  
22 information subject to subparagraph viii with other state, federal  
23 and international regulatory agencies, with the NAIC and its  
24 affiliates and subsidiaries, and with state, federal and  
25 international law-enforcement authorities, provided that the

1 recipient agrees to maintain the confidentiality and privileged  
2 status of the document, material or other information;

3 (II) May receive documents, materials or information,  
4 including otherwise confidential and privileged documents,  
5 materials or information, from the NAIC and its affiliates and  
6 subsidiaries, and from regulatory and law-enforcement officials of  
7 other foreign or domestic jurisdictions, and shall maintain as  
8 confidential or privileged any document, material or information  
9 received with notice or the understanding that it is confidential  
10 or privileged under the laws of the jurisdiction that is the source  
11 of the document, material or information; and

12 (III) May enter into agreements governing sharing and use of  
13 information consistent with subparagraphs (viii) and (ix) and this  
14 subparagraph.

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

19 (xii) A memorandum in support of the opinion, and any other  
20 material provided by the company to the commissioner in connection  
21 with the memorandum, may be subject to subpoena for the purpose of  
22 defending an action seeking damages from the actuary submitting the  
23 memorandum by reason of an action required by this subsection or by  
24 rules.

25 (xiii) The memorandum or other material may otherwise be

1 released by the commissioner with the written consent of the  
2 company or to the American Academy of Actuaries upon request  
3 stating that the memorandum or other material is required for the  
4 purpose of professional disciplinary proceedings and setting forth  
5 procedures satisfactory to the commissioner for preserving the  
6 confidentiality of the memorandum or other material.

7 (xiv) Once any portion of the confidential memorandum is  
8 cited by the company in its marketing or is cited before a  
9 governmental agency other than a state insurance department or is  
10 released by the company to the news media, all portions of the  
11 confidential memorandum shall be no longer confidential.

12 (2) Actuarial Opinion of Reserves after the Operative Date of  
13 the Valuation Manual.

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

24 (B) Actuarial Analysis of Reserves and Assets Supporting  
25 Reserves. Every company with outstanding life insurance contracts,

1 accident and health insurance contracts or deposit-type contracts  
2 in this state and subject to rule of the commissioner, except as  
3 exempted in the valuation manual, shall also annually include in  
4 the opinion required by paragraph (A) of this subdivision, an  
5 opinion of the same appointed actuary as to whether the reserves  
6 and related actuarial items held in support of the policies and  
7 contracts specified in the valuation manual, when considered in  
8 light of the assets held by the company with respect to the  
9 reserves and related actuarial items, including, but not limited  
10 to, the investment earnings on the assets and the considerations  
11 anticipated to be received and retained under the policies and  
12 contracts, make adequate provision for the company's obligations  
13 under the policies and contracts, including, but not limited to,  
14 the benefits under and expenses associated with the policies and  
15 contracts.

16 (C) Requirements for Opinions Subject to paragraph (B),  
17 subdivision (2), subsection (c). Each opinion required by  
18 subdivision (2), subsection (c) of this section shall be governed  
19 by the following:

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

23 (ii) If the insurance company fails to provide a supporting  
24 memorandum at the request of the commissioner within a period  
25 specified in the valuation manual or the commissioner determines

1 that the supporting memorandum provided by the insurance company  
2 fails to meet the standards prescribed by the valuation manual or  
3 is otherwise unacceptable to the commissioner, the commissioner may  
4 engage a qualified actuary at the expense of the company to review  
5 the opinion and the basis for the opinion and prepare the  
6 supporting memorandum required by the commissioner.

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

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

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

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

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

23 (v) In the case of an opinion required to be submitted by a  
24 foreign or alien company, the commissioner may accept the opinion  
25 filed by that company with the insurance supervisory official of

1 another state if the commissioner determines that the opinion  
2 reasonably meets the requirements applicable to a company domiciled  
3 in this state.

4 (vi) Except in cases of fraud or willful misconduct, the  
5 appointed actuary is not liable for damages to any person, other  
6 than the insurance company and the commissioner, for any act,  
7 error, omission, decision or conduct with respect to the appointed  
8 actuary's opinion.

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

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

1 premium life insurance policies and four and one-half percent  
2 interest for all other policies issued on and after April 6, 1977,  
3 and the following tables:

4 (1) For all ordinary policies of life insurance issued on the  
5 standard basis, excluding any disability and accidental death  
6 benefits in ~~such~~ the policies:

7 (A) The commissioner's 1941 standard ordinary mortality table  
8 for policies issued prior to the operative date of subsection ~~(4a)~~  
9 (e), section thirty, article thirteen of this chapter;

10 (B) The commissioner's 1958 standard ordinary mortality table  
11 for policies issued on or after the operative date of subsection  
12 ~~(4a)~~ (e), section thirty, article thirteen of this chapter and  
13 prior to the operative date of subsection ~~(4c)~~ (g) of ~~said~~ that  
14 section: *Provided*, That for any category of policies issued on  
15 female risks, all modified net premiums and present values referred  
16 to in this section may be calculated according to an age not more  
17 than six years younger than the actual age of the insured; and

18 (C) For policies issued on or after the operative date of  
19 subsection ~~(4c)~~ (g), section thirty, article thirteen of this  
20 chapter:

21 (i) The commissioner's 1980 standard ordinary mortality table;  
22 or

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



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

5           (2) For all industrial life insurance policies issued on the  
6 standard basis, excluding any disability and accidental death  
7 benefits in the policies: The 1941 standard industrial mortality  
8 table for policies issued prior to the operative date of  
9 ~~subdivision (4),~~ subsection ~~(b)~~ (f), section thirty, article  
10 thirteen of this chapter and for policies issued on or after the  
11 operative date, the commissioner's 1961 standard industrial  
12 mortality table or any industrial mortality table adopted after the  
13 year 1980 by the national association of Insurance Commissioners  
14 that is approved by rule promulgated by the commissioner for use in  
15 determining the minimum standard of valuation for the policies.

16           (3) For individual annuity and pure endowment contracts,  
17 excluding any disability and accidental death benefits in policies:  
18 The 1937 standard annuity mortality table or, at the option of the  
19 company, the annuity mortality table for 1949, ultimate, or any  
20 modification of either of these tables approved by the  
21 commissioner.

22           (4) For group annuity and pure endowment contracts, excluding  
23 any disability and accidental death benefits in the policies: The  
24 group annuity mortality table for 1951, any modification of the  
25 table approved by the commissioner or, at the option of the

1 company, any of the tables or modifications of tables specified for  
2 individual annuity and pure endowment contracts.

3 (5) For total and permanent disability benefits in or  
4 supplementary to ordinary policies or contracts: For policies or  
5 contracts issued on or after January 1, 1966, the tables of period  
6 two disablement rates and the 1930 to 1950 termination rates of the  
7 1952 disability study of the society of actuaries, with due regard  
8 to the type of benefit or any tables of disablement rates and  
9 termination rates adopted after the year 1980 by the national  
10 association of Insurance Commissioners that are approved by rule  
11 promulgated by the commissioner for use in determining the minimum  
12 standard of valuation for the policies; for policies or contracts  
13 issued on or after January 1, 1961, and prior to January 1, 1966,  
14 either ~~such~~ those tables or, at the option of the company, the  
15 Class (3) disability table (1926); and for policies issued prior to  
16 January 1, 1961, the Class (3) disability table (1926).

17 Any table shall, for active lives, be combined with a  
18 mortality table permitted for calculating the reserves for life  
19 insurance policies.

20 (6) For accidental death benefits in or supplementary to  
21 policies issued on or after January 1, 1966, the 1959 accidental  
22 death benefits table or any accidental death benefits table adopted  
23 after the year 1980 by the national association of Insurance  
24 Commissioners, that is approved by rules promulgated by the  
25 commissioner for use in determining the minimum standard of

1 valuation for such policies, for policies issued on or after  
2 January 1, 1961, and prior to January 1, 1966, either such table  
3 or, at the option of the company, the intercompany double indemnity  
4 mortality table; and for policies issued prior to January 1, 1961,  
5 the intercompany double indemnity mortality table. Either table  
6 shall be combined with a mortality table for calculating the  
7 reserves for life insurance policies.

8       (7) For group life insurance, life insurance issued on the  
9 substandard basis and other special benefits: Tables as may be  
10 approved by the commissioner.

11       (e) *Computation of minimum standard for annuities.* -- Except  
12 as provided in subsection (f) of this section, the minimum standard  
13 for the valuation of all individual annuity and pure endowment  
14 contracts issued on or after the operative date of this subsection,  
15 ~~as defined herein,~~ and for all annuities and pure endowments  
16 purchased on or after the operative date under group annuity and  
17 pure endowment contracts shall be the commissioner's reserve  
18 valuation methods defined in subsections (g) and (h) of this  
19 section and the following tables and interest rates:

20       (1) For individual annuity and pure endowment contracts issued  
21 prior to April 6, 1977, excluding any disability and accidental  
22 death benefits in the contracts: The 1971 individual annuity  
23 mortality table or any modification of this table approved by the  
24 commissioner and six percent interest for single premium immediate  
25 annuity contracts and four percent interest for all other

1 individual annuity and pure endowment contracts;

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

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

25       (4) For all annuities and pure endowments purchased prior to

1 April 6, 1977, under group annuity and pure endowment contracts,  
2 excluding any disability and accidental death benefits purchased  
3 under ~~the~~ those contracts: The 1971 group annuity mortality table  
4 or any modification of this table approved by the commissioner and  
5 six percent interest;

6 (5) For all annuities and pure endowments purchased on or  
7 after April 6, 1977, under group annuity and pure endowment  
8 contracts, excluding any disability and accidental death benefits  
9 purchased under the contracts: The 1971 group annuity mortality  
10 table or any group annuity mortality table adopted after the year  
11 1980 by the national association of Insurance Commissioners that is  
12 approved by ~~regulation~~ rule promulgated by the commissioner for use  
13 in determining the minimum standard of valuation for annuities and  
14 pure endowments or any modification of these tables approved by the  
15 commissioner and seven and one-half percent interest.

16 After June 3, 1974, any company may file with the commissioner  
17 a written notice of its election to comply with the provisions of  
18 this subsection after a specified date before January 1, 1979,  
19 which shall be the operative date of this subsection for the  
20 company provided, if a company makes no election, the operative  
21 date of this section for the company shall be January 1, 1979.

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

23 --

24 (1) ~~Applicability of this section.~~ The interest rates used  
25 in determining the minimum standard for the valuation of the

1 following shall be the calendar year statutory valuation interest  
2 rates as defined in this section:

3 (A) All life insurance policies issued in a particular  
4 calendar year, on or after the operative date of ~~subdivision (4),~~  
5 subsection ~~(c)~~ (g), section thirty, article thirteen of this  
6 chapter, as amended;

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

9 (C) All annuities and pure endowments purchased in a  
10 particular calendar year on or after January 1, 1982, under group  
11 annuity and pure endowment contracts; and

12 (D) The net increase, if any, in a particular calendar year  
13 after January 1, 1982, in amounts held under guaranteed interest  
14 contracts. ~~shall be the calendar year statutory valuation interest~~  
15 ~~rates as defined in this subsection.~~

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

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

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

21 (ii) For single premium immediate annuities and for annuity  
22 benefits involving life contingencies arising from other annuities  
23 with cash settlement options and from guaranteed interest contracts  
24 with cash settlement options,  $I = .03 + W(R1 - .03)$  where R1 is the  
25 lesser of R and .09, R2 is the greater of R and .09, R is the

1 reference interest rate defined in this subsection and W is the  
2 weighting factor defined in this section;

3 (iii) For other annuities with cash settlement options and  
4 guaranteed interest contracts with cash settlement options, valued  
5 on an issue-year basis, except as stated in subparagraph (ii) of  
6 this paragraph, the formula for life insurance stated in  
7 subparagraph (i) of this paragraph shall apply to annuities and  
8 guaranteed interest contracts with guarantee durations in excess of  
9 ten years and the formula for single premium immediate annuities  
10 stated in subparagraph (ii) of this paragraph shall apply to  
11 annuities and guaranteed interest contracts with guarantee duration  
12 of ten years or less;

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

17 (v) For other annuities with cash settlement options and  
18 guaranteed interest contracts with cash settlement options, valued  
19 on a change in fund basis, the formula for single premium immediate  
20 annuities stated in subparagraph (ii) of this paragraph shall  
21 apply.

22 (B) However, if the calendar year statutory valuation interest  
23 rate for any life insurance policies issued in any calendar year  
24 determined without reference to this sentence differs from the  
25 corresponding actual rate for similar policies issued in the

1 immediately preceding calendar year by less than one half of one  
2 percent, the calendar year statutory valuation interest rate for  
3 such life insurance policies shall be equal to the corresponding  
4 actual rate for the immediately preceding calendar year. For  
5 purposes of applying the immediately preceding sentence, the  
6 calendar year statutory valuation interest rate for life insurance  
7 policies issued in a calendar year shall be determined for the year  
8 1980 (using the reference interest rate defined for the year 1979)  
9 and shall be determined for each subsequent calendar year  
10 regardless of when ~~subdivision (4)~~, subsection ~~(e)~~ (g), section  
11 thirty, article thirteen of this chapter, as amended, becomes  
12 operative.

13 (3) *Weighting factors.* --

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

16 (i) Weighting Factors for Life Insurance:

17 Guarantee	18 Duration	19 Weighting
	(Years)	Factors
20 10 or less		.50
21 More than 10, but not more than 20		.45
22 More than 20		.35

23 For life insurance, the guarantee duration is the maximum  
24 number of years the life insurance can remain in force on a basis  
25 guaranteed in the policy or under options to convert to plans of



1 life insurance with premium rates or nonforfeiture values or both  
2 which are guaranteed in the original policy;

3 (ii) Weighting factor for single premium immediate annuities  
4 and for annuity benefits involving life contingencies arising from  
5 other annuities with cash settlement options and guaranteed  
6 interest contracts with cash settlement options: .80;

7 (iii) Weighting factors for other annuities and for guaranteed  
8 interest contracts, except as stated in subparagraph (ii) of this  
9 paragraph, shall be as specified in clauses (I), (II) and (III) of  
10 this subparagraph, according to the rules and definitions in  
11 clauses (IV), (V) and (VI) of this subparagraph:

12 (I) For annuities and guaranteed interest contracts valued on  
13 an issue year basis:

14 Guarantee	15 Weighting Factor		
16 Duration	17 for Plan Type		
18 (Years)	A	B	C
19 5 or less:	.80	.60	.50
20 More than 5, but not more than 10:	.75	.60	.50
21 More than 10, but not more than 20:	.65	.50	.45
22 More than 20:	.45	.35	.35

23 (II) For annuities and guaranteed interest contracts valued on  
24 a change in fund basis, the factors shown in ~~subparagraph (i) of~~  
25 ~~this paragraph~~ clause (I) of this subparagraph increased by:

24	25 Weighting Factor		
	for Plan Type		

1	A	B	C1
2	.15	.25	.05

3 (III) For annuities and guaranteed interest contracts valued  
4 on an issue-year basis (other than those with no cash settlement  
5 options) which do not guarantee interest on considerations received  
6 more than one year after issue or purchase and for annuities and  
7 guaranteed interest contracts valued on a change in fund basis  
8 which do not guarantee interest rates on considerations received  
9 more than twelve months beyond the valuation date, the factors  
10 shown in clause (I) of this subparagraph or derived in clause (II)  
11 of this subparagraph increased by:

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

16 (IV) For other annuities with cash settlement options and  
17 guaranteed interest contracts with cash settlement options, the  
18 guarantee duration is the number of years for which the contract  
19 guarantees interest rates in excess of the calendar year statutory  
20 valuation interest rate for life insurance policies with guarantee  
21 duration in excess of twenty years. For other annuities with no  
22 cash settlement options and for guaranteed interest contracts with  
23 no cash settlement options, the guaranteed duration is the number  
24 of years from the date of issue or date of purchase to the date  
25 annuity benefits are scheduled to commence.

1 (V) Plan type as used in the above tables is defined as  
2 follows:

3 Plan Type A:

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

9 Plan Type B:

10 Before expiration of the interest rate guarantee, policyholder  
11 may withdraw funds only: (1) With an adjustment to reflect changes  
12 in interest rates or asset values since receipt of the funds by the  
13 insurance company; or (2) without such adjustment but in  
14 installments over five years or more; or (3) no withdrawal  
15 permitted. At the end of interest rate guarantee, funds may be  
16 withdrawn without such adjustment in a single sum or installments  
17 over less than five years;

18 Plan Type C:

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

25 (VI) A company may elect to value guaranteed interest

1 contracts with cash settlement options and annuities with cash  
2 settlement options on either an issue-year basis or on a change in  
3 fund basis. Guaranteed interest contracts with no cash settlement  
4 options and other annuities with no cash settlement options must be  
5 valued on an issue-year basis. As used in this section, an  
6 issue-year basis of valuation refers to a valuation basis under  
7 which the interest rate used to determine the minimum valuation  
8 standard for the entire duration of the annuity or guaranteed  
9 interest contract is the calendar year valuation interest rate for  
10 the year of issue or year of purchase of the annuity or guaranteed  
11 interest contract and the change in fund basis of valuation refers  
12 to a valuation basis under which the interest rate used to  
13 determine the minimum valuation standard applicable to each change  
14 in the fund held under the annuity or guaranteed interest contract  
15 is the calendar year valuation interest rate for the year of the  
16 change in the fund.

17 (4) ~~Reference~~ The reference interest rate. --

18 (A) Reference interest rate referred to in ~~subparagraph (ii),~~  
19 ~~paragraph (A),~~ subdivision (2) of this subsection is ~~shall be~~  
20 defined as follows:

21 (i) For all life insurance, the lesser of the average over a  
22 period of thirty-six months and the average over a period of twelve  
23 months, ending on June 30 of the calendar year next preceding the  
24 year of issue, of the monthly average of the composite yield on  
25 seasoned corporate bonds as published by Moody's Investors Service,

1 Inc.

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

9 (iii) For other annuities with cash settlement options and  
10 guaranteed interest contracts with cash settlement options, valued  
11 on a year of issue basis, except as stated in subparagraph (ii) of  
12 this paragraph, with guarantee duration in excess of ten years, the  
13 lesser of the average over a period of thirty-six months and the  
14 average over a period of twelve months, ending on June 30 of the  
15 calendar year of issue or purchase, of the monthly average of the  
16 composite yield on seasoned corporate bonds as published by Moody's  
17 Investors Service, Inc.

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

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

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

14 (5) *Alternative method for determining reference interest*  
15 *rates. --*

16 In the event that the monthly average of the composite yield  
17 on seasoned corporate bonds is no longer published by Moody's  
18 Investors Service, Inc., or in the event that the national  
19 association of Insurance Commissioners determines that the monthly  
20 average of the composite yield on seasoned corporate bonds as  
21 published by Moody's Investors Service, Inc., is no longer  
22 appropriate for the determination of the reference interest rate,  
23 then an alternative method for determination of the reference  
24 interest rate, which is adopted by the national association of  
25 Insurance Commissioners and approved by ~~regulation~~ rule promulgated

1 by the commissioner, may be substituted.

2 (g) *Reserve valuation method.* -- Life insurance and endowment  
3 benefits.

4 Except as otherwise provided in subsections (h), (k) and (m)  
5 of this section, reserves according to the commissioner's reserve  
6 valuation method for the life insurance and endowment benefits of  
7 policies providing for a uniform amount of insurance and requiring  
8 the payment of uniform premiums shall be the excess, if any, of the  
9 present value, at the date of valuation, of the future guaranteed  
10 benefits provided ~~for~~ by the policies, over the then present value  
11 of any future modified net premiums therefor. The modified net  
12 premiums for any such policy shall be the uniform percentage of the  
13 respective contract premiums for the benefits that the present  
14 value, at the date of issue of the policy, of all the modified net  
15 premiums shall be equal to the sum of the then present value of the  
16 benefits provided ~~for~~ by the policy and the excess of subdivision  
17 (1) of this subsection over subdivision (2) of this subsection, as  
18 follows:

19 (1) A net level annual premium equal to the present value, at  
20 the date of issue, of such benefits provided for after the first  
21 policy year, divided by the present value, at the date of issue, of  
22 an annuity of one per annum payable on the first and each  
23 subsequent anniversary of such policy on which a premium falls due:  
24 *Provided,* That such net level annual premium shall not exceed the  
25 net level annual premium on the nineteen-year premium whole life

1 plan for insurance of the same amount at an age one year higher  
2 than the age at issue of such policy.

3       (2) A net one-year term premium for such benefits provided for  
4 in the first policy year: *Provided*, That for any life insurance  
5 policy issued on or after January 1, 1985, for which the contract  
6 premium in the first policy year exceeds that of the second year  
7 and for which no comparable additional benefit is provided in the  
8 first year for such excess and which provides an endowment benefit  
9 or a cash surrender value or a combination thereof in an amount  
10 greater than such excess premium, the reserve according to the  
11 commissioners' reserve valuation method as of any policy  
12 anniversary occurring on or before the assumed ending date defined  
13 herein as the first policy anniversary on which the sum of any  
14 endowment benefit and any cash surrender value then available is  
15 greater than such excess premium shall, except as otherwise  
16 provided in subsection (k) of this section, be the greater of the  
17 reserve as of such policy anniversary calculated as described in  
18 the preceding paragraph and the reserve as of the policy  
19 anniversary calculated as described in that paragraph, but with:  
20 (i) The value defined in subdivision (1) of that paragraph being  
21 reduced by fifteen percent of the amount of such excess first-year  
22 premium; (ii) all present values of benefits and premiums being  
23 determined without reference to premiums or benefits provided ~~for~~  
24 by the policy after the assumed ending date; (iii) the policy being  
25 assumed to mature on the date as an endowment; and (iv) the cash



1 surrender value provided on such date being considered as an  
2 endowment benefit. In making the above comparison, the mortality  
3 and interest bases stated in subsections (d) and (f) of this  
4 section shall be used.

5 Reserves according to the commissioners' reserve valuation  
6 method shall be calculated by a method consistent with the  
7 principles of the preceding paragraphs of this section for: (i)  
8 Life insurance policies providing for a varying amount of insurance  
9 or requiring the payment of varying premiums; (ii) group annuity  
10 and pure endowment contracts purchased under a retirement plan or  
11 plan of deferred compensation, established or maintained by an  
12 employer (including a partnership or sole proprietorship) or by an  
13 employee organization, or by both, other than a plan providing  
14 individual retirement accounts or individual retirement annuities  
15 under section 408 of the Internal Revenue Code (26 U.S.C. §408) as  
16 now or hereafter amended; (iii) disability and accidental death  
17 benefits in all policies and contracts; and (iv) all other  
18 benefits, except life insurance and endowment benefits in life  
19 insurance policies and benefits provided by all other annuity and  
20 pure endowment contracts, shall be calculated by a method  
21 consistent with the principles of the preceding paragraphs of this  
22 section.

23 (h) *Reserve valuation method.* -- Annuity and pure endowment  
24 benefits.

25 (1) This subsection shall apply to all annuity and pure

1 endowment contracts other than group annuity and pure endowment  
2 contracts purchased under a retirement plan or plan of deferred  
3 compensation established or maintained by an employer (including a  
4 partnership or sole proprietorship) or by an employee organization,  
5 or by both, other than a plan providing individual retirement  
6 accounts or individual retirement annuities under section 408 of  
7 the Internal Revenue Code (26 U.S.C. §408) as now or hereafter  
8 amended.

9       (2) Reserves according to the commissioners' annuity reserve  
10 method for benefits under annuity or pure endowment contracts,  
11 excluding any disability and accidental death benefits in such  
12 contracts, shall be the greatest of the respective excesses of the  
13 present values, at the date of valuation, of the future guaranteed  
14 benefits, including guaranteed nonforfeiture benefits, provided ~~for~~  
15 by such contracts at the end of each respective contract year over  
16 the present value, at the date of valuation, of any future  
17 valuation considerations derived from future gross considerations,  
18 required by the terms of such contract, that become payable prior  
19 to the end of ~~such~~ the respective contract year.

20       The future guaranteed benefits shall be determined by using  
21 the mortality table, if any, and the interest rate, or rates,  
22 specified in the contracts for determining guaranteed benefits.  
23 The valuation considerations are the portions of the respective  
24 gross considerations applied under the terms of such contracts to  
25 determine nonforfeiture values.

1 (i) *Minimum reserves.* --

2 (1) In no event shall a company's aggregate reserves for all  
3 life insurance policies, excluding disability and accidental death  
4 benefits, issued on or after ~~the effective date of this section~~  
5 January 1, 1958 be less than the aggregate reserves calculated in  
6 accordance with the methods set forth in subsections (g), (h), (k)  
7 and (l) of this section and the mortality table or tables and rate  
8 or rates of interest used in calculating nonforfeiture benefits for  
9 ~~such~~ the policies.

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

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

15 (1) Reserves for all policies and contracts issued prior to  
16 the effective date of this section may be calculated, at the option  
17 of the company, according to any standards which produce greater  
18 aggregate reserves for all policies and contracts than the minimum  
19 reserves required by the laws in effect immediately prior to such  
20 date.

21 (2) Reserves for any category of policies, contracts or  
22 benefits as established by the commissioner issued on or after ~~the~~  
23 ~~effective date of this section~~ January 1, 1958 may be calculated,  
24 at the option of the company, according to any standards which  
25 produce greater aggregate reserves for such category than those

1 calculated according to the minimum standard herein provided, but  
2 the rate or rates of interest used for policies and contracts,  
3 other than annuity and pure endowment contracts, shall not be  
4 higher than the corresponding rate or rates of interest used in  
5 calculating any nonforfeiture benefits provided therein.

6       (3) Any such company which at any time shall have adopted any  
7 standard of valuation producing greater aggregate reserves than  
8 those calculated according to the minimum standard herein provided  
9 may, with the approval of the commissioner, adopt any lower  
10 standard of valuation, but not lower than the minimum herein  
11 provided: *Provided*, That for the purposes of this section, the  
12 holding of additional reserves previously determined by ~~a qualified~~  
13 the appointed actuary to be necessary to render the opinion  
14 required by subsection (c) of this section shall not be considered  
15 to be the adoption of a higher standard of valuation.

16       (k) *Reserve calculation.* -- Valuation net premium exceeding  
17 the gross premium charged.

18       (1) If in any contract year the gross premium charged by any  
19 life insurance company on any policy or contract is less than the  
20 valuation net premium for the policy or contract calculated by the  
21 method used in calculating the reserve thereon but using the  
22 minimum valuation standards of mortality and rate of interest, the  
23 minimum reserve required for such policy or contract shall be the  
24 greater of either the reserve calculated according to the mortality  
25 table, rate of interest and method actually used for such policy or

1 contract or the reserve calculated by the method actually used for  
2 such policy or contract but using the minimum valuation standards  
3 of mortality and rate of interest and replacing the valuation net  
4 premium by the actual gross premium in each contract year for which  
5 the valuation net premium exceeds the actual gross premium. The  
6 minimum valuation standards of mortality and rate of interest  
7 referred to in this section are those standards stated in  
8 subsections (d) and (f) of this section: *Provided, That for any*  
9 *life insurance policy issued on or after January 1, 1985, for which*  
10 *the gross premium in the first policy year exceeds that of the*  
11 *second year and for which no comparable additional benefit is*  
12 *provided in the first year for such excess and which provides an*  
13 *endowment benefit or a cash surrender value or a combination*  
14 *thereof in an amount greater than such excess premium, the*  
15 *foregoing provisions of this subsection shall be applied as if the*  
16 *method actually used in calculating the reserve for such policy*  
17 *were the method described in subsection (g) of this section,*  
18 *ignoring the second paragraph of said subsection.*

19       (2) The minimum reserve at each policy anniversary of such a  
20 policy shall be the greater of the minimum reserve calculated in  
21 accordance with subsection (g) of this section, including the  
22 second paragraph of said section, and the minimum reserve  
23 calculated in accordance with this subsection.

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

25       In the case of any plan of life insurance which provides for

1 future premium determination, the amounts of which are to be  
2 determined by the insurance company based on then estimates of  
3 future experience, or in the case of any plan of life insurance or  
4 annuity which is of such a nature that the minimum reserves cannot  
5 be determined by the methods described in subsections (g), (h) and  
6 (k) of this section, the reserves which are held under any such  
7 plan must:

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

10 (2) Be computed by a method which is consistent with the  
11 principles of this standard valuation law as determined by  
12 ~~regulations~~ rules promulgated by the commissioner.

13 ~~(m) Minimum standards for health (disability, accident and~~  
14 ~~sickness) plans.---~~

15 ~~The commissioner shall promulgate a rule containing the~~  
16 ~~minimum standards applicable to the valuation of health~~  
17 ~~(disability, sickness and accident) plans.~~

18 ~~(n) The commissioner shall promulgate a rule on or before~~  
19 ~~November 1, 1995, prescribing the guidelines and standards for~~  
20 ~~statements of actuarial opinion which are to be submitted in~~  
21 ~~accordance with subsection (c) of this section and for memoranda in~~  
22 ~~support thereof; guidelines and standards for statements of~~  
23 ~~actuarial opinion which are to be submitted when a company is~~  
24 ~~exempt from subdivision (2) of said subsection of the standard~~  
25 ~~valuation law; and rules applicable to the appointment of an~~

1 ~~appointed actuary.~~

2 ~~(o) Effective date. -- All acts and parts of acts inconsistent~~  
3 ~~with the provision of this section are hereby repealed as of the~~  
4 ~~effective date of this section. This section shall take effect~~  
5 ~~January 1, 1996.~~

6 ~~(p) Modification of the standard valuation law for certain~~  
7 ~~types of contracts. --~~

8 ~~(1)~~ (m) The commissioner may, by rule, establish alternative  
9 methods of calculating reserve liabilities, which methods shall be  
10 used to calculate reserve liabilities for the types of policies,  
11 annuities or other contracts identified in the rule: *Provided,*  
12 That the method specified in the rule shall be one which, in the  
13 opinion of the commissioner and in light of the methods applied to  
14 the contracts by the insurance regulators of other states, is  
15 appropriate to the contracts. This power shall be in addition to,  
16 and in no way diminish, rule-making power granted to the  
17 commissioner elsewhere in this code.

18 ~~(2) The legislative rule filed in the state register on August~~  
19 ~~20, 1996, (valuation of life insurance policies, 114 CSR 49) is~~  
20 ~~hereby disapproved and is not authorized for promulgation:~~  
21 ~~*Provided,* That for purposes of determining the legal effects of the~~  
22 ~~aforementioned rule, this provision shall be considered to have~~  
23 ~~taken effect on December 31, 1997. This disapproval shall in no~~  
24 ~~way limit the commissioner's power to promulgate in the future a~~  
25 ~~rule similar or identical to the rule here disapproved.~~

1       (n) Valuation Manual for Policies Issued On or After the  
2 Operative Date of the Valuation Manual. --

3       (1) The commissioner shall promulgate emergency rules adopting  
4 a valuation manual that is substantially similar to the valuation  
5 manual approved by the National Association of Insurance  
6 Commissioners and any amendments to such manual as may be  
7 subsequently approved by the National Association of Insurance  
8 Commissioners, and such rules shall be effective in accordance with  
9 subdivisions (2) and (3) of this subsection.

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

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

17       (B) The Standard Valuation Law, as amended by the National  
18 Association of Insurance Commissioners in 2009, or legislation  
19 including substantially similar terms and provisions, has been  
20 enacted by states representing greater than seventy-five percent of  
21 the direct premiums written as reported in the following annual  
22 statements submitted for 2008: Life, accident and health annual  
23 statements; health annual statements; and fraternal annual  
24 statements; and

25       (C) 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 at least forty-two of the following fifty-five  
4 jurisdictions: The fifty states of the United States, American  
5 Samoa, the American Virgin Islands, the District of Columbia, Guam,  
6 and Puerto Rico.

7 (3) Unless a change in the valuation manual specifies a later  
8 effective date, changes to the valuation manual shall be effective  
9 on January 1 following the date when such changes have been adopted  
10 by the National Association of Insurance Commissioners by an  
11 affirmative vote representing:

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

15 (B) Members of the National Association of Insurance  
16 Commissioners representing jurisdictions totaling greater than  
17 seventy-five percent of the direct premiums written, as reported in  
18 the following annual statements most recently available prior to  
19 the vote in paragraph (A), of this subdivision: Life, accident and  
20 health annual statements, health annual statements, or fraternal  
21 annual statements.

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

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

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

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

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

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

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

15 (i) Requirements for the format of reports to the commissioner  
16 under paragraph (C), subdivision (2), subsection (o) of this  
17 section and which shall include information necessary to determine  
18 if the valuation is appropriate and in compliance with this  
19 section;

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

22 (iii) Procedures for corporate governance and oversight of the  
23 actuarial function and a process for appropriate waiver or  
24 modification of such procedures.

25 (D) For policies not subject to a principle-based valuation

1 under subsection (o), the minimum valuation standard shall either:

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

4 (ii) Develop reserves that quantify the benefits and  
5 guarantees, and the funding, associated with the contracts and  
6 their risks at a level of conservatism that reflects conditions  
7 that include unfavorable events that have a reasonable probability  
8 of occurring.

9 (E) Other requirements, including, but not limited to, those  
10 relating to reserve methods, models for measuring risk, generation  
11 of economic scenarios, assumptions, margins, use of company  
12 experience, risk measurement, disclosure, certifications, reports,  
13 actuarial opinions and memorandums, transition rules and internal  
14 controls; and

15 (F) The data and form of the data required under subsection  
16 (p) of this section, with whom the data must be submitted, and may  
17 specify other requirements including data analyses and reporting of  
18 analyses.

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

24 (6) In the absence of a specific valuation requirement or if  
25 a specific valuation requirement in the valuation manual is not, in

1 the opinion of the commissioner, in compliance with this section,  
2 then the company shall, with respect to such requirements, comply  
3 with minimum valuation standards prescribed by rule.

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

14 (8) The commissioner may require a company to change any  
15 assumption or method that in the opinion of the commissioner is  
16 necessary in order to comply with the requirements of the valuation  
17 manual or this section, and the company shall adjust the reserves  
18 as required by the commissioner.

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

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

23 (A) Quantify the benefits and guarantees, and the funding,  
24 associated with the contracts and their risks at a level of  
25 conservatism that reflects conditions that include unfavorable

1 events that have a reasonable probability of occurring during the  
2 lifetime of the contracts. For policies or contracts with  
3 significant tail risk, reflects conditions appropriately adverse to  
4 quantify the tail risk.

5 (B) Incorporate assumptions, risk analysis methods and  
6 financial models and management techniques that are consistent  
7 with, but not necessarily identical to, those utilized within the  
8 company's overall risk assessment process, while recognizing  
9 potential differences in financial reporting structures and any  
10 prescribed assumptions or methods.

11 (C) Incorporate assumptions that are derived in one of the  
12 following manners:

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

14 (ii) For assumptions that are not prescribed, the assumptions  
15 shall either:

16 (I) Be established utilizing the company's available  
17 experience, to the extent it is relevant and statistically  
18 credible; or

19 (II) To the extent that company data is not available,  
20 relevant or statistically credible, be established utilizing other  
21 relevant, statistically credible experience.

22 (D) Provide margins for uncertainty including adverse  
23 deviation and estimation error, such that the greater the  
24 uncertainty, the larger the margin and resulting reserve.

25 (2) A company using a principle-based valuation for one or

1 more policies or contracts subject to this section as specified in  
2 the valuation manual shall:

3 (A) Establish procedures for corporate governance and  
4 oversight of the actuarial valuation function consistent with those  
5 described in the valuation manual.

6 (B) Provide to the commissioner and the board of directors an  
7 annual certification of the effectiveness of the internal controls  
8 with respect to the principle-based valuation. Such controls shall  
9 be designed to assure that all material risks inherent in the  
10 liabilities and associated assets subject to such valuation are  
11 included in the valuation, and that valuations are made in  
12 accordance with the valuation manual. The certification shall be  
13 based on the controls in place as of the end of the preceding  
14 calendar year.

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

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

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

24 (q) Confidentiality. --

25 (1) For purposes of this subsection, "confidential

1 information" means:

2       (A) A memorandum in support of an opinion submitted under  
3 subsection (c) of this section and any other documents, materials  
4 and other information, including, but not limited to, all working  
5 papers, and copies thereof, created, produced or obtained by or  
6 disclosed to the commissioner or any other person in connection  
7 with such memorandum;

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

18       (C) Any reports, documents, materials and other information  
19 developed by a company in support of, or in connection with, an  
20 annual certification by the company under paragraph (B),  
21 subdivision (2), subsection (o) of this section evaluating the  
22 effectiveness of the company's internal controls with respect to a  
23 principle-based valuation and any other documents, materials and  
24 other information, including, but not limited to, all working  
25 papers, and copies thereof, created, produced or obtained by or

1 disclosed to the commissioner or any other person in connection  
2 with such reports, documents, materials and other information;

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

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

23 (2) Privilege for, and Confidentiality of, Confidential  
24 Information.

25 (A) Except as otherwise provided in this subsection, a



1 company's confidential information is confidential by law and  
2 privileged, is exempt from disclosure under article one, chapter  
3 twenty-nine-a of this code, is not subject to subpoena, and is not  
4 subject to discovery or admissible in evidence in any private civil  
5 action: *Provided*, That the commissioner is authorized to use the  
6 confidential information in the furtherance of any regulatory or  
7 legal action brought against the company as a part of the  
8 commissioner's official duties.

9 (B) Neither the commissioner nor any person who received  
10 confidential information while acting under the authority of the  
11 commissioner is permitted or required to testify in any private  
12 civil action concerning any confidential information.

13 (C) In order to assist in the performance of the  
14 commissioner's duties, the commissioner may share confidential  
15 information:

16 (i) With other state, federal and international regulatory  
17 agencies and with the National Association of Insurance  
18 Commissioners and its affiliates and subsidiaries;

19 (ii) In the case of confidential information specified in  
20 paragraphs (A) and (D), subdivision (1) of this subsection only,  
21 with the Actuarial Board for Counseling and Discipline or its  
22 successor upon request stating that the confidential information is  
23 required for the purpose of professional disciplinary proceedings  
24 and with state, federal and international law-enforcement  
25 officials; and

1 (iii) In the case of subparagraphs (i) and (ii) of this  
2 paragraph, provided that such recipient agrees and has the legal  
3 authority to agree, to maintain the confidentiality and privileged  
4 status of such documents, materials, data and other information in  
5 the same manner and to the same extent as required for the  
6 commissioner.

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

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

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

25 (G) A privilege established under the law of any state or

1 jurisdiction that is substantially similar to the privilege  
2 established under this subdivision is available and may be enforced  
3 in any proceeding in, and in any court of, this state. (H) In this  
4 subsection "regulatory agency," "law-enforcement agency" and the  
5 "NAIC" include, but are not limited to, their employees, agents,  
6 consultants and contractors.

7 (3) Notwithstanding subdivision (2) of this subsection, any  
8 confidential information specified in paragraphs (A) and (D),  
9 subdivision (1) of this subsection:

10 (A) May be subject to subpoena for the purpose of defending  
11 an action seeking damages from the appointed actuary submitting the  
12 related memorandum in support of an opinion submitted under  
13 subsection (c) of this section or principle-based valuation report  
14 developed under paragraph (C), subdivision (2), subsection (o) of  
15 this section by reason of an action required by this section or by  
16 rules promulgated hereunder;

17 (B) May otherwise be released by the commissioner with the  
18 written consent of the company; and

19 (C) Once any portion of a memorandum in support of an opinion  
20 submitted under subsection (c) of this section or a principle-based  
21 valuation report developed under paragraph (C), subdivision (2),  
22 subsection (o) of this section is cited by the company in its  
23 marketing or is publicly volunteered to or before a governmental  
24 agency other than a state insurance department or is released by  
25 the company to the news media, all portions of such memorandum or

1 report are no longer be confidential.

2 **ARTICLE 13. LIFE INSURANCE.**

3 **§33-13-30. Standard nonforfeiture law for life insurance.**

4 ~~(1)~~ (a) In the case of policies issued on or after the  
5 original operative date of this ~~provision~~ subsection as set forth  
6 in subsection (l) of this section, no policy of life insurance,  
7 except as stated in subsection ~~six~~ (k) of this section, shall be  
8 delivered or issued for delivery in this state unless it shall  
9 contain in substance the following provisions, or corresponding  
10 provisions which in the opinion of the commissioner are at least as  
11 favorable to the defaulting or surrendering policyholder as are the  
12 minimum requirements hereinafter specified and are essentially in  
13 compliance with subsection ~~(5a) of this law~~ subsection (j) of this  
14 section:

15 ~~(a)~~ (1) That, in the event of default in any premium payment,  
16 the insurer will grant, upon proper request not later than sixty  
17 days after the due date of the premium in default, a paid-up  
18 nonforfeiture benefit on a plan stipulated in the policy, effective  
19 as of such due date, of such amount as may be hereinafter  
20 specified. In lieu of such stipulated paid-up nonforfeiture  
21 benefit, the insurer may substitute, upon proper request not later  
22 than sixty days after the due date of the premium in default, an  
23 actuarially equivalent alternative paid-up nonforfeiture benefit  
24 which provides a greater amount or longer period of death benefits  
25 or, if applicable, a greater amount or earlier payment of endowment

1 benefits;

2       ~~(b)~~ (2) That, upon surrender of the policy within sixty days  
3 after the due date of any premium payment in default after premiums  
4 have been paid for at least three full years in the case of  
5 ordinary insurance or five full years in the case of industrial  
6 insurance, the insurer will pay, in lieu of any paid-up  
7 nonforfeiture benefit, a cash surrender value of such amount as may  
8 be hereinafter specified;

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

13       ~~(d)~~ (4) That, if the policy shall have become paid up by  
14 completion of all premium payments or if it is continued under any  
15 paid-up nonforfeiture benefit which became effective on or after  
16 the third policy anniversary in the case of ordinary insurance or  
17 the fifth policy anniversary in the case of industrial insurance  
18 the insurer will pay, upon surrender of the policy within thirty  
19 days after any policy anniversary, a cash surrender value of such  
20 amount as may be hereinafter specified;

21       ~~(e)~~ (5) In the case of policies which cause on a basis  
22 guaranteed in the policy unscheduled changes in benefits or  
23 premiums, or which provide an option for changes in benefits or  
24 premiums other than a change to a new policy, a statement of the  
25 mortality table, interest rate and method used in calculating cash

1 surrender values and the paid-up nonforfeiture benefits available  
2 under the policy. In the case of all other policies, a statement  
3 of the mortality table and interest rate used in calculating the  
4 cash surrender values and the paid-up nonforfeiture benefits  
5 available under the policy, together with a table showing the cash  
6 surrender value, if any, and paid-up nonforfeiture benefits, if  
7 any, available under the policy on each policy anniversary either  
8 during the first twenty policy years or during the term of the  
9 policy, whichever is shorter, such values and benefits to be  
10 calculated upon the assumption that there are no dividends or  
11 paid-up additions credited to the policy and that there is no  
12 indebtedness to the insurer on the policy; and

13 ~~(f)~~ (6) A statement that the cash surrender values and the  
14 paid-up nonforfeiture benefits available under the policy are not  
15 less than the minimum values and benefits required by or pursuant  
16 to the insurance law of the state in which the policy is delivered;  
17 an explanation of the manner in which the cash surrender values and  
18 the paid-up nonforfeiture benefits are altered by the existence of  
19 any paid-up additions credited to the policy or any indebtedness to  
20 the company on the policy; if a detailed statement of the method of  
21 computation of the values and benefits shown in the policy is not  
22 stated therein a statement that such method of computation has been  
23 filed with the insurance supervisory official of the state in which  
24 the policy is delivered; and a statement of the method to be used  
25 in calculating the cash surrender value and paid-up nonforfeiture

1 benefits available under the policy on any policy anniversary  
2 beyond the last anniversary for which such values and benefits are  
3 consecutively shown in the policy.

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

7 The insurer shall reserve the right to defer the payment of  
8 any cash surrender value for a period of ~~30 days~~ six months after  
9 demand therefor with surrender of the policy.

10 ~~(2)~~ (b) Computation of Cash Surrender Value. --

11 (1) Any cash surrender value available under the policy in the  
12 event of default in a premium payment due on any policy  
13 anniversary, whether or not required by subsection ~~(1)~~, (a) of this  
14 section, shall be an amount not less than the excess, if any, of  
15 the present value, on such anniversary, of the future guaranteed  
16 benefits which would have been provided ~~for~~ by the policy,  
17 including any existing paid-up additions, if there had been no  
18 default, over the sum of:

19 ~~(i) the~~ (A) The then present value of the adjusted premiums as  
20 defined in subsections ~~(4), (4a), (4b) and (4c)~~ (d), (e), (f) and  
21 (g) of this section, corresponding to premiums which would have  
22 fallen due on and after such anniversary; and

23 ~~(ii) the~~ (B) The amount of any indebtedness to the insurer on  
24 the policy: *Provided*, That for any policy issued on or after the  
25 operative date of subsection ~~(4c)~~ (g) of this section as defined

1 therein, which provides supplemental life insurance or annuity  
2 benefits at the option of the insured and for an identifiable  
3 additional premium by rider or supplemental policy provision, the  
4 cash surrender value referred to in ~~the first paragraph~~ subdivision  
5 (1) of this subsection shall be an amount not less than the sum of  
6 the cash surrender value ~~as defined in such paragraph~~ for an  
7 otherwise similar policy issued at the same age without such rider  
8 or supplemental policy provision and the cash surrender value as  
9 defined in ~~such paragraph~~ subdivision (1) of this subsection for a  
10 policy which provides only the benefits otherwise provided by such  
11 rider or supplemental policy provision: *Provided, however,* That  
12 for any family policy issued on or after the operative date of  
13 subsection ~~(4c) as defined therein~~ (g) of this section, which  
14 defines a primary insured and provides term insurance on the life  
15 of the spouse of the primary insured expiring before the spouse's  
16 age seventy-one, the cash surrender value referred to in the first  
17 paragraph of this subsection shall be an amount not less than the  
18 sum of the cash surrender value as defined in such paragraph for an  
19 otherwise similar policy issued at the same age without such term  
20 insurance on the life of the spouse and the cash surrender value as  
21 defined in such paragraph for a policy which provides only the  
22 benefits otherwise provided by such term insurance on the life of  
23 the spouse.

24 (2) Any cash surrender value available within thirty days  
25 after any policy anniversary under any policy paid up by completion



1 of all premium payments or any policy continued under any paid-up  
2 nonforfeiture benefit, whether or not required by subsection one,  
3 shall be an amount not less than the present value, on such  
4 anniversary, of the future guaranteed benefits provided for by the  
5 policy, including any existing paid-up additions decreased by any  
6 indebtedness to the insurer on the policy.

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

15       ~~(4)~~ (d) Calculation of Adjusted Premiums. --

16       (1) This subsection ~~(4)~~ shall does not apply to policies  
17 issued on or after the operative date of subsection ~~(4c)~~ as defined  
18 therein (g) of this section. Except as provided in ~~the third~~  
19 ~~paragraph~~ subdivision (4) of this subsection, the adjusted premiums  
20 for any policy shall be calculated on an annual basis and shall be  
21 such uniform percentage of the respective premiums specified in the  
22 policy for each policy year, excluding ~~extra premiums on a~~  
23 ~~substandard policy~~ amounts stated in the policy as extra premiums  
24 to cover impairments or special hazards, that the present value, at  
25 the date of issue of the policy, of all such adjusted premiums

1 shall be equal to the sum of:

2 ~~(i) the~~ (A) The then present value of the future guaranteed  
3 benefits provided ~~for~~ by the policy;

4 ~~(ii) two~~ (B) Two percent of the amount of insurance, if the  
5 insurance be uniform in amount, or of the equivalent uniform  
6 amount, as hereinafter defined, if the amount of insurance varies  
7 with duration of the policy;

8 ~~(iii) forty~~ (C) Forty percent of the adjusted premium for the  
9 first policy year;

10 ~~(iv) twenty-five~~ (D) Twenty-five percent of either the  
11 adjusted premium for the first policy year or the adjusted premium  
12 for a whole life policy of the same uniform or equivalent uniform  
13 amount with uniform premiums for the whole of life issued at the  
14 same age for the same amount of insurance, whichever is less.

15 ~~Provided, That in~~ (2) In applying the percentages specified  
16 in ~~(iii) and (iv) above paragraphs (C) and (D), subdivision (1) of~~  
17 ~~this subsection,~~ no adjusted premium shall be deemed to exceed four  
18 percent of the amount of insurance or uniform amount equivalent  
19 thereto. The date of issue of a policy for the purpose of this  
20 subsection shall be the date as of which the rated age of the  
21 insured is determined.

22 (3) In the case of a policy providing an amount of insurance  
23 varying with duration of the policy, the equivalent uniform amount  
24 ~~thereof~~ for the purpose of this subsection shall be deemed to be  
25 the uniform amount of insurance provided by an otherwise similar

1 policy, containing the same endowment benefit or benefits, if any,  
2 issued at the same age and for the same term, the amount of which  
3 does not vary with duration and the benefits under which have the  
4 same present value at the date of issue as the benefits under the  
5 policy. ~~Provided, That in the case of a policy providing a varying~~  
6 ~~amount of insurance issued on the life of a child under age ten,~~  
7 ~~the equivalent uniform amount may be computed as though the amount~~  
8 ~~of insurance provided by the policy prior to the attainment of age~~  
9 ~~ten were the amount provided by such policy at age ten.~~

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

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

17       ~~(b) the~~ (B) The adjusted premiums for such term insurance; and  
18       ~~the foregoing items (a) and (b)~~ (C) Paragraphs (A) and (B) of  
19 this subdivision being calculated separately and as specified in  
20 ~~the first two paragraphs~~ subdivisions (1), (2) and (3) of this  
21 subsection except that, for the purposes of ~~(ii), (iii) and (iv)~~ of  
22 ~~the first such paragraph~~ paragraphs (B), (C) and (D), subdivision  
23 (1) of this subsection, the amount of insurance or equivalent  
24 uniform amount of insurance used in the calculation of the adjusted  
25 premiums referred to in ~~(b)~~ paragraph (B), subdivision (1) of this

1 subsection shall be equal to the excess of the corresponding amount  
2 determined for the entire policy over the amount used in the  
3 calculation of the adjusted premiums in ~~(a)~~ paragraph (A),  
4 subdivision (4) of this subsection.

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

1 other table of mortality as may be specified by the insurer and  
2 approved by the commissioner.

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

1 may be not more than those shown in the Commissioners 1958 Extended  
2 Term Insurance Table: *Provided further*, That for insurance issued  
3 on a substandard basis, the calculation of any such adjusted  
4 premiums and present values may be based on such other table of  
5 mortality as may be specified by the company and approved by the  
6 commissioner.

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

16       ~~(4b)~~ (f) This subsection ~~(4b) shall~~ does not apply to  
17 industrial policies issued on or after the operative date of  
18 subsection ~~(4c) as defined therein~~ (g) of this section. In the  
19 case of industrial policies issued on or after the operative date  
20 of this subsection, ~~(4b) as defined herein,~~ all adjusted premiums  
21 and present values referred to in this section shall be calculated  
22 on the basis of the Commissioners 1961 Standard Industrial  
23 Mortality Table and the rate of interest specified in the policy  
24 for calculating cash surrender values and paid-up nonforfeiture  
25 benefits provided that such rate of interest shall not exceed three

1 and one-half percent per annum except that a rate of interest not  
2 exceeding four percent per annum may be used for policies issued on  
3 or after June 3, 1974 and prior to April 6, 1977, and a rate of  
4 interest not exceeding five and one-half percent per annum may be  
5 used for policies issued on or after April 6, 1977, except that for  
6 any single premium whole life or endowment insurance policy a rate  
7 of interest not exceeding six and one-half percent per annum may be  
8 used: *Provided*, That in calculating the present value of any  
9 paid-up term insurance with accompanying pure endowment, if any,  
10 offered as a nonforfeiture benefit, the rates of mortality assumed  
11 may be not more than those shown in the Commissioners 1961  
12 Industrial Extended Term Insurance Table: *Provided, however*, That  
13 for insurance issued on a substandard basis, the calculation of any  
14 such adjusted premiums and present values may be based on such  
15 other table of mortality as may be specified by the company and  
16 approved by the commissioner.

17 ~~After the effective date of this subsection (4b) May 31, 1965,~~  
18 any company may file with the commissioner a written notice of its  
19 election to comply with the provisions of this subsection after a  
20 specified date before January 1, 1968. After the filing of such  
21 notice, then upon such specified date (which shall be the operative  
22 date of this subsection for such company), this subsection shall  
23 become operative with respect to the industrial policies thereafter  
24 issued by such company. If a company makes no such election, the  
25 operative date of this subsection for such company shall be January

1 1, 1968.

2 ~~(4c)~~ ~~(a)~~ (g) (1) This subsection ~~shall apply~~ applies to all  
3 policies issued on or after the operative date of this subsection.  
4 ~~(4c)~~ ~~as defined herein.~~ Except as provided in ~~the seventh~~  
5 ~~paragraph~~ subdivision (7) of this subsection, the adjusted premiums  
6 for any policy shall be calculated on an annual basis and shall be  
7 such uniform percentage of the respective premiums specified in the  
8 policy for each policy year, excluding amounts payable as extra  
9 premiums to cover impairments or special hazards and also excluding  
10 any uniform annual contract charge or policy fee specified in the  
11 policy in a statement of the method to be used in calculating the  
12 cash surrender values and paid-up nonforfeiture benefits, that the  
13 present value, at the date of issue of the policy, of all adjusted  
14 premiums shall be equal to the sum of;

15 ~~(i)~~ ~~the~~ (A) The then present value of the future guaranteed  
16 benefits provided for by the policy;

17 ~~(ii)~~ ~~one~~ (B) One percent of either the amount of insurance, if  
18 the insurance be uniform in amount, or the average amount of  
19 insurance at the beginning of each of the first ten policy years;  
20 and

21 ~~(iii)~~ ~~one~~ (C) One hundred twenty-five percent of the  
22 nonforfeiture net level premium as hereinafter defined: *Provided,*  
23 That in applying ~~the percentage specified in (iii) above~~ this  
24 percentage no nonforfeiture net level premium shall be deemed to  
25 exceed four percent of either the amount of insurance, if the



1 insurance be uniform in amount, or the average amount of insurance  
2 at the beginning of each of the first ten policy years. The date  
3 of issue of a policy for the purpose of this subsection shall be  
4 the date as of which the rated age of the insured is determined;

5 ~~(b)~~ (2) The nonforfeiture net level premium shall be equal to  
6 the present value, at the date of issue of the policy, of the  
7 guaranteed benefits provided ~~for~~ by the policy divided by the  
8 present value, at the date of issue of the policy, of an annuity of  
9 one per annum payable on the date of issue of the policy and on  
10 each anniversary of such policy on which a premium falls due;

11 ~~(c)~~ (3) In the case of policies which cause on a basis  
12 guaranteed in the policy unscheduled changes in benefits or  
13 premiums, or which provide an option for changes in benefits or  
14 premiums other than a change to a new policy, the adjusted premiums  
15 and present values shall initially be calculated on the assumption  
16 that future benefits and premiums do not change from those  
17 stipulated at the date of issue of the policy. At the time of any  
18 such change in the benefits or premiums the future adjusted  
19 premiums, nonforfeiture net level premiums and present values shall  
20 be recalculated on the assumption that future benefits and premiums  
21 do not change from those stipulated by the policy immediately after  
22 the change;

23 ~~(d)~~ (4) Except as otherwise provided in ~~the seventh paragraph~~  
24 subdivision (7) of this subsection, the recalculated future  
25 adjusted premiums for any such policy shall be such uniform

1 percentage of the respective future premiums specified in the  
2 policy for each policy year, excluding amounts payable as extra  
3 premiums to cover impairments and special hazards, and also  
4 excluding any uniform annual contract charge or policy fee  
5 specified in the policy in a statement of the method to be used in  
6 calculating the cash surrender values and paid-up nonforfeiture  
7 benefits, that the present value, at the time of change to the  
8 newly defined benefits or premiums, of all such future adjusted  
9 premiums shall be equal to the excess of:

10 (A) ~~the~~ The sum of:

11 (i) ~~the~~ The then present value of the then future guaranteed  
12 benefits provided ~~for~~ by the policy; and

13 (ii) ~~the~~ The additional expense allowance, if any, over

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

16 ~~(e)~~ (5) The additional expense allowance, at the time of the  
17 change to the newly defined benefits or premiums, shall be the sum  
18 of:

19 ~~(i) one~~ (A) One percent of the excess, if positive, of the  
20 average amount of insurance at the beginning of each of the first  
21 ten policy years subsequent to the change over the average amount  
22 of insurance prior to the change at the beginning of each of the  
23 first ten policy years subsequent to the time of the most recent  
24 previous change, or, if there has been no previous change, the date  
25 of issue of the policy; and

1        ~~(ii) one~~ (B) One hundred twenty-five percent of the increase,  
2 if positive, in the nonforfeiture net level premium;

3        ~~(f) (6)~~ (6) The recalculated nonforfeiture net level premium shall  
4 be equal to the result obtained by dividing ~~(A) by (B)~~ paragraph  
5 (A) of this subdivision by paragraph (B) of this subdivision where:

6        (A) Equals the sum of

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

12        (ii) The present value of the increase in future guaranteed  
13 benefits provided for by the policy;

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

17        ~~(g) (7)~~ (7) Notwithstanding any other provisions of this  
18 subsection to the contrary, in the case of a policy issued on a  
19 substandard basis which provides reduced graded amounts of  
20 insurance so that, in each policy year, such policy has the same  
21 tabular mortality cost as an otherwise similar policy issued on the  
22 standard basis which provides higher uniform amounts of insurance,  
23 adjusted premiums and present values for such substandard policy  
24 may be calculated as if it were issued to provide such higher  
25 uniform amounts of insurance on the standard basis;

1       ~~(h)~~ (8) All adjusted premiums and present values referred to  
2 in this section shall for all policies of ordinary insurance be  
3 calculated on the basis of (i) the Commissioners 1980 Standard  
4 Ordinary Mortality Table or (ii) at the election of the company for  
5 any one or more specified plans of life insurance, the  
6 Commissioners 1980 Standard Ordinary Mortality Table with ten-year  
7 select mortality factors; shall for all policies of industrial  
8 insurance be calculated on the basis of the Commissioners 1961  
9 Standard Industrial Mortality Table; and shall for all policies  
10 issued in a particular calendar year be calculated on the basis of  
11 a rate of interest not exceeding the nonforfeiture interest rate as  
12 defined in this subsection for policies issued in that calendar  
13 year: *Provided, That:*

14       ~~(i)~~ (A) At the option of the company, calculations for all  
15 policies issued in a particular calendar year may be made on the  
16 basis of a rate of interest not exceeding the nonforfeiture  
17 interest rate, as defined in this subsection, for policies issued  
18 in the immediately preceding calendar year;

19       ~~(ii)~~ (B) Under any paid-up nonforfeiture benefit, including  
20 any paid-up dividend additions, any cash surrender value available,  
21 whether or not required by subsection ~~(1)~~ (a) of this section,  
22 shall be calculated on the basis of the mortality table and rate of  
23 interest used in determining the amount of such paid-up  
24 nonforfeiture benefit and paid-up dividend additions, if any;

25       ~~(iii)~~ (C) A company may calculate the amount of any guaranteed

1 paid-up nonforfeiture benefit including any paid-up additions under  
2 the policy on the basis of an interest rate no lower than that  
3 specified in the policy for calculating cash surrender values;

4 ~~(iv)~~ (D) In calculating the present value of any paid-up term  
5 insurance with accompanying pure endowment, if any, offered as a  
6 nonforfeiture benefit, the rates of mortality assumed may be not  
7 more than those shown in the Commissioners 1980 Extended Term  
8 Insurance Table for policies of ordinary insurance and not more  
9 than the Commissioners 1961 Industrial Extended Term Insurance  
10 Table for policies of industrial insurance;

11 ~~(v)~~ (E) For insurance issued on a substandard basis, the  
12 calculation of any such adjusted premiums and present values may be  
13 based on appropriate modifications of the aforementioned tables;

14 ~~(vi)~~ Any (F) For policies issued prior to the operative date  
15 of the valuation manual, any Commissioners Standard ordinary  
16 mortality tables, adopted after 1980 by the National Association of  
17 Insurance Commissioners, that are approved by ~~regulation~~ rule  
18 promulgated by the commissioner for use in determining the minimum  
19 nonforfeiture standard may be substituted for the Commissioners  
20 1980 Standard Ordinary Mortality Table with or without ten-year  
21 select mortality factors or for the Commissioners 1980 Extended  
22 Term Insurance Table. ~~and~~ For policies issued on or after the  
23 operative date of the valuation manual the valuation manual shall  
24 provide the Commissioner's Standard mortality table for use in  
25 determining the minimum nonforfeiture standard that may be

1 substituted for the Commissioner's 1980 Standard Ordinary Mortality  
2 Table with or without Ten-Year Select Mortality Factors or for the  
3 Commissioners 1980 Extended Term Insurance Table. If the  
4 commissioner approves by rule any Commissioners Standard ordinary  
5 mortality table adopted by the National Association of Insurance  
6 Commissioners for use in determining the minimum nonforfeiture  
7 standard for policies issued on or after the operative date of the  
8 valuation manual then that minimum nonforfeiture standard  
9 supersedes the minimum nonforfeiture standard provided by the  
10 valuation manual. For purposes of this paragraph, paragraph (G) of  
11 this subdivision and subdivision (9) of this subsection, the  
12 operative date of the valuation manual is that date determined in  
13 accordance with subsection (n), section nine, article seven of this  
14 chapter;

15 ~~(vii) Any~~ (G) For policies issued prior to the operative date  
16 of the valuation manual, any industrial mortality tables, adopted  
17 after 1980 by the National Association of Insurance Commissioners,  
18 that are approved by ~~regulation~~ rule promulgated by the  
19 commissioner for use in determining the minimum nonforfeiture  
20 standard may be substituted for the Commissioners 1961 Standard  
21 Industrial Mortality Table or the Commissioners 1961 Industrial  
22 Extended Term Insurance Table. For policies issued on or after the  
23 operative date of the valuation manual, the valuation manual shall  
24 provide the Commissioners Standard Mortality Table for use in  
25 determining the minimum nonforfeiture standard that may be

1 substituted for the Commissioners 1961 Standard Industrial  
2 Mortality Table or the Commissioners 1961 Industrial Extended Term  
3 Insurance Table: *Provided*, That if the Legislature approves a rule  
4 providing that a Commissioners Standard Industrial Mortality Table  
5 adopted by the National Association of Insurance Commissioners  
6 shall be used in determining the minimum nonforfeiture standard for  
7 policies issued on or after the operative date of the valuation  
8 manual, then that minimum nonforfeiture standard supersedes the  
9 minimum nonforfeiture standard provided by the valuation manual;

10        ~~(i)~~ (9) The nonforfeiture interest rate per annum for any  
11 policy issued in a particular calendar year shall be equal to one  
12 hundred and twenty-five percent of the calendar year statutory  
13 valuation interest rate for such policy as defined in the Standard  
14 Valuation Law, rounded to the nearer one quarter of one percent:  
15 ~~(1/4 of 1%)~~ *Provided*, That, that the nonforfeiture interest rate  
16 may not be less than four percent. For policies issued on and  
17 after the operative date of the valuation manual the nonforfeiture  
18 interest rate per annum for any policy issued in a particular  
19 calendar year shall be provided by the valuation manual;

20        ~~(j)~~ (10) Notwithstanding any other provision in this code to  
21 the contrary, any refiling of nonforfeiture values or their methods  
22 of computation for any previously approved policy form which  
23 involves only a change in the interest rate or mortality table used  
24 to compute nonforfeiture values shall not require refiling of any  
25 other provisions of that policy form; and

1       ~~(k)~~ After the effective date of this subsection ~~(4c)~~ (11)  
2 After May 30, 1983, any company may file with the commissioner a  
3 written notice of its election to comply with the provisions of  
4 this section after a specified date before January 1, 1989, which  
5 shall be the operative date of this subsection for such company.  
6 If a company makes no such election, the operative date of this  
7 section for such company shall be January 1, 1989.

8       ~~(4d)~~ (h) In the case of any plan of life insurance which  
9 provides for future premium determination, the amounts of which are  
10 to be determined by the insurance company based on then estimates  
11 of future experience, or in the case of any plan of life insurance  
12 which is of such a nature that minimum values cannot be determined  
13 by the methods described in ~~subsections (1), (2), (3), (4), (4a),~~  
14 ~~(4b) and (4c) herein~~ subsection (a), (b), (c), (d), (e), (f) or (g)  
15 of this section, then:

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

22       ~~(b)~~ (2) The commissioner must be satisfied that the benefits  
23 and the pattern of premiums of that plan are not such as to mislead  
24 prospective policyholders or insureds; and

25       ~~(c)~~ (3) The cash surrender values and paid-up nonforfeiture



1 benefits provided by such plan must not be less than the minimum  
2 values and benefits required for the plan computed by a method  
3 consistent with the principles of this Standard Nonforfeiture Law  
4 for Life Insurance, as determined by ~~regulations~~ rules promulgated  
5 by the commissioner.

6 ~~(5)~~ (i) Any cash surrender value and any paid-up nonforfeiture  
7 benefit, available under the policy in the event of default in a  
8 premium payment due at any time other than on the policy  
9 anniversary, shall be calculated with allowance for the lapse of  
10 time and the payment of fractional premiums beyond the last  
11 preceding policy anniversary. All values referred to in  
12 subsections ~~(2), (3), (4), (4a), (4b) and (4c)~~ (b), (c), (d), (e),  
13 (f) and (g) of this section may be calculated upon the assumption  
14 that any death benefit is payable at the end of the policy year of  
15 death. The net value of any paid-up additions, other than paid-up  
16 term additions, shall be not less than the amounts used to provide  
17 such additions. Notwithstanding the provisions of subsection (2),  
18 additional benefits payable:

19 ~~(i) in~~ (1) In the event of death or dismemberment by accident  
20 or accidental means;

21 ~~(ii) in~~ (2) In the event of total and permanent disability;

22 ~~(iii) as~~ (3) As reversionary annuity or deferred reversionary  
23 annuity benefits;

24 ~~(iv) as~~ (4) As term insurance benefits provided by a rider or  
25 supplemental policy provision to which, if issued as a separate

1 policy, this subsection would not apply;

2 ~~(v) as~~ (5) As term insurance on the life of a child or on the  
3 lives of children provided in a policy on the life of a parent of  
4 the child, if such term insurance expires before the child's age is  
5 twenty-six, is uniform in amount after the child's age is one, and  
6 has not become paid up by reason of the death of a parent of the  
7 child; and

8 ~~(vi) as~~ (6) As other policy benefits additional to life  
9 insurance and endowment benefits, and premiums for all such  
10 additional benefits, shall be disregarded in ascertaining cash  
11 surrender values and nonforfeiture benefits required by this  
12 section, and no such additional benefits shall be required to be  
13 included in any paid-up nonforfeiture benefits.

14 ~~(5a)~~ (j)(1) This subsection, in addition to all other  
15 applicable subsections of this law, shall apply to all policies  
16 issued on or after January 1, 1985. Any cash surrender value  
17 available under the policy in the event of default in a premium  
18 payment due on any policy anniversary shall be in an amount which  
19 does not differ by more than two tenths of one percent of either  
20 the amount of insurance, if the insurance be uniform in amount, or  
21 the average amount of insurance at the beginning of each of the  
22 first ten policy years, from the sum of;

23 ~~(a) the~~ (A) The greater of zero and the basic cash value  
24 hereinafter specified; and

25 ~~(b) the~~ (B) The present value of any existing paid-up

1 additions less the amount of any indebtedness to the company under  
2 the policy.

3       (2) The basic cash value shall be equal to the present value,  
4 on such anniversary, of the future guaranteed benefits which would  
5 have been provided ~~for~~ by the policy, excluding any existing  
6 paid-up additions and before deduction of any indebtedness to the  
7 company, if there had been no default, less the then present value  
8 of the nonforfeiture factors, as hereinafter defined, corresponding  
9 to premiums which would have fallen due on and after such  
10 anniversary: *Provided*, That the effects on the basic cash value of  
11 supplemental life insurance or annuity benefits or of family  
12 coverage, as described in subsection ~~(2) or (4)~~ (b) or (d) of this  
13 section, whichever is applicable, shall be the same as are the  
14 effect specified in subsection ~~(2) or (4)~~ (b) or (d) of this  
15 section, whichever is applicable, on the cash surrender values  
16 defined in that subsection.

17       (3) The nonforfeiture factor for each policy year shall be an  
18 amount equal to a percentage of the adjusted premium for the policy  
19 year, as defined in subsection ~~(4) or (4c)~~ (d) or (g), whichever is  
20 applicable. Except as is required by the next succeeding sentence  
21 of this paragraph, such percentage:

22       ~~(a)~~ (A) Must be the same percentage for each policy year  
23 between the second policy anniversary and the later of:

24       (i) ~~the~~ The fifth policy anniversary; and

25       (ii) ~~the~~ The first policy anniversary at which there is

1 available under the policy a cash surrender value in an amount,  
2 before including any paid-up additions and before deducting any  
3 indebtedness, of at least two tenths of one percent of either the  
4 amount of insurance, if the insurance be uniform in amount, or the  
5 average amount of insurance at the beginning of each of the first  
6 ten policy years; and

7 ~~(b)~~ (B) Must be such that no percentage after the later of the  
8 two policy anniversaries specified in ~~the preceding item (a)~~  
9 subparagraph (i), paragraph (A) of this subdivision may apply to  
10 fewer than five consecutive policy years: *Provided*, That no basic  
11 cash value may be less than the value which would be obtained if  
12 the adjusted premiums for the policy, as defined in subsection ~~(4)~~  
13 ~~or (4c)~~ (g) of this section, ~~whichever is applicable~~, were  
14 substituted for the nonforfeiture factors in the calculation of the  
15 basic cash value.

16 (4) All adjusted premiums and present values referred to in  
17 this subsection shall for a particular policy be calculated on the  
18 same mortality and interest bases as are used in demonstrating the  
19 policy's compliance with the other sections of this law. The cash  
20 surrender values referred to in this subsection shall include any  
21 endowment benefits provided ~~for~~ by the policy.

22 (5) Any cash surrender value available other than in the event  
23 of default in a premium payment due on a policy anniversary, and  
24 the amount of any paid-up nonforfeiture benefit available under the  
25 policy in the event of default in a premium payment shall be

1 determined in manners consistent with the manners specified for  
2 determining the analogous minimum amounts in subsections ~~(1), (2),~~  
3 ~~(3), (4c) and (5)~~ (a), (b), (c), (g) and (i) of this section. The  
4 amounts of any cash surrender values and of any paid-up  
5 nonforfeiture benefits granted in connection with additional  
6 benefits such as those listed as ~~items (i) through (vi) in~~  
7 ~~subsection (5)~~ subdivisions (1) through (6), subsection (i) of this  
8 section shall conform with the principles of this subsection. ~~(5a).~~

9 ~~(6)~~ (k) This section ~~shall~~ does not apply to any of the  
10 following:

11 ~~(a)~~ (1) Reinsurance;

12 ~~(b)~~ (2) Group insurance;

13 ~~(c)~~ (3) Pure endowment;

14 ~~(d)~~ (4) Annuity or reversionary annuity contract;

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

19 ~~(f)~~ (6) Term policy of decreasing amount, which provides no  
20 guaranteed nonforfeiture or endowment benefits, on which each  
21 adjusted premium, calculated as specified in subsections ~~(4), (4a),~~  
22 ~~(4b) and (4c)~~ (d), (e), (f) and (g) of this section, is less than  
23 the adjusted premium so calculated on a policy of uniform amount,  
24 or renewal thereof, which provides no guaranteed nonforfeiture or  
25 endowment benefits, issued at the same age and for the same initial

1 amount of insurance and for a term of twenty years or less expiring  
2 before age seventy-one, for which uniform premiums are payable  
3 during the entire term of the policy;

4 ~~(g)~~ (7) Policy, which provides no guaranteed nonforfeiture or  
5 endowment benefits, for which no cash surrender value, if any, or  
6 present value of any paid-up nonforfeiture benefit, at the  
7 beginning of any policy year, calculated as specified in  
8 subsections ~~(2), (3), (4), (4a), (4b) and (4c)~~ (b), (c), (d), (e)  
9 (f) and (g) of this section, exceeds two and one-half percent of  
10 the amount of insurance at the beginning of the same policy year;  
11 and

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

17 (1) After the effective date of the amendments made to this  
18 section during the 2014 regular session of the Legislature, any  
19 company may file with the commissioner a written notice of its  
20 election to comply with the provisions of this section after a  
21 specified date before January 1, 1948. After the filing of such  
22 notice, then upon the specified date (which shall be the operative  
23 date for the company), this section shall become operative with  
24 respect to the policies thereafter issued by such company. If a  
25 company makes no such election, the operative date of this section

1 for the company shall be January 1, 1948.