HB 4432

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2014

ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4432

(By Delegates Guthrie, Hartman,
Perry and Ashley)

Passed March 8, 2014

In effect ninety days from passage.

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4432

(BY DELEGATES GUTHRIE, HARTMAN, PERRY AND ASHLEY)

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

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 7. ASSETS AND LIABILITIES.

§33-7-9. Standard valuation law.

(a) This section shall be known as the standard valuation law. For the purposes of this section, the following definitions apply on or after the operative date of the valuation manual:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) *General.* — Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The commissioner shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

(B) *Actuarial analysis of reserves and assets supporting the reserves.* —

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

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

(C) *Requirement for opinion under paragraph (B).* — Each opinion required by paragraph (B) of this subdivision shall be governed by the following provisions:

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

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

(D) *Requirement for all opinions subject to this subdivision.* — Every opinion subject to this subdivision is governed by the following:

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

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

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

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

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

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

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

(viii) Except as provided in subparagraphs (xii), (xiii), and (xiv) of this paragraph, documents, materials or other information in the possession or control of the commissioner that are a memorandum in support of the opinion and any other material provided by the company to the commissioner in connection therewith are confidential by law and privileged, exempt from disclosure under article one, chapter twenty-nine-a of this code and are not be subject to subpoena and, additionally, are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

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

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

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

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

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

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

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

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

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

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

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

(B) *Actuarial Analysis of Reserves and Assets Supporting Reserves.* — Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this state and subject to rule of the commissioner, except as exempted in the valuation manual, shall also annually include in the opinion required by paragraph (A) of this subdivision, an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) For total and permanent disability benefits in or supplementary to ordinary policies or contracts: For policies or contracts issued on or after January 1, 1966, the tables of period two disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates adopted after the year 1980 by the national

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) *Calendar year statutory valuation interest rates.* —

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

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

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

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

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

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

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

(3) *Weighting factors.* —

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

(i) Weighting Factors for Life Insurance:

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

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

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

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

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

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

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

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

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

Weighting Factor for Plan Type		
A	B	C1
.05	.05	.05

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

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

Plan Type A:

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

Plan Type B:

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

Plan Type C:

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

(VI) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue-year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue-year basis. As used in this section, an issue-year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(4) *The reference interest rate.* —

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

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

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

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

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

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

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

(5) *Alternative method for determining reference interest rates.* —

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

(g) *Reserve valuation method.* — Life insurance and endowment benefits.

Except as otherwise provided in subsections (h), (k) and (m) of this section, reserves according to the commissioners reserve valuation method for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided by the policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be the uniform percentage of the respective contract premiums for the benefits that the present value, at the date of issue of the policy, of all the modified net premiums shall be equal to the sum of the then present value of the benefits provided by the policy and the excess of subdivision (1) of this subsection over subdivision (2) of this subsection, as follows:

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

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

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

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

(h) *Reserve valuation method.* — Annuity and pure endowment benefits.

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

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

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

(i) *Minimum reserves.* —

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

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

(j) *Optional reserve calculation.* —

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

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

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

(k) *Reserve calculation.* — Valuation net premium exceeding the gross premium charged.

(1) If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest and method actually used for such policy or contract or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in subsections (d) and (f) of this section: *Provided,* That for any life insurance policy issued on or after January 1, 1985, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subsection (g) of this section, ignoring the second paragraph of said subsection.

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

(l) *Reserve calculation.* — Indeterminate premium plans.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of

the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this section. The commissioner may rely upon the opinion, regarding provisions contained within this section, of a qualified actuary engaged by the commissioner of another state, district or territory of the United States. As used in this subdivision, term "engage" includes employment and contracting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(q) *Confidentiality.* —

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) The commissioner may receive documents, materials, data and other information, including otherwise confidential and privileged documents, materials, data or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, from regulatory or law-enforcement officials of other foreign or domestic jurisdictions, and from the

Actuarial Board for Counseling and Discipline or its successor, and he or she shall maintain as confidential or privileged any document, material, data or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other information.

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

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

(G) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subdivision is available and may be enforced in any proceeding in, and in any court of, this state.

(H) In this subsection "regulatory agency," "law-enforcement agency" and the "NAIC" include, but are not limited to, their employees, agents, consultants and contractors.

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

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

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

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

ARTICLE 13. LIFE INSURANCE.

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

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

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

(2) That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums

have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified;

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

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

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

(6) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefits available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

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

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

(b) *Computation of Cash Surrender Value.* —

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

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

(B) The amount of any indebtedness to the insurer on the policy: *Provided,* That for any policy issued on or after the operative date of subsection (g) of this section as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in subdivision (1) of this subsection shall be an amount not less than the sum of the cash surrender value for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in subdivision (1) of this subsection for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision: *Provided, however,* That for any family policy issued on or after the operative date of subsection (g) of this section, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one, the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

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

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

(d) *Calculation of Adjusted Premiums.* —

(1) This subsection does not apply to policies issued on or after the operative date of subsection (g) of this section. Except as provided in subdivision (4) of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts stated in the policy as extra premiums to cover impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

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

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

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

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

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

(3) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount for the purpose of this subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy.

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

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

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

(C) Paragraphs (A) and (B) of this subdivision being calculated separately and as specified in subdivisions (1), (2) and (3) of this subsection except that, for the purposes of paragraphs (B), (C) and (D), subdivision (1) of this subsection, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in paragraph (B), subdivision (1) of this subsection shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in paragraph (A), subdivision (4) of this subsection.

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

(e) This subsection does not apply to ordinary policies issued on or after the operative date of subsection (g) of this section. In the case of ordinary policies issued on or after the operative date of this subsection, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half percent per annum except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after June 3, 1974 and prior to April 6, 1977, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after April 6, 1977, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent per annum may be used: *Provided,* That for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured: *Provided, however,* That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table: *Provided further,* That for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

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

(f) This subsection does not apply to industrial policies issued on or after the operative date of subsection (g) of this section. In the case of industrial policies issued on or after the operative date of this subsection, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half percent per annum except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after June 3, 1974 and prior to April 6, 1977, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after April 6, 1977, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent per annum may be used: *Provided,* That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table: *Provided, however,* That for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

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

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

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

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

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

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

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

premiums do not change from those stipulated by the policy immediately after the change;

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

(A) The sum of:

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

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

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

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

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

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

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

(A) Equals the sum of:

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

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

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

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

(8) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of (i) the Commissioners 1980 Standard Ordinary Mortality Table or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with ten-year select mortality factors; shall for all policies of industrial insurance be calculated on the basis of the

Commissioners 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection for policies issued in that calendar year: *Provided,* That:

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

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

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

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

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

(F) For policies issued prior to the operative date of the valuation manual, any Commissioners Standard ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rule promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without ten-year select mortality factors or for the Commissioners 1980 Extended Term Insurance Table. For policies issued on or after the operative date of the valuation manual the valuation manual shall provide the Commissioner's Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. If the commissioner approves by rule any Commissioners Standard ordinary mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual. For purposes of this paragraph, paragraph (G) of this subdivision and subdivision (9) of this subsection, the operative date of the valuation manual is that date determined in accordance with subsection (n), section nine, article seven of this chapter;

(G) For policies issued prior to the operative date of the valuation manual, any industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rule promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners Standard Mortality Table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table: *Provided*, That if the Legislature approves a rule providing that a Commissioners Standard Industrial Mortality Table adopted by the National Association of Insurance Commissioners shall be used in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) The fifth policy anniversary; and

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

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

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

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

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

(1) Reinsurance;

(2) Group insurance;

(3) Pure endowment;

(4) Annuity or reversionary annuity contract;

(5) Term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal

thereof, of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy;

(6) Term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in subsections (d), (e), (f) and (g) of this section, is less than the adjusted premium so calculated on a policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy;

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

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

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

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Danny Wells

Chairman, House Committee

Member ~~Chairman~~, *Senate Committee*

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Joseph M. Minard

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 1st day of April, 2014.

Earl Ray Tomblin

Governor

PRESENTED TO THE GOVERNOR

MAR 28 2014

Time 10:45am