

HB 4432

FILED

2014 APR -1 P 7 49

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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.

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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.

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

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

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

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

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

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

29 (6) The term “NAIC” means the National Association of
30 Insurance Commissioners.

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

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

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

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

54 (11) The term “valuation manual” means the manual of
55 valuation instructions adopted by the commissioner in
56 accordance with subsection (n) of this section.

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

59 (A) The commissioner shall annually value, or cause to be
60 valued, the reserve liabilities (hereinafter called reserves) for all

61 outstanding life insurance policies and annuity and pure
62 endowment contracts of every life insurance company doing
63 business in this state issued on or after January 1, 1958 and prior
64 to the operative date of the valuation manual. In calculating
65 reserves, the commissioner may use group methods and
66 approximate averages for fractions of a year or otherwise. In lieu
67 of the valuation of the reserves herein required of any foreign or
68 alien company, the commissioner may accept any valuation
69 made, or caused to be made, by the insurance supervisory
70 official of any state or other jurisdiction when the valuation
71 complies with the minimum standard provided in this section.

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

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

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

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

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

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

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

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

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

125 (ii) The commissioner may provide, by rule, for a transition
126 period for establishing any higher reserves that the qualified

127 actuary may deem necessary in order to render the opinion
128 required by this subdivision.

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

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

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

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

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

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

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

156 (iv) In the case of an opinion required to be submitted by a
157 foreign or alien company, the commissioner may accept the

158 opinion filed by that company with the insurance supervisory
159 official of another state if the commissioner determines that the
160 opinion reasonably meets the requirements applicable to a
161 company domiciled in this state.

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

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

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

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

187 (ix) Neither the commissioner nor any person who received
188 documents, materials or other information while acting under the
189 authority of the commissioner is permitted or required to testify
190 in any private civil action concerning any confidential

191 documents, materials or information subject to subparagraph
192 (viii) of this paragraph.

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

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

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

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

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

219 (xii) A memorandum in support of the opinion, and any
220 other material provided by the company to the commissioner in
221 connection with the memorandum, may be subject to subpoena
222 for the purpose of defending an action seeking damages from the

223 actuary submitting the memorandum by reason of an action
224 required by this subsection or by rules.

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

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

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

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

250 (B) *Actuarial Analysis of Reserves and Assets Supporting*
251 *Reserves.* — Every company with outstanding life insurance
252 contracts, accident and health insurance contracts or deposit-type
253 contracts in this state and subject to rule of the commissioner,
254 except as exempted in the valuation manual, shall also annually
255 include in the opinion required by paragraph (A) of this

256 subdivision, an opinion of the same appointed actuary as to
257 whether the reserves and related actuarial items held in support
258 of the policies and contracts specified in the valuation manual,
259 when considered in light of the assets held by the company with
260 respect to the reserves and related actuarial items, including, but
261 not limited to, the investment earnings on the assets and the
262 considerations anticipated to be received and retained under the
263 policies and contracts, make adequate provision for the
264 company's obligations under the policies and contracts,
265 including, but not limited to, the benefits under and expenses
266 associated with the policies and contracts.

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

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

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

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

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

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

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

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

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

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

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

313 (d) *Computation of minimum standards.* — Except as
314 otherwise provided in subsections (e), (f) and (m) of this section,
315 the minimum standard for the valuation of all policies and
316 contracts issued prior to January 1, 1958 shall be that provided
317 by the laws in effect immediately prior to that date. Except as
318 otherwise provided in subsections (e), (f) and (m) of this section,
319 the minimum standard for the valuation of all policies and
320 contracts issued on or after January 1, 1958 of this section shall

321 be the commissioners reserve valuation methods defined in
322 subsections (g), (h), (k) and (m) of this section, three and
323 one-half percent interest or in the case of life insurance policies
324 and contracts, other than annuity and pure endowment contracts,
325 issued on or after June 1, 1974, four percent interest for policies
326 issued prior to April 6, 1977, five and one-half percent interest
327 for single premium life insurance policies and four and one-half
328 percent interest for all other policies issued on and after April 6,
329 1977, and the following tables:

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

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

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

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

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

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

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

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

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

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

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

387 association of Insurance Commissioners that are approved by
388 rule promulgated by the commissioner for use in determining the
389 minimum standard of valuation for the policies; for policies or
390 contracts issued on or after January 1, 1961, and prior to January
391 1, 1966, either those tables or, at the option of the company, the
392 Class (3) disability table (1926); and for policies issued prior to
393 January 1, 1961, the Class (3) disability table (1926).

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

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

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

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

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

429 (2) For individual single premium immediate annuity
430 contracts issued on or after April 6, 1977, excluding any
431 disability and accidental death benefits in such contracts: The
432 1971 individual annuity mortality table or any individual annuity
433 mortality table adopted after the year 1980 by the national
434 association of Insurance Commissioners that is approved by rule
435 promulgated by the commissioner for use in determining the
436 minimum standard of valuation for the contracts or any
437 modification of these tables approved by the commissioner and
438 seven and one-half percent interest;

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

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

458 (5) For all annuities and pure endowments purchased on or
459 after April 6, 1977, under group annuity and pure endowment
460 contracts, excluding any disability and accidental death benefits
461 purchased under the contracts: The 1971 group annuity mortality
462 table or any group annuity mortality table adopted after the year
463 1980 by the national association of Insurance Commissioners
464 that is approved by rule promulgated by the commissioner for
465 use in determining the minimum standard of valuation for
466 annuities and pure endowments or any modification of these
467 tables approved by the commissioner and seven and one-half
468 percent interest.

469 After June 3, 1974, any company may file with the
470 commissioner a written notice of its election to comply with the
471 provisions of this subsection after a specified date before January
472 1, 1979, which shall be the operative date of this subsection for
473 the company provided, if a company makes no election, the
474 operative date of this section for the company shall be January
475 1, 1979.

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

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

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

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

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

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

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

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

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

497 (ii) For single premium immediate annuities and for annuity
498 benefits involving life contingencies arising from other annuities
499 with cash settlement options and from guaranteed interest
500 contracts with cash settlement options, $I = .03 + W(R1) -.03$
501 where R1 is the lesser of R and .09, R2 is the greater of R and
502 .09, R is the reference interest rate defined in this subsection and
503 W is the weighting factor defined in this section;

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

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

518 (v) For other annuities with cash settlement options and
519 guaranteed interest contracts with cash settlement options,

520 valued on a change in fund basis, the formula for single premium
521 immediate annuities stated in subparagraph (ii) of this paragraph
522 shall apply.

523 (B) However, if the calendar year statutory valuation interest
524 rate for any life insurance policies issued in any calendar year
525 determined without reference to this sentence differs from the
526 corresponding actual rate for similar policies issued in the
527 immediately preceding calendar year by less than one half of one
528 percent, the calendar year statutory valuation interest rate for
529 such life insurance policies shall be equal to the corresponding
530 actual rate for the immediately preceding calendar year. For
531 purposes of applying the immediately preceding sentence, the
532 calendar year statutory valuation interest rate for life insurance
533 policies issued in a calendar year shall be determined for the year
534 1980 (using the reference interest rate defined for the year 1979)
535 and shall be determined for each subsequent calendar year
536 regardless of when subsection (g), section thirty, article thirteen
537 of this chapter, as amended, becomes operative.

538 (3) *Weighting factors.* —

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

541 (i) Weighting Factors for Life Insurance:

542 Guarantee	
543 Duration	Weighting
544 (Years)	Factors
545 10 or less	.50
546 More than 10, but not more than 20	.45
547 More than 20	.35

548 For life insurance, the guarantee duration is the maximum
549 number of years the life insurance can remain in force on a basis

550 guaranteed in the policy or under options to convert to plans of
 551 life insurance with premium rates or nonforfeiture values or both
 552 which are guaranteed in the original policy;

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

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

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

564 Guarantee	565 Weighting Factor for Plan Type		
566 (Years)	A	B	C
567 5 or less:	.80	.60	.50
568 More than 5, but not more than 10:	.75	.60	.50
569 More than 10, but not more than 20:	.65	.50	.45
570 More than 20:	.45	.35	.35

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

574	575 Weighting Factor for Plan Type		
576	A	B	C1
577	.15	.25	.05

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

588	Weighting Factor		
589	for Plan Type		
590	A	B	C1
591	.05	.05	.05

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

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

604 Plan Type A:

605 At any time policyholder may withdraw funds only: (1) With
606 an adjustment to reflect changes in interest rates or asset values
607 since receipt of the funds by the insurance company; or (2)
608 without such adjustment but in installments over five years or

609 more; or (3) as an immediate life annuity; or (4) no withdrawal
610 permitted;

611 Plan Type B:

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

620 Plan Type C:

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

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

642 annuity or guaranteed interest contract is the calendar year
643 valuation interest rate for the year of the change in the fund.

644 (4) *The reference interest rate.* —

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

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

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

661 (iii) For other annuities with cash settlement options and
662 guaranteed interest contracts with cash settlement options,
663 valued on a year of issue basis, except as stated in subparagraph
664 (ii) of this paragraph, with guarantee duration in excess of ten
665 years, the lesser of the average over a period of thirty-six months
666 and the average over a period of twelve months, ending on June
667 30 of the calendar year of issue or purchase, of the monthly
668 average of the composite yield on seasoned corporate bonds as
669 published by Moody's Investors Service, Inc.

670 (iv) For other annuities with cash settlement options and
671 guaranteed interest contracts with cash settlement options,
672 valued on a year of issue basis, except as stated in subparagraph
673 (ii) of this paragraph, with guarantee duration of ten years or

674 less, the average over a period of twelve months, ending on June
675 30 of the calendar year of issue or purchase, of the monthly
676 average of the composite yield on seasoned corporate bonds as
677 published by Moody's Investors Service, Inc.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

804 (i) *Minimum reserves.* —

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

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

816 (j) *Optional reserve calculation.* —

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

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

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

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

845 (1) If in any contract year the gross premium charged by any
846 life insurance company on any policy or contract is less than the
847 valuation net premium for the policy or contract calculated by
848 the method used in calculating the reserve thereon but using the
849 minimum valuation standards of mortality and rate of interest,
850 the minimum reserve required for such policy or contract shall
851 be the greater of either the reserve calculated according to the
852 mortality table, rate of interest and method actually used for such
853 policy or contract or the reserve calculated by the method
854 actually used for such policy or contract but using the minimum
855 valuation standards of mortality and rate of interest and
856 replacing the valuation net premium by the actual gross premium
857 in each contract year for which the valuation net premium
858 exceeds the actual gross premium. The minimum valuation
859 standards of mortality and rate of interest referred to in this
860 section are those standards stated in subsections (d) and (f) of
861 this section: *Provided*, That for any life insurance policy issued
862 on or after January 1, 1985, for which the gross premium in the
863 first policy year exceeds that of the second year and for which no
864 comparable additional benefit is provided in the first year for
865 such excess and which provides an endowment benefit or a cash
866 surrender value or a combination thereof in an amount greater
867 than such excess premium, the foregoing provisions of this
868 subsection shall be applied as if the method actually used in
869 calculating the reserve for such policy were the method
870 described in subsection (g) of this section, ignoring the second
871 paragraph of said subsection.

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

877 (1) *Reserve calculation.* — Indeterminate premium plans.

878 In the case of any plan of life insurance which provides for
879 future premium determination, the amounts of which are to be

880 determined by the insurance company based on then estimates
881 of future experience, or in the case of any plan of life insurance
882 or annuity which is of such a nature that the minimum reserves
883 cannot be determined by the methods described in subsections
884 (g), (h) and (k) of this section, the reserves which are held under
885 any such plan must:

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

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

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

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

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

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

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

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

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

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

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

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

945 and health annual statements, health annual statements, or
946 fraternal annual statements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

996 (5) For policies issued on or after the operative date of the
997 valuation manual, the standard prescribed in the valuation
998 manual is the minimum standard of valuation required under
999 subdivision (2), subsection (b) of this section, except as provided
1000 under subdivision (6) or (8) of this subsection.

1001 (6) In the absence of a specific valuation requirement or if a
1002 specific valuation requirement in the valuation manual is not, in
1003 the opinion of the commissioner, in compliance with this section,
1004 then the company shall, with respect to such requirements,
1005 comply with minimum valuation standards prescribed by rule.

1006 (7) The commissioner may engage a qualified actuary, at the
1007 expense of the company, to perform an actuarial examination of

1008 the company and opine on the appropriateness of any reserve
1009 assumption or method used by the company, or to review and
1010 opine on a company's compliance with any requirement set forth
1011 in this section. The commissioner may rely upon the opinion,
1012 regarding provisions contained within this section, of a qualified
1013 actuary engaged by the commissioner of another state, district or
1014 territory of the United States. As used in this subdivision, term
1015 "engage" includes employment and contracting.

1016 (8) The commissioner may require a company to change any
1017 assumption or method that in the opinion of the commissioner is
1018 necessary in order to comply with the requirements of the
1019 valuation manual or this section, and the company shall adjust
1020 the reserves as required by the commissioner.

1021 (o) *Requirements of a Principle-Based Valuation.* —

1022 (1) A company must establish reserves using a
1023 principle-based valuation that meets the following conditions for
1024 policies or contracts as specified in the valuation manual:

1025 (A) Quantify the benefits and guarantees, and the funding,
1026 associated with the contracts and their risks at a level of
1027 conservatism that reflects conditions that include unfavorable
1028 events that have a reasonable probability of occurring during the
1029 lifetime of the contracts. For policies or contracts with significant
1030 tail risk, reflects conditions appropriately adverse to quantify the
1031 tail risk.

1032 (B) Incorporate assumptions, risk analysis methods and
1033 financial models and management techniques that are consistent
1034 with, but not necessarily identical to, those utilized within the
1035 company's overall risk assessment process, while recognizing
1036 potential differences in financial reporting structures and any
1037 prescribed assumptions or methods.

1038 (C) Incorporate assumptions that are derived in one of the
1039 following manners:

1040 (i) The assumption is prescribed in the valuation manual; or

1041 (ii) For assumptions that are not prescribed, the assumptions
1042 shall either:

1043 (I) Be established utilizing the company's available
1044 experience, to the extent it is relevant and statistically credible;
1045 or

1046 (II) To the extent that company data is not available, relevant
1047 or statistically credible, be established utilizing other relevant,
1048 statistically credible experience.

1049 (D) Provide margins for uncertainty including adverse
1050 deviation and estimation error, such that the greater the
1051 uncertainty, the larger the margin and resulting reserve.

1052 (2) A company using a principle-based valuation for one or
1053 more policies or contracts subject to this section as specified in
1054 the valuation manual shall:

1055 (A) Establish procedures for corporate governance and
1056 oversight of the actuarial valuation function consistent with
1057 those described in the valuation manual.

1058 (B) Provide to the commissioner and the board of directors
1059 an annual certification of the effectiveness of the internal
1060 controls with respect to the principle-based valuation. Such
1061 controls shall be designed to assure that all material risks
1062 inherent in the liabilities and associated assets subject to such
1063 valuation are included in the valuation, and that valuations are
1064 made in accordance with the valuation manual. The certification
1065 shall be based on the controls in place as of the end of the
1066 preceding calendar year.

1067 (C) Develop, and file with the commissioner upon request,
1068 a principle-based valuation report that complies with standards
1069 prescribed in the valuation manual.

1070 (3) A principle-based valuation may include a prescribed
1071 formulaic reserve component.

1072 (p) *Experience Reporting for Policies In Force On or After*
1073 *the Operative Date of the Valuation Manual.* — A company
1074 shall submit mortality, morbidity, policyholder behavior, or
1075 expense experience and other data as prescribed in the valuation
1076 manual.

1077 (q) *Confidentiality.* —

1078. (1) For purposes of this subsection, “confidential
1079 information” means:

1080 (A) A memorandum in support of an opinion submitted
1081 under subsection (c) of this section and any other documents,
1082 materials and other information, including, but not limited to, all
1083 working papers, and copies thereof, created, produced or
1084 obtained by or disclosed to the commissioner or any other person
1085 in connection with such memorandum;

1086 (B) All documents, materials and other information,
1087 including, but not limited to, all working papers, and copies
1088 thereof, created, produced or obtained by or disclosed to the
1089 commissioner or any other person in the course of an
1090 examination made under subdivision (7), subsection (n) of this
1091 section, but only to the same extent as such documents, materials
1092 and other information would be held confidential were they
1093 created, produced or obtained in connection with an examination
1094 made under the general examination law set forth in section nine,
1095 article two of this chapter;

1096 (C) Any reports, documents, materials and other information
1097 developed by a company in support of, or in connection with, an
1098 annual certification by the company under paragraph (B),
1099 subdivision (2), subsection (o) of this section evaluating the
1100 effectiveness of the company’s internal controls with respect to
1101 a principle-based valuation and any other documents, materials

1102 and other information, including, but not limited to, all working
1103 papers, and copies thereof, created, produced or obtained by or
1104 disclosed to the commissioner or any other person in connection
1105 with such reports, documents, materials and other information;

1106 (D) Any principle-based valuation report developed under
1107 paragraph (C), subdivision (2), subsection (o) of this section and
1108 any other documents, materials and other information, including,
1109 but not limited to, all working papers, and copies thereof,
1110 created, produced or obtained by or disclosed to the
1111 commissioner or any other person in connection with such
1112 report; and

1113 (E) Any documents, materials, data and other information
1114 submitted by a company under subsection (p) of this section
1115 (collectively, "experience data") and any other documents,
1116 materials, data and other information, including, but not limited
1117 to, all working papers, and copies thereof, created or produced
1118 in connection with such experience data, in each case that
1119 include any potentially company-identifying or personally
1120 identifiable information, that is provided to or obtained by the
1121 commissioner (together with any "experience data", the
1122 "experience materials") and any other documents, materials, data
1123 and other information, including, but not limited to, all working
1124 papers, and copies thereof, created, produced or obtained by or
1125 disclosed to the commissioner or any other person in connection
1126 with such experience materials.

1127 (2) *Privilege for, and Confidentiality of, Confidential*
1128 *Information.*

1129 (A) Except as otherwise provided in this subsection, a
1130 company's confidential information is confidential by law and
1131 privileged, is exempt from disclosure under article one, chapter
1132 twenty-nine-a of this code, is not subject to subpoena, and is not
1133 subject to discovery or admissible in evidence in any private
1134 civil action: *Provided*, That the commissioner is authorized to

1135 use the confidential information in the furtherance of any
1136 regulatory or legal action brought against the company as a part
1137 of the commissioner's official duties.

1138 (B) Neither the commissioner nor any person who received
1139 confidential information while acting under the authority of the
1140 commissioner is permitted or required to testify in any private
1141 civil action concerning any confidential information.

1142 (C) In order to assist in the performance of the
1143 commissioner's duties, the commissioner may share confidential
1144 information:

1145 (i) With other state, federal and international regulatory
1146 agencies and with the National Association of Insurance
1147 Commissioners and its affiliates and subsidiaries;

1148 (ii) In the case of confidential information specified in
1149 paragraphs (A) and (D), subdivision (1) of this subsection only,
1150 with the Actuarial Board for Counseling and Discipline or its
1151 successor upon request stating that the confidential information
1152 is required for the purpose of professional disciplinary
1153 proceedings and with state, federal and international law-
1154 enforcement officials; and

1155 (iii) In the case of subparagraphs (i) and (ii) of this
1156 paragraph, provided that such recipient agrees and has the legal
1157 authority to agree, to maintain the confidentiality and privileged
1158 status of such documents, materials, data and other information
1159 in the same manner and to the same extent as required for the
1160 commissioner.

1161 (D) The commissioner may receive documents, materials,
1162 data and other information, including otherwise confidential and
1163 privileged documents, materials, data or information, from the
1164 National Association of Insurance Commissioners and its
1165 affiliates and subsidiaries, from regulatory or law-enforcement
1166 officials of other foreign or domestic jurisdictions, and from the

1167 Actuarial Board for Counseling and Discipline or its successor,
1168 and he or she shall maintain as confidential or privileged any
1169 document, material, data or other information received with
1170 notice or the understanding that it is confidential or privileged
1171 under the laws of the jurisdiction that is the source of the
1172 document, material or other information.

1173 (E) The commissioner may enter into agreements governing
1174 sharing and use of information consistent with this subdivision.

1175 (F) No waiver of any applicable privilege or claim of
1176 confidentiality in the confidential information occurs as a result
1177 of disclosure to the commissioner under this section or as a
1178 result of sharing as authorized in paragraph (C) of this
1179 subdivision.

1180 (G) A privilege established under the law of any state or
1181 jurisdiction that is substantially similar to the privilege
1182 established under this subdivision is available and may be
1183 enforced in any proceeding in, and in any court of, this state.

1184 (H) In this subsection "regulatory agency," "law-
1185 enforcement agency" and the "NAIC" include, but are not
1186 limited to, their employees, agents, consultants and contractors.

1187 (3) Notwithstanding subdivision (2) of this subsection, any
1188 confidential information specified in paragraphs (A) and (D),
1189 subdivision (1) of this subsection:

1190 (A) May be subject to subpoena for the purpose of defending
1191 an action seeking damages from the appointed actuary
1192 submitting the related memorandum in support of an opinion
1193 submitted under subsection (c) of this section or principle-based
1194 valuation report developed under paragraph (C), subdivision (2),
1195 subsection (o) of this section by reason of an action required by
1196 this section or by rules promulgated hereunder;

1197 (B) May otherwise be released by the commissioner with the
1198 written consent of the company; and

1199 (C) Once any portion of a memorandum in support of an
1200 opinion submitted under subsection (c) of this section or a
1201 principle-based valuation report developed under paragraph (C),
1202 subdivision (2), subsection (o) of this section is cited by the
1203 company in its marketing or is publicly volunteered to or before
1204 a governmental agency other than a state insurance department
1205 or is released by the company to the news media, all portions of
1206 such memorandum or report are no longer be confidential.

ARTICLE 13. LIFE INSURANCE.

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

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

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

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

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

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

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

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

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

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

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

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

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

91 (A) The then present value of the adjusted premiums as
92 defined in subsections (d), (e), (f) and (g) of this section,

93 corresponding to premiums which would have fallen due on and
94 after such anniversary; and

95 (B) The amount of any indebtedness to the insurer on the
96 policy: *Provided*, That for any policy issued on or after the
97 operative date of subsection (g) of this section as defined therein,
98 which provides supplemental life insurance or annuity benefits
99 at the option of the insured and for an identifiable additional
100 premium by rider or supplemental policy provision, the cash
101 surrender value referred to in subdivision (1) of this subsection
102 shall be an amount not less than the sum of the cash surrender
103 value for an otherwise similar policy issued at the same age
104 without such rider or supplemental policy provision and the cash
105 surrender value as defined in subdivision (1) of this subsection
106 for a policy which provides only the benefits otherwise provided
107 by such rider or supplemental policy provision: *Provided*,
108 *however*, That for any family policy issued on or after the
109 operative date of subsection (g) of this section, which defines a
110 primary insured and provides term insurance on the life of the
111 spouse of the primary insured expiring before the spouse's age
112 seventy-one, the cash surrender value referred to in the first
113 paragraph of this subsection shall be an amount not less than the
114 sum of the cash surrender value as defined in such paragraph for
115 an otherwise similar policy issued at the same age without such
116 term insurance on the life of the spouse and the cash surrender
117 value as defined in such paragraph for a policy which provides
118 only the benefits otherwise provided by such term insurance on
119 the life of the spouse.

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

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

136 (d) *Calculation of Adjusted Premiums.* —

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

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

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

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

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

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

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

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

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

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

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

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

215 (e) This subsection does not apply to ordinary policies issued
216 on or after the operative date of subsection (g) of this section. In
217 the case of ordinary policies issued on or after the operative date
218 of this subsection, all adjusted premiums and present values
219 referred to in this section shall be calculated on the basis of the
220 Commissioners 1958 Standard Ordinary Mortality Table and the
221 rate of interest specified in the policy for calculating cash
222 surrender values and paid-up nonforfeiture benefits provided that
223 such rate of interest shall not exceed three and one-half percent
224 per annum except that a rate of interest not exceeding four
225 percent per annum may be used for policies issued on or after
226 June 3, 1974 and prior to April 6, 1977, and a rate of interest not
227 exceeding five and one-half percent per annum may be used for

228 policies issued on or after April 6, 1977, except that for any
229 single premium whole life or endowment insurance policy a rate
230 of interest not exceeding six and one-half percent per annum
231 may be used: *Provided*, That for any category of ordinary
232 insurance issued on female risks, adjusted premiums and present
233 values may be calculated according to an age not more than six
234 years younger than the actual age of the insured: *Provided*,
235 *however*, That in calculating the present value of any paid-up
236 term insurance with accompanying pure endowment, if any,
237 offered as a nonforfeiture benefit, the rates of mortality assumed
238 may be not more than those shown in the Commissioners 1958
239 Extended Term Insurance Table: *Provided further*, That for
240 insurance issued on a substandard basis, the calculation of any
241 such adjusted premiums and present values may be based on
242 such other table of mortality as may be specified by the company
243 and approved by the commissioner.

244 After June 3, 1959, any company may file with the
245 commissioner a written notice of its election to comply with the
246 provisions of this subsection after a specified date before January
247 1, 1966. After the filing of such notice, then upon such specified
248 date (which shall be the operative date of this subsection for such
249 company), this subsection shall become operative with respect
250 to the ordinary policies thereafter issued by such company. If a
251 company makes no such election, the operative date of this
252 subsection for such company shall be January 1, 1966.

253 (f) This subsection does not apply to industrial policies
254 issued on or after the operative date of subsection (g) of this
255 section. In the case of industrial policies issued on or after the
256 operative date of this subsection, all adjusted premiums and
257 present values referred to in this section shall be calculated on
258 the basis of the Commissioners 1961 Standard Industrial
259 Mortality Table and the rate of interest specified in the policy for
260 calculating cash surrender values and paid-up nonforfeiture
261 benefits provided that such rate of interest shall not exceed three
262 and one-half percent per annum except that a rate of interest not

263 exceeding four percent per annum may be used for policies
264 issued on or after June 3, 1974 and prior to April 6, 1977, and a
265 rate of interest not exceeding five and one-half percent per
266 annum may be used for policies issued on or after April 6, 1977,
267 except that for any single premium whole life or endowment
268 insurance policy a rate of interest not exceeding six and one-half
269 percent per annum may be used: *Provided*, That in calculating
270 the present value of any paid-up term insurance with
271 accompanying pure endowment, if any, offered as a
272 nonforfeiture benefit, the rates of mortality assumed may be not
273 more than those shown in the Commissioners 1961 Industrial
274 Extended Term Insurance Table: *Provided, however*, That for
275 insurance issued on a substandard basis, the calculation of any
276 such adjusted premiums and present values may be based on
277 such other table of mortality as may be specified by the company
278 and approved by the commissioner.

279 After May 31, 1965, any company may file with the
280 commissioner a written notice of its election to comply with the
281 provisions of this subsection after a specified date before January
282 1, 1968. After the filing of such notice, then upon such specified
283 date (which shall be the operative date of this subsection for such
284 company), this subsection shall become operative with respect
285 to the industrial policies thereafter issued by such company. If a
286 company makes no such election, the operative date of this
287 subsection for such company shall be January 1, 1968.

288 (g)(1) This subsection applies to all policies issued on or
289 after the operative date of this subsection. Except as provided in
290 subdivision (7) of this subsection, the adjusted premiums for any
291 policy shall be calculated on an annual basis and shall be such
292 uniform percentage of the respective premiums specified in the
293 policy for each policy year, excluding amounts payable as extra
294 premiums to cover impairments or special hazards and also
295 excluding any uniform annual contract charge or policy fee
296 specified in the policy in a statement of the method to be used in
297 calculating the cash surrender values and paid-up nonforfeiture

298 benefits, that the present value, at the date of issue of the policy,
299 of all adjusted premiums shall be equal to the sum of;

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

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

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

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

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

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

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

345 (A) The sum of:

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

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

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

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

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

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

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

366 (A) Equals the sum of:

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

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

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

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

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

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

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

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

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

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

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

426 (F) For policies issued prior to the operative date of the
427 valuation manual, any Commissioners Standard ordinary
428 mortality tables, adopted after 1980 by the National Association
429 of Insurance Commissioners, that are approved by rule
430 promulgated by the commissioner for use in determining the
431 minimum nonforfeiture standard may be substituted for the
432 Commissioners 1980 Standard Ordinary Mortality Table with or
433 without ten-year select mortality factors or for the
434 Commissioners 1980 Extended Term Insurance Table. For
435 policies issued on or after the operative date of the valuation
436 manual the valuation manual shall provide the Commissioner's
437 Standard mortality table for use in determining the minimum
438 nonforfeiture standard that may be substituted for the
439 Commissioner's 1980 Standard Ordinary Mortality Table with
440 or without Ten-Year Select Mortality Factors or for the
441 Commissioners 1980 Extended Term Insurance Table. If the
442 commissioner approves by rule any Commissioners Standard
443 ordinary mortality table adopted by the National Association of
444 Insurance Commissioners for use in determining the minimum
445 nonforfeiture standard for policies issued on or after the
446 operative date of the valuation manual then that minimum
447 nonforfeiture standard supersedes the minimum nonforfeiture
448 standard provided by the valuation manual. For purposes of this
449 paragraph, paragraph (G) of this subdivision and subdivision (9)
450 of this subsection, the operative date of the valuation manual is
451 that date determined in accordance with subsection (n), section
452 nine, article seven of this chapter;

453 (G) For policies issued prior to the operative date of the
454 valuation manual, any industrial mortality tables, adopted after
455 1980 by the National Association of Insurance Commissioners,
456 that are approved by rule promulgated by the commissioner for
457 use in determining the minimum nonforfeiture standard may be
458 substituted for the Commissioners 1961 Standard Industrial
459 Mortality Table or the Commissioners 1961 Industrial Extended
460 Term Insurance Table. For policies issued on or after the
461 operative date of the valuation manual, the valuation manual

462 shall provide the Commissioners Standard Mortality Table for
463 use in determining the minimum nonforfeiture standard that may
464 be substituted for the Commissioners 1961 Standard Industrial
465 Mortality Table or the Commissioners 1961 Industrial Extended
466 Term Insurance Table: *Provided*, That if the Legislature
467 approves a rule providing that a Commissioners Standard
468 Industrial Mortality Table adopted by the National Association
469 of Insurance Commissioners shall be used in determining the
470 minimum nonforfeiture standard for policies issued on or after
471 the operative date of the valuation manual, then that minimum
472 nonforfeiture standard supersedes the minimum nonforfeiture
473 standard provided by the valuation manual;

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

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

490 (11) After May 30, 1983, any company may file with the
491 commissioner a written notice of its election to comply with the
492 provisions of this section after a specified date before January 1,
493 1989, which shall be the operative date of this subsection for
494 such company. If a company makes no such election, the
495 operative date of this section for such company shall be January
496 1, 1989.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

585 (i) The fifth policy anniversary; and

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

593 (B) Must be such that no percentage after the later of the two
594 policy anniversaries specified in subparagraph (i), paragraph (A)

595 of this subdivision may apply to fewer than five consecutive
596 policy years: *Provided*, That no basic cash value may be less
597 than the value which would be obtained if the adjusted premiums
598 for the policy, as defined in subsection (g) of this section, were
599 substituted for the nonforfeiture factors in the calculation of the
600 basic cash value.

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

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

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

620 (1) Reinsurance;

621 (2) Group insurance;

622 (3) Pure endowment;

623 (4) Annuity or reversionary annuity contract;

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

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

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

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

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

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

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

Rammy Wells
Chairman, House Committee

[Signature]
Member — ~~Chairman~~, Senate Committee

Originating in the House.

In effect ninety days from passage.

Bryce D. Say
Clerk of the House of Delegates

Joseph M. Minard
Clerk of the Senate

[Signature]
Speaker of the House of Delegates

[Signature]
President of the Senate

The within *is approved* this the *15th*
day of *April*, 2014.

Earl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

MAR 28 2014

Time 10:45 AM