Senate Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

CHAPTER 42

SENATE BILL 1149

AN ACT

AMENDING SECTIONS 20-510, 20-696.01, 20-696.02, 20-696.04 AND 20-1231.01, ARIZONA REVISED STATUTES; RELATING TO INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 20-510, Arizona Revised Statutes, is amended to read:

20-510. Standard valuation law; operative date; definitions

A. This section may be cited as the standard valuation law.

B. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS APPLY ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL:

1. "ACCIDENT AND HEALTH INSURANCE" MEANS CONTRACTS THAT INCORPORATE MORBIDITY RISK AND PROVIDE PROTECTION AGAINST ECONOMIC LOSS RESULTING FROM ACCIDENT, SICKNESS OR MEDICAL CONDITIONS AND AS MAY BE SPECIFIED IN THE VALUATION MANUAL.

2. "APPOINTED ACTUARY" MEANS A QUALIFIED ACTUARY WHO IS APPOINTED IN ACCORDANCE WITH THE VALUATION MANUAL TO PREPARE THE ACTUARIAL OPINION REQUIRED IN SUBSECTION F OF THIS SECTION.

3. "COMPANY" MEANS AN ENTITY THAT EITHER:

(a) HAS WRITTEN, ISSUED OR REINSURED LIFE INSURANCE CONTRACTS, ACCIDENT AND HEALTH INSURANCE CONTRACTS OR DEPOSIT-TYPE CONTRACTS IN THIS STATE AND THAT HAS AT LEAST ONE SUCH POLICY IN FORCE OR ON CLAIM.

(b) HAS WRITTEN, ISSUED OR REINSURED LIFE INSURANCE CONTRACTS, ACCIDENT AND HEALTH INSURANCE CONTRACTS OR DEPOSIT-TYPE CONTRACTS IN ANY STATE AND THAT IS REQUIRED TO HOLD A CERTIFICATE OF AUTHORITY TO WRITE LIFE INSURANCE, ACCIDENT AND HEALTH INSURANCE OR DEPOSIT-TYPE CONTRACTS IN THIS STATE.

4. "DEPOSIT-TYPE CONTRACT" MEANS CONTRACTS THAT DO NOT INCORPORATE MORTALITY OR MORBIDITY RISKS AND AS MAY BE SPECIFIED IN THE VALUATION MANUAL.

5. "LIFE INSURANCE" MEANS CONTRACTS THAT INCORPORATE MORTALITY RISK, INCLUDING ANNUITY AND PURE ENDOWMENT CONTRACTS, AND AS MAY BE SPECIFIED IN THE VALUATION MANUAL.

6. "POLICYHOLDER BEHAVIOR" MEANS ANY ACTION A POLICYHOLDER, A CONTRACT HOLDER OR ANY OTHER PERSON WITH THE RIGHT TO ELECT OPTIONS, SUCH AS A CERTIFICATE HOLDER, MAY TAKE UNDER A POLICY OR CONTRACT SUBJECT TO THIS SECTION, INCLUDING LAPSE, WITHDRAWAL, TRANSFER, DEPOSIT, PREMIUM PAYMENT, LOAN, ANNUITIZATION OR BENEFIT ELECTIONS PRESCRIBED BY THE POLICY OR CONTRACT BUT EXCLUDING EVENTS OF MORTALITY OR MORBIDITY THAT RESULT IN BENEFITS PRESCRIBED IN THEIR ESSENTIAL ASPECTS BY THE TERMS OF THE POLICY OR CONTRACT.

7. "PRINCIPLE-BASED VALUATION" MEANS A RESERVE VALUATION THAT USES ONE OR MORE METHODS OR ONE OR MORE ASSUMPTIONS DETERMINED BY THE INSURER AND THAT IS REQUIRED TO COMPLY WITH SUBSECTION S OF THIS SECTION AS SPECIFIED IN THE VALUATION MANUAL.

8. "QUALIFIED ACTUARY" MEANS AN INDIVIDUAL WHO IS QUALIFIED TO SIGN THE APPLICABLE STATEMENT OF ACTUARIAL OPINION IN ACCORDANCE WITH THE AMERICAN ACADEMY OF ACTUARIES QUALIFICATION STANDARDS FOR ACTUARIES SIGNING THOSE STATEMENTS AND WHO MEETS THE REQUIREMENTS SPECIFIED IN THE VALUATION MANUAL.

9. "RESERVES" MEANS RESERVE LIABILITIES.

10. "TAIL RISK" MEANS A RISK THAT OCCURS EITHER WHERE THE FREQUENCY OF LOW PROBABILITY EVENTS IS HIGHER THAN EXPECTED UNDER A NORMAL PROBABILITY DISTRIBUTION OR WHERE THERE ARE OBSERVED EVENTS OF VERY SIGNIFICANT SIZE OR MAGNITUDE.

11. "VALUATION MANUAL" MEANS THE MANUAL OF VALUATION INSTRUCTIONS ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AS SPECIFIED IN THIS SECTION.

C. THE FOLLOWING APPLY TO RESERVE VALUATION FOR POLICIES AND CONTRACTS ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL:

~~B.~~ 1. The director shall annually value, or cause to be valued, the reserves for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state ~~and may certify the amount of any of these reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of the reserves. In calculating the reserves, the director may use group methods and may approximate averages for fractions of a year or otherwise. The director may accept the insurer's calculation of the reserves.~~ THAT ARE ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL. IN CALCULATING RESERVES, THE DIRECTOR MAY USE GROUP METHODS AND APPROXIMATE AVERAGES FOR FRACTIONS OF A YEAR OR OTHERWISE. In lieu of the valuation of the reserves required ~~by this section~~ of ~~any~~ A foreign or alien insurer, the director may accept ~~any~~ A valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction if the valuation complies with the minimum standard provided by this section~~, and if the official of that state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the director if the certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction~~.

2. SUBSECTIONS G, H, I, J, K, L, M, N, O, P AND Q OF THIS SECTION APPLY TO ALL POLICIES AND CONTRACTS, AS APPROPRIATE, SUBJECT TO THIS SECTION ISSUED ON OR AFTER THE OPERATIVE DATE OF SECTION 20-1231 AND BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL AND SUBSECTIONS R, S AND T OF THIS SECTION DO NOT APPLY TO THOSE POLICIES AND CONTRACTS.

3. THE MINIMUM STANDARD FOR THE VALUATION OF POLICIES AND CONTRACTS ISSUED BEFORE THE OPERATIVE DATE OF SECTION 20-1231 IS THE STANDARD PROVIDED BY THE LAWS IN EFFECT IMMEDIATELY BEFORE THAT DATE.

D. THE FOLLOWING APPLY TO RESERVE VALUATION FOR POLICIES AND CONTRACTS ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL:

1. THE DIRECTOR SHALL ANNUALLY VALUE, OR CAUSE TO BE VALUED, THE RESERVES FOR ALL OUTSTANDING LIFE INSURANCE CONTRACTS, ANNUITY AND PURE ENDOWMENT CONTRACTS, ACCIDENT AND HEALTH CONTRACTS AND DEPOSIT-TYPE CONTRACTS OF EVERY COMPANY ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL. IN LIEU OF THE VALUATION OF THE RESERVES REQUIRED OF A FOREIGN OR

ALIEN COMPANY, THE DIRECTOR MAY ACCEPT A VALUATION MADE, OR CAUSED TO BE MADE, BY THE INSURANCE SUPERVISORY OFFICIAL OF ANY STATE OR OTHER JURISDICTION IF THE VALUATION COMPLIES WITH THE MINIMUM STANDARD PROVIDED BY THIS SECTION.

2. SUBSECTIONS R, S AND T OF THIS SECTION APPLY TO ALL POLICIES AND CONTRACTS ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL.

E. THE FOLLOWING APPLY TO ACTUARIAL OPINION OF RESERVES BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL:

~~C.~~ 1. ~~Beginning from and after December 31, 1996,~~ Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary. The opinion shall state whether the reserves and related actuarial items that are held in support of the policies and contracts specified by the director are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with the applicable laws of this state. The director shall define the specifics of this opinion and shall add any other items to the scope of the opinion as the director deems necessary. ~~:~~

~~1. Unless exempted or pursuant to rule,~~

2. FOR ACTUARIAL ANALYSIS OF RESERVES AND ASSETS SUPPORTING RESERVES:

(a) Every life insurance company, UNLESS EXEMPTED BY RULE, shall annually include in the opinion ~~under~~ REQUIRED BY PARAGRAPH 1 OF this subsection an opinion of the same qualified actuary as to whether, if considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, the reserves and related actuarial items held in support of the policies and contracts specified by the director make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(b) The director may provide for a transition period for establishing any higher reserves that the qualified actuary may deem necessary in order to render the opinion required by this section.

3. The following apply to each opinion required by ~~this~~ paragraph 2 OF THIS SUBSECTION:

(a) The insurance company shall prepare a memorandum to support each actuarial opinion. The memorandum shall be in a form and substance specified by the director.

(b) If the insurance company fails to provide a supporting memorandum on the request of the director and in the period of time specified by rule or if the director determines that the supporting memorandum does not meet the standards prescribed by rule or is otherwise unacceptable, the director may engage a qualified actuary at the expense of the insurance company to review the opinion and the basis for the opinion and to prepare any supporting memorandum that the director requires.

~~2.~~ 4. The following apply to ~~all opinions~~ EACH OPINION required by PARAGRAPH 1 OF this subsection:

(a) The ~~insurance~~ company shall submit the opinion with the annual statement reflecting the valuation of the reserves for each year ending on or after December 31, 1996.

(b) The opinion applies to all business in force, including individual and group health insurance plans, and shall be in a form and substance that the director specifies.

(c) The opinion shall be based on standards that are adopted from time to time by the actuarial standards board and on any other additional standards that the director prescribes.

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

(e) EXCEPT IN CASES OF FRAUD OR WILFUL MISCONDUCT, the qualified actuary is not liable for damages to any person other than the director and the insurance company for any act, error, omission, decision or conduct with respect to the actuary's opinion~~, unless the actuary engaged in fraud or wilful misconduct~~.

(f) The director shall define by rule what disciplinary actions the director may take against an insurance company or qualified actuary.

~~(g) Any memorandum in support of an opinion and any other material that the insurance company provides to the director are confidential, shall not be made public and are not subject to subpoena. Any memorandum or other material may be made public or subpoenaed for the purpose of defending an action seeking damages from any person pursuant to any action that is required by this subsection or by rules adopted pursuant to this subsection if the memorandum or other material may otherwise be released by the director with the written consent of the company or on request of the American academy of actuaries for the purpose of professional disciplinary proceedings if the academy sets forth procedures that are satisfactory to the director for preserving the confidentiality of the memorandum or other material. Any memorandum or other material is no longer confidential after an insurance company cites any part of the memorandum in its marketing or before a governmental agency other than the department or releases the memorandum to the news media.~~

~~3. For the purposes of this subsection, "qualified actuary" means a member in good standing of the American academy of actuaries who meets the requirements set forth by the director.~~

(g) EXCEPT AS PROVIDED IN SUBDIVISIONS (k), (l) AND (m) OF THIS PARAGRAPH, DOCUMENTS, MATERIALS OR OTHER INFORMATION IN THE POSSESSION OR CONTROL OF THE DEPARTMENT THAT ARE A MEMORANDUM IN SUPPORT OF THE OPINION, AND ANY OTHER MATERIAL PROVIDED BY THE COMPANY TO THE DIRECTOR IN CONNECTION

WITH THE MEMORANDUM, ARE CONFIDENTIAL BY LAW AND PRIVILEGED AND ARE NOT SUBJECT TO PUBLIC RECORDS REQUESTS, ARE NOT SUBJECT TO SUBPOENA AND ARE NOT SUBJECT TO DISCOVERY OR ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION. THE DIRECTOR IS AUTHORIZED TO USE THE DOCUMENTS, MATERIALS OR OTHER INFORMATION IN THE FURTHERANCE OF ANY REGULATORY OR LEGAL ACTION BROUGHT AS PART OF THE DIRECTOR'S OFFICIAL DUTIES.

(h) THE DIRECTOR OR ANY PERSON WHO RECEIVED DOCUMENTS, MATERIALS OR OTHER INFORMATION WHILE ACTING UNDER THE AUTHORITY OF THE DIRECTOR IS NOT ALLOWED OR REQUIRED TO TESTIFY IN ANY PRIVATE CIVIL ACTION CONCERNING ANY CONFIDENTIAL DOCUMENTS, MATERIALS OR INFORMATION SUBJECT TO SUBDIVISION (g) OF THIS PARAGRAPH.

(i) IN ORDER TO ASSIST IN THE PERFORMANCE OF THE DIRECTOR'S DUTIES, THE DIRECTOR MAY:

(i) SHARE DOCUMENTS, MATERIALS OR OTHER INFORMATION, INCLUDING THE CONFIDENTIAL AND PRIVILEGED DOCUMENTS, MATERIALS OR INFORMATION SUBJECT TO SUBDIVISION (g) OF THIS PARAGRAPH, WITH OTHER STATE, FEDERAL AND INTERNATIONAL REGULATORY AGENCIES, WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS AFFILIATES AND SUBSIDIARIES, AND WITH STATE, FEDERAL AND INTERNATIONAL LAW ENFORCEMENT AUTHORITIES, IF THE RECIPIENT AGREES TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE DOCUMENT, MATERIAL OR OTHER INFORMATION.

(ii) RECEIVE DOCUMENTS, MATERIALS OR INFORMATION, INCLUDING OTHERWISE CONFIDENTIAL AND PRIVILEGED DOCUMENTS, MATERIALS OR INFORMATION, FROM THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS AFFILIATES AND SUBSIDIARIES, AND FROM REGULATORY AND LAW ENFORCEMENT OFFICIALS OF OTHER FOREIGN OR DOMESTIC JURISDICTIONS, AND SHALL MAINTAIN AS CONFIDENTIAL OR PRIVILEGED ANY DOCUMENT, MATERIAL OR INFORMATION RECEIVED WITH NOTICE OR THE UNDERSTANDING THAT IT IS CONFIDENTIAL OR PRIVILEGED UNDER THE LAWS OF THE JURISDICTION THAT IS THE SOURCE OF THE DOCUMENT, MATERIAL OR INFORMATION.

(iii) ENTER INTO AGREEMENTS GOVERNING SHARING AND USE OF INFORMATION CONSISTENT WITH SUBDIVISION (g) OF THIS PARAGRAPH AND THIS SUBDIVISION.

(j) NO WAIVER OF ANY APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY IN THE DOCUMENTS, MATERIALS OR INFORMATION SHALL OCCUR AS A RESULT OF DISCLOSURE TO THE DIRECTOR UNDER THIS SUBSECTION OR AS A RESULT OF SHARING AS AUTHORIZED IN SUBDIVISION (i) OF THIS PARAGRAPH.

(k) A MEMORANDUM IN SUPPORT OF THE OPINION, AND ANY OTHER MATERIAL PROVIDED BY THE COMPANY TO THE DIRECTOR IN CONNECTION WITH THE MEMORANDUM, MAY BE SUBJECT TO SUBPOENA FOR THE PURPOSE OF DEFENDING AN ACTION SEEKING DAMAGES FROM THE ACTUARY SUBMITTING THE MEMORANDUM BY REASON OF AN ACTION REQUIRED BY THIS SECTION OR BY RULES ADOPTED UNDER THIS SECTION.

(l) THE MEMORANDUM OR OTHER MATERIAL MAY OTHERWISE BE RELEASED BY THE DIRECTOR WITH THE WRITTEN CONSENT OF THE COMPANY OR TO THE AMERICAN ACADEMY OF ACTUARIES ON REQUEST STATING THAT THE MEMORANDUM OR OTHER MATERIAL IS REQUIRED FOR THE PURPOSE OF PROFESSIONAL DISCIPLINARY PROCEEDINGS AND SETTING

FORTH PROCEDURES SATISFACTORY TO THE DIRECTOR FOR PRESERVING THE CONFIDENTIALITY OF THE MEMORANDUM OR OTHER MATERIAL.

(m) ONCE ANY PORTION OF THE CONFIDENTIAL MEMORANDUM IS CITED BY THE COMPANY IN ITS MARKETING, IS CITED BEFORE A GOVERNMENTAL AGENCY OTHER THAN A STATE INSURANCE DEPARTMENT OR IS RELEASED BY THE COMPANY TO THE NEWS MEDIA, ALL PORTIONS OF THE CONFIDENTIAL MEMORANDUM ARE NO LONGER CONFIDENTIAL.

5. FOR THE PURPOSES OF THIS SUBSECTION, "QUALIFIED ACTUARY" MEANS A MEMBER IN GOOD STANDING OF THE AMERICAN ACADEMY OF ACTUARIES WHO MEETS THE REQUIREMENTS SET FORTH BY THE DIRECTOR.

F. THE FOLLOWING APPLY TO ACTUARIAL OPINION OF RESERVES AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL:

1. EVERY COMPANY WITH OUTSTANDING LIFE INSURANCE CONTRACTS, ACCIDENT AND HEALTH INSURANCE CONTRACTS OR DEPOSIT-TYPE CONTRACTS IN THIS STATE AND SUBJECT TO REGULATION BY THE DIRECTOR SHALL ANNUALLY SUBMIT THE OPINION OF THE APPOINTED ACTUARY AS TO WHETHER THE RESERVES AND RELATED ACTUARIAL ITEMS HELD IN SUPPORT OF THE POLICIES AND CONTRACTS ARE COMPUTED APPROPRIATELY, ARE BASED ON ASSUMPTIONS THAT SATISFY CONTRACTUAL PROVISIONS, ARE CONSISTENT WITH PRIOR REPORTED AMOUNTS AND COMPLY WITH APPLICABLE LAWS OF THIS STATE. THE VALUATION MANUAL WILL PRESCRIBE THE SPECIFICS OF THIS OPINION INCLUDING ANY ITEMS DEEMED TO BE NECESSARY TO ITS SCOPE.

2. EVERY COMPANY WITH OUTSTANDING LIFE INSURANCE CONTRACTS, ACCIDENT AND HEALTH INSURANCE CONTRACTS OR DEPOSIT-TYPE CONTRACTS IN THIS STATE AND SUBJECT TO REGULATION BY THE DIRECTOR, EXCEPT AS EXEMPTED IN THE VALUATION MANUAL, SHALL ALSO ANNUALLY INCLUDE IN THE OPINION REQUIRED BY PARAGRAPH 1 OF THIS SUBSECTION AN OPINION OF THE SAME APPOINTED ACTUARY AS TO WHETHER THE RESERVES AND RELATED ACTUARIAL ITEMS HELD IN SUPPORT OF THE POLICIES AND CONTRACTS SPECIFIED IN THE VALUATION MANUAL, WHEN CONSIDERED IN LIGHT OF THE ASSETS HELD BY THE COMPANY WITH RESPECT TO THE RESERVES AND RELATED ACTUARIAL ITEMS, INCLUDING THE INVESTMENT EARNINGS ON THE ASSETS AND THE CONSIDERATIONS ANTICIPATED TO BE RECEIVED AND RETAINED UNDER THE POLICIES AND CONTRACTS, MAKE ADEQUATE PROVISION FOR THE COMPANY'S OBLIGATIONS UNDER THE POLICIES AND CONTRACTS, INCLUDING THE BENEFITS UNDER AND EXPENSES ASSOCIATED WITH THE POLICIES AND CONTRACTS.

3. THE FOLLOWING APPLY TO EACH OPINION REQUIRED BY PARAGRAPH 2 OF THIS SUBSECTION:

(a) A MEMORANDUM, IN FORM AND SUBSTANCE AS SPECIFIED IN THE VALUATION MANUAL, AND ACCEPTABLE TO THE DIRECTOR, SHALL BE PREPARED TO SUPPORT EACH ACTUARIAL OPINION.

(b) IF THE INSURANCE COMPANY FAILS TO PROVIDE A SUPPORTING MEMORANDUM AT THE REQUEST OF THE DIRECTOR WITHIN A PERIOD SPECIFIED IN THE VALUATION MANUAL OR THE DIRECTOR DETERMINES THAT THE SUPPORTING MEMORANDUM PROVIDED BY THE INSURANCE COMPANY FAILS TO MEET THE STANDARDS PRESCRIBED BY THE VALUATION MANUAL OR IS OTHERWISE UNACCEPTABLE TO THE DIRECTOR, THE DIRECTOR MAY ENGAGE A QUALIFIED ACTUARY AT THE EXPENSE OF THE COMPANY TO REVIEW THE OPINION AND

THE BASIS FOR THE OPINION AND PREPARE THE SUPPORTING MEMORANDUM REQUIRED BY THE DIRECTOR.

4. THE FOLLOWING APPLY TO ALL OPINIONS SUBJECT TO THIS SUBSECTION:

(a) THE OPINION SHALL BE IN FORM AND SUBSTANCE AS SPECIFIED IN THE VALUATION MANUAL AND ACCEPTABLE TO THE DIRECTOR.

(b) THE OPINION SHALL BE SUBMITTED WITH THE ANNUAL STATEMENT REFLECTING THE VALUATION OF THE RESERVES FOR EACH YEAR ENDING ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL.

(c) THE OPINION SHALL APPLY TO ALL POLICIES AND CONTRACTS SUBJECT TO THIS SUBSECTION, PLUS OTHER ACTUARIAL LIABILITIES AS MAY BE SPECIFIED IN THE VALUATION MANUAL.

(d) THE OPINION SHALL BE BASED ON STANDARDS ADOPTED FROM TIME TO TIME BY THE ACTUARIAL STANDARDS BOARD OR ITS SUCCESSOR, AND ON ANY ADDITIONAL STANDARDS AS MAY BE PRESCRIBED IN THE VALUATION MANUAL.

(e) IN THE CASE OF AN OPINION REQUIRED TO BE SUBMITTED BY A FOREIGN OR ALIEN COMPANY, THE DIRECTOR MAY ACCEPT THE OPINION FILED BY THAT COMPANY WITH THE INSURANCE SUPERVISORY OFFICIAL OF ANOTHER STATE IF THE DIRECTOR DETERMINES THAT THE OPINION REASONABLY MEETS THE REQUIREMENTS APPLICABLE TO A COMPANY DOMICILED IN THIS STATE.

(f) EXCEPT IN CASES OF FRAUD OR WILFUL MISCONDUCT, THE APPOINTED ACTUARY IS NOT LIABLE FOR DAMAGES TO ANY PERSON, OTHER THAN THE INSURANCE COMPANY AND THE DIRECTOR, FOR ANY ACT, ERROR, OMISSION, DECISION OR CONDUCT WITH RESPECT TO THE APPOINTED ACTUARY'S OPINION.

(g) DISCIPLINARY ACTION BY THE DIRECTOR AGAINST THE COMPANY OR THE APPOINTED ACTUARY SHALL BE DEFINED BY THE DIRECTOR IN RULE.

~~D.~~ G. Except as otherwise provided in subsections ~~E, F and N~~ H, I, J AND Q of this section, the minimum standard for the valuation of all policies and contracts that were issued before the operative date of section 20-1231 is that provided by the laws in effect immediately before January 1, 1955. Except as otherwise provided in subsections ~~E, F and N~~ H, I, J AND Q of this section, the minimum standard for the valuation of all policies and contracts that are issued on or after January 1, 1955 is the commissioners reserve valuation methods defined in subsections ~~H, I, L and N~~ K, L, O AND P of this section, three and one-half per cent interest or, in the case of LIFE INSURANCE policies and contracts, other than annuity and pure endowment contracts, that are issued on or after July 1, 1974, four per cent interest for those policies that are issued before January 1, 1979, five and one-half per cent interest for single premium life insurance policies and four and one-half per cent interest for all other policies that are issued on and after January 1, 1979, and the following tables:

1. For all ordinary policies of life insurance that are issued on the standard basis, excluding any disability and accidental death benefits in those policies, the commissioners 1941 standard ordinary mortality table for those policies issued before the operative date of section 20-1231, subsection F, paragraph 5, subdivision (b) and the commissioners 1958

standard ordinary mortality table for those policies that are issued on or after the operative date of section 20-1231, subsection F, paragraph 5, subdivision (b) and before the operative date as provided in section 20-1231.01. If any category of these policies is issued on female risks, modified net premiums and present values referred to in this section may be calculated according to an age not more than six years younger than the actual age of the insured. For policies that are issued on or after the operative date of section 20-1231.01, the following tables may be used:

(a) The commissioners 1980 standard ordinary mortality table.

(b) At the election of the insurer for any one or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten year select mortality factors.

(c) Any ordinary mortality table that is adopted after 1980 by the national association of insurance commissioners and that is approved by the director for use in determining the minimum standard of valuation for those policies.

2. For all industrial life insurance policies that are issued on the standard basis, excluding any disability and accidental death benefits in those policies, the 1941 standard industrial mortality table for those policies that are issued before the operative date of section 20-1231, subsection F, paragraph 5, subdivision (d) and for those policies that are issued on or after the operative date of section 20-1231, subsection F, paragraph 5, subdivision (d) the commissioners 1961 standard industrial mortality table or any industrial mortality table that is adopted after 1980 by the national association of insurance commissioners and that is approved by the director for use in determining the minimum standard of valuation for those policies.

3. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in those policies, the 1937 standard annuity mortality table or, at the option of the insurer, the annuity mortality table for 1949, ultimate, or any modification of either of these tables that the director approves.

4. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in those policies, the group annuity mortality table for 1951, any modification of the group annuity mortality table that is approved by the director or, at the option of the insurer, any of the tables or modifications of tables that are specified for individual annuity and pure endowment contracts.

5. For total and permanent disability benefits in or supplementary to ordinary policies or contracts:

(a) For policies or contracts that are issued on or after January 1, ~~1996~~ 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted after 1980 by the national association of

insurance commissioners, that are approved by the director for use in determining the minimum standard of valuation for those policies.

(b) For policies or contracts that are issued on or after January 1, 1961 and before January 1, 1966, either of the tables that are specified in subdivision (a) of this paragraph, or at the option of the insurer, the class three disability table (1926).

(c) For policies or contracts that are issued before January 1, 1961, the class three disability table (1926).

(d) For active lives, any table that is used pursuant to subdivision (a), (b) or (c) of this paragraph shall be combined with a mortality table that is ~~permitted~~ ALLOWED for calculating the reserves for life insurance policies.

6. For accidental death benefits in or supplementary to policies:

(a) For policies that are issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table that was adopted after 1980 by the national association of insurance commissioners and that the director approves for use in determining the minimum standard of valuation for those policies.

(b) For policies that are issued on or after January 1, 1961 and before January 1, 1966, either table provided by subdivision (a) of this paragraph or, at the option of the insurer, the intercompany double indemnity mortality table.

(c) For policies that are issued before January 1, 1961, the intercompany double indemnity mortality table.

(d) A table that is ~~permitted~~ ALLOWED under subdivision (a), (b) or (c) of this paragraph shall be combined with a mortality table that is ~~permitted~~ ALLOWED for calculating the reserves for life insurance policies.

7. For group life insurance, life insurance issued on the substandard basis and other special benefits, any tables that the director approves as sufficient with relation to the benefits provided by those policies.

~~E.~~ H. Except as provided in subsection ~~F~~ I of this section, the minimum standard for the valuation ~~of all~~ FOR individual annuity and pure endowment contracts ~~that are~~ issued on or after the operative date of this subsection and ~~all~~ annuities and pure endowments ~~that are~~ purchased on or after the operative date of this subsection under group annuity and pure endowment contracts shall be the commissioners reserve valuation methods defined in subsections ~~H~~ K and ~~I~~ L of this section and the following tables and interest rates:

1. For individual annuity and pure endowment contracts that are issued before January 1, 1979, excluding any disability and accidental death benefits in those contracts, the 1971 individual annuity mortality table or any modification of the table that the director approves, and six per cent interest for single premium immediate annuity contracts, and four per cent interest for all other individual annuity and pure endowment contracts.

2. For individual single premium immediate annuity contracts that are issued on or after January 1, 1979, excluding any disability and accidental death benefits in those contracts, the 1971 individual annuity mortality table or any individual annuity mortality table ~~that is~~ adopted after 1980 by the national association of insurance commissioners and that the director approves for use in determining the minimum standard valuation for those contracts, or any modification of these tables that the director approves, and seven and one-half per cent interest.

3. For individual annuity and pure endowment contracts that are issued on or after January 1, 1979, other than single premium immediate annuity contracts and excluding any disability and accidental death benefits in those contracts, the 1971 individual annuity mortality table or any individual annuity mortality table that is adopted after 1980 by the national association of insurance commissioners and that the director approves for use in determining the minimum standard of valuation for those contracts, or any modification of these tables that the director approves, and five and one-half per cent interest for single premium deferred annuity and pure endowment contracts and four and one-half per cent interest for all other individual annuity and pure endowment contracts.

4. For all annuities and pure endowments that are purchased before January 1, 1979 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in those contracts, the 1971 group annuity mortality table, or any modification of this table that the director approves, and six per cent interest.

5. For all annuities and pure endowments that are purchased on or after January 1, 1979 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits that are purchased under those contracts, the 1971 group annuity mortality table or any group annuity mortality table that is adopted after 1980 by the national association of insurance commissioners and that the director approves for use in determining the minimum standard of valuation for those annuities and pure endowments, or any modification to these tables that the director approves, and seven and one-half per cent interest.

~~F.~~ I. After July 1, 1974, any insurer may file with the director a written notice of its election to comply with subsection ~~E~~ H of this section on a specified date before January 1, 1979~~. The date specified by the insurer~~, WHICH shall be the operative date of subsection ~~E~~ H of this section for that insurer if the insurer elects a different operative date for individual annuity and pure endowment contracts from the date that is elected for group annuity and pure endowment contracts. If an insurer does not make an election pursuant to this subsection, the operative date of subsection ~~I~~ L of this section shall be January 1, 1979.

~~G.~~ J. The minimum standard by calendar year of issue shall be computed as follows:

1. The interest rates that are used in determining the minimum standard for the valuation of the following shall be the calendar year statutory valuation interest rates as defined in this subsection:

(a) All life insurance policies that are issued in a particular calendar year on or after the operative date of section 20-1231.01.

(b) All individual annuity and pure endowment contracts that are issued in a particular calendar year on or after January 1, 1983.

(c) All annuities and pure endowments that are purchased in a particular calendar year on or after January 1, 1983 under group annuity and pure endowment contracts.

(d) The net increase, if any, in a particular calendar year after January 1, 1983 in the amounts that are held under guaranteed interest contracts.

2. As used in this paragraph:

(a) R1 is the lesser of R and 0.09, R2 is the greater of R and 0.09, R is the reference interest rate defined in this subsection and W is the weighting factor defined in this subsection, the calendar year statutory valuation interest rates, or I, shall be determined as follows and the results shall be rounded to the nearer one-quarter of one per cent:

(i) For life insurance:

$$I = .03 + W(R1 - .03) + W/2\ (R2 - .09).$$

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

$$I = .03 + W(R - .03).$$

(iii) Except pursuant to item (ii) of this subdivision, for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options that are valued on an issue year basis, the formula for life insurance under item (i) of this subdivision applies to annuities and guaranteed interest contracts with guarantee durations of more than ten years and the formula for single premium immediate annuities under item (ii) of this subdivision applies to annuities and guaranteed interest contracts with guarantee durations of ten years or less.

(iv) For other annuities with no cash settlement options and guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities under item (ii) of this subdivision applies.

(v) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options that are valued on a change in fund basis, the formula for single premium immediate annuities under item (ii) of this subdivision applies.

(b) If the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this subdivision differs from the corresponding actual rate for

similar policies issued in the immediately preceding calendar year by less than one-half of one per cent, the calendar year statutory valuation interest rate for those life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For the purposes of ~~this subdivision~~ APPLYING THE IMMEDIATELY PRECEDING SENTENCE, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 using the reference interest rate defined in 1979 and shall be determined for each subsequent calendar year regardless of the operative date of section 20-1231.01.

3. For the purposes of this subsection, the weighting factors REFERRED TO IN THE FORMULAS STATED ABOVE are given in the following tables:

(a) Weighting factors for life insurance:

Guarantee Duration (Years)	Weighting Factors
Ten years or less	.50
More than ten years, but ~~less~~ NOT MORE than 20 years	.45
MORE THAN twenty years ~~or more~~	.35

(b) For life insurance under subdivision (a) of this paragraph, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values, or both, that are guaranteed in the original policy.

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

(d) Except pursuant to subdivision (c) of this paragraph, weighting factors for other annuities and for guaranteed interest ~~contracts~~ are as specified and in accordance with this subdivision:

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

Guarantee Duration (Years)	Weighting Factor for plan type A	B	C
Five years or less	.80	.60	.50
More than five years, but not more than ten years	.75	.60	.50
More than ten years, but not more than twenty years	.65	.50	.45
More than twenty years	.45	.35	.35

(ii) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors listed in item (i) of this subdivision increased by

Plan type A	B	C
.15	.25	.05

(iii) For annuities and guaranteed interest contracts valued on an issue year basis other than those with no cash settlement options that do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis that do not guarantee interest rates on considerations received more than twelve months after the valuation date, the factors shown in item (i) of this subdivision or derived in item (ii) of this subdivision increased by

	Plan type	
A	B	C
.05	.05	.05

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

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

4. "Plan type" as used in paragraph 3, subdivision (d) of this subsection means:

(a) Plan type A: A policyholder may withdraw funds at any time only with an adjustment to reflect changes in interest rates or asset values since the insurance company received the funds, without an adjustment but in installments over a period of five years or more, as an immediate life annuity, or a policyholder may not withdraw funds.

(b) Plan type B: Before the interest rate guarantee expires, a policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since the insurance company received the funds, without an adjustment but in installments over a period of five years

or more, or a policyholder may not withdraw funds. At the end of the interest rate guarantee, a policyholder may withdraw funds without an adjustment in a single sum or in installments over a period of less than five years.

(c) Plan type C: A policyholder may withdraw funds before the interest rate guarantee expires in a single sum or in installments over a period of less than five years either without an adjustment to reflect changes in interest rates or asset values since the insurance company received the funds or subject only to a fixed surrender charge that is stipulated in the contract as a percentage of the fund.

5. For the purposes of this subsection, "reference interest rate" means:

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

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

(c) Except pursuant to subdivision (b) of this paragraph, for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options that are valued on an issue year basis, with guarantee duration of more than ten years, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's investors service, incorporated.

(d) Except pursuant to subdivision (b) of this paragraph, for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options that are valued on a year of issue basis, with guaranteed duration of ten years or less, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's investors service, incorporated.

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

(f) Except pursuant to subdivision (b) of this paragraph, for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options that are valued on a change in fund basis, the average over a period of twelve months, ending on June 30 of the calendar year of the change in the fund, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's investors service, incorporated.

6. If Moody's investors service, incorporated no longer publishes the monthly average of the composite yield on seasoned corporate bonds or if the national association of insurance commissioners determines that the monthly average of the composite yield on seasoned corporate bonds as published by Moody's investor service, incorporated is no longer appropriate for the determination of the reference interest rate, an alternative method for determination of the reference interest rate that the national association of insurance commissioners adopts and the director approves may be substituted.

~~H.~~ K. The reserve valuation method for life insurance and endowment benefits shall be determined as follows:

1. Except as otherwise provided in subsections ~~I,~~ L, ~~and N~~ O AND Q of this section, reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, are the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided for by those policies, over the present value of any future modified net premiums. The modified net premiums for any one policy shall be the uniform percentage of the respective contract premiums for the benefits that the present value, at the date of issue of the policy, of all the modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the policy and the excess of subdivision (a) over subdivision (b) of this paragraph as follows:

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

(b) A net one year term premium for the benefits that are provided for in the first policy year.

2. Any life insurance policy that is issued on or after January 1, 1986 for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and that provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the

excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined for the purposes of this paragraph as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium, except as otherwise provided in subsection ~~L~~ O of this section, shall be the greater of the reserve as of the policy anniversary calculated as described in paragraph 1 of this subsection and the reserve as of the policy anniversary calculated as described in that paragraph, but with:

(a) The value defined in paragraph 1, subdivision (a) of this subsection being reduced by fifteen per cent of the amount of the excess first year premium.

(b) All present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date.

(c) The policy being assumed to mature on the date as an endowment.

(d) The cash surrender value provided on the date being considered as an endowment benefit.

In making the above comparison the mortality and interest bases stated in subsections ~~E and~~ G AND J of this section shall be used.

3. Reserves according to the commissioners reserve valuation method for:

(a) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums.

(b) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation that is established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code, as amended.

(c) Disability and accidental death benefits in all policies and contracts.

(d) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of paragraphs 1 and 2 of this subsection.

~~I.~~ L. The reserve valuation method for annuity and pure endowment benefits shall be determined as follows:

1. This subsection applies to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation that is established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code, as amended.

2. Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in those contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits that are provided for by the contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of the contract, that become payable before the end of the respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate or rates specified in the contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

~~J.~~ M. A company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, that are issued on or after the operative date of section 20-1231, shall not be less than the aggregate reserves calculated in accordance with the methods set forth in subsections ~~H, I,~~ K, L, O and ~~M~~ P of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies. The aggregate reserves for all policies, contracts and benefits shall not be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by subsection ~~C~~ E of this section.

~~K.~~ N. Optional reserves may be calculated as follows:

1. At the option of the insurer, reserves for all policies and contracts that are issued before the operative date of section 20-1231 may be calculated according to any standards that produce greater aggregate reserves for all the policies and contracts than the minimum reserves required by the laws in effect immediately before that date.

2. At the option of the insurer, reserves for any category of policies, contracts or benefits that the director establishes and that are issued on or after the operative date of section 20-1231 may be calculated according to any standards that produce greater aggregate reserves for that category than those calculated according to the minimum standard provided in this section, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be ~~higher~~ GREATER than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for in the policy or contract.

3. An insurer that at any time has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided by this section, with the director's approval, may adopt any lower standard of valuation, but not lower than the minimum

provided by this section. For the purposes of this section, the holding of additional reserves previously determined by ~~a qualified~~ THE APPOINTED actuary to be necessary to render the opinion required by subsection ~~C~~ E of this section shall not be deemed to be the adoption of a higher standard of valuation.

~~L.~~ O. Reserves when the valuation net premium exceeds the gross premium charged shall be calculated as follows:

1. If in any contract year the gross premium charged by ~~any life insurer~~ A COMPANY on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract, or the reserve calculated by the method actually used for the policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subsections ~~D~~ G and ~~G~~ J of this section.

2. For any life insurance policy that is issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year~~,~~ AND for which no comparable additional benefit is provided in the first year for that excess and that provides an endowment benefit or a cash surrender value or a combination ~~of endowment benefit and cash surrender value~~ in an amount greater than the excess premium, this subsection applies as if the method actually used in calculating the reserve for the policy was the method described in subsection ~~H~~ K, ~~paragraph~~ PARAGRAPHS 1 AND 3 of this section. The minimum reserve at each policy anniversary of SUCH a policy shall be the greater of the minimum reserve calculated in accordance with subsection ~~H~~ K of this section, INCLUDING PARAGRAPH 2 OF THAT SUBSECTION, and the minimum reserve calculated in accordance with this subsection.

~~M.~~ P. If a plan of life insurance provides for future premium determination, the amounts of which are to be determined by the insurer based on then estimates of future experience, or if the minimum reserves of a plan of life insurance or annuity cannot be determined by the methods described in subsections ~~H, I and~~ K, L AND O of this section, the reserves that are held under any plan must:

1. Be appropriate in relation to the benefits and the pattern of premiums for that plan.

2. Be computed by a method that is consistent with the principles of this ~~standard valuation law~~ SECTION, AS DETERMINED BY RULES ADOPTED BY THE DIRECTOR RELATED TO THE MINIMUM STANDARDS APPLICABLE TO THE VALUATION OF HEALTH PLANS.

~~N. The director shall adopt rules relating to the minimum standards applicable to the valuation of health plans.~~

~~O. For the purposes of this section, "reserves" means reserve liabilities.~~

Q. FOR ACCIDENT AND HEALTH INSURANCE CONTRACTS ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE STANDARD PRESCRIBED IN THE VALUATION MANUAL IS THE MINIMUM STANDARD OF VALUATION REQUIRED UNDER SUBSECTION D, PARAGRAPH 1 OF THIS SECTION. FOR DISABILITY INSURANCE CONTRACTS ISSUED ON OR AFTER THE OPERATIVE DATE OF SECTION 20-1231 AND BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL, THE MINIMUM STANDARD OF VALUATION IS THE STANDARD ADOPTED BY THE DIRECTOR BY RULE.

R. THE FOLLOWING APPLY TO THE VALUATION MANUAL FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL:

1. FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE STANDARD PRESCRIBED IN THE VALUATION MANUAL IS THE MINIMUM STANDARD OF VALUATION REQUIRED UNDER SUBSECTION D, PARAGRAPH 1 OF THIS SECTION, EXCEPT AS PROVIDED UNDER PARAGRAPH 5 OR 7 OF THIS SUBSECTION.

2. THE OPERATIVE DATE OF THE VALUATION MANUAL IS JANUARY 1 OF THE FIRST CALENDAR YEAR FOLLOWING THE FIRST JULY 1 AS OF WHICH ALL OF THE FOLLOWING HAVE OCCURRED:

(a) THE VALUATION MANUAL HAS BEEN ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS BY AN AFFIRMATIVE VOTE OF AT LEAST FORTY-TWO MEMBERS, OR THREE-FOURTHS OF THE MEMBERS VOTING, WHICHEVER IS GREATER.

(b) THE STANDARD VALUATION LAW, AS AMENDED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS IN 2009, OR LEGISLATION INCLUDING SUBSTANTIALLY SIMILAR TERMS AND PROVISIONS, HAS BEEN ENACTED BY STATES REPRESENTING GREATER THAN SEVENTY-FIVE PER CENT OF THE DIRECT PREMIUMS WRITTEN AS REPORTED IN THE FOLLOWING ANNUAL STATEMENTS SUBMITTED FOR 2008: LIFE, ACCIDENT AND HEALTH ANNUAL STATEMENTS, HEALTH ANNUAL STATEMENTS, OR FRATERNAL ANNUAL STATEMENTS.

(c) THE STANDARD VALUATION LAW, AS AMENDED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS IN 2009, OR LEGISLATION INCLUDING SUBSTANTIALLY SIMILAR TERMS AND PROVISIONS, HAS BEEN ENACTED BY AT LEAST FORTY-TWO OF THE FOLLOWING FIFTY-FIVE JURISDICTIONS:

(i) THE FIFTY STATES OF THE UNITED STATES.

(ii) AMERICAN SAMOA.

(iii) THE UNITED STATES VIRGIN ISLANDS.

(iv) THE DISTRICT OF COLUMBIA.

(v) GUAM.

(vi) THE COMMONWEALTH OF PUERTO RICO.

3. UNLESS A CHANGE IN THE VALUATION MANUAL SPECIFIES A LATER EFFECTIVE DATE, CHANGES TO THE VALUATION MANUAL SHALL BE EFFECTIVE ON JANUARY 1 FOLLOWING THE DATE WHEN ALL OF THE FOLLOWING HAVE OCCURRED:

(a) THE CHANGE TO THE VALUATION MANUAL HAS BEEN ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS BY AN AFFIRMATIVE VOTE REPRESENTING THE FOLLOWING:

1 (i) AT LEAST THREE-FOURTHS OF THE MEMBERS OF THE NATIONAL ASSOCIATION
2 OF INSURANCE COMMISSIONERS VOTING, BUT NOT LESS THAN A MAJORITY OF THE TOTAL
3 MEMBERSHIP.
4 (ii) MEMBERS OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS
5 REPRESENTING JURISDICTIONS TOTALING GREATER THAN SEVENTY-FIVE PER CENT OF THE
6 DIRECT PREMIUMS WRITTEN AS REPORTED IN THE FOLLOWING ANNUAL STATEMENTS MOST
7 RECENTLY AVAILABLE BEFORE THE VOTE IN ITEM (i) OF THIS SUBDIVISION: LIFE,
8 ACCIDENT AND HEALTH ANNUAL STATEMENTS, HEALTH ANNUAL STATEMENTS, OR FRATERNAL
9 ANNUAL STATEMENTS.
10 (b) THE VALUATION MANUAL BECOMES EFFECTIVE PURSUANT TO AN ORDER OF THE
11 DIRECTOR.
12 4. THE VALUATION MANUAL MUST SPECIFY ALL OF THE FOLLOWING:
13 (a) MINIMUM VALUATION STANDARDS FOR AND DEFINITIONS OF THE POLICIES OR
14 CONTRACTS SUBJECT TO SUBSECTION D, PARAGRAPH 1 OF THIS SECTION. THE MINIMUM
15 VALUATION STANDARDS SHALL INCLUDE ALL OF THE FOLLOWING:
16 (i) THE DIRECTOR'S RESERVE VALUATION METHOD FOR LIFE INSURANCE
17 CONTRACTS, OTHER THAN ANNUITY CONTRACTS, SUBJECT TO SUBSECTION D, PARAGRAPH 1
18 OF THIS SECTION.
19 (ii) THE DIRECTOR'S ANNUITY RESERVE VALUATION METHOD FOR ANNUITY
20 CONTRACTS SUBJECT TO SUBSECTION D, PARAGRAPH 1 OF THIS SECTION.
21 (iii) MINIMUM RESERVES FOR ALL OTHER POLICIES OR CONTRACTS SUBJECT TO
22 SUBSECTION D OF THIS SECTION.
23 (b) WHICH POLICIES OR CONTRACTS OR TYPES OF POLICIES OR CONTRACTS THAT
24 ARE SUBJECT TO THE REQUIREMENTS OF A PRINCIPLE-BASED VALUATION IN SUBSECTION
25 S OF THIS SECTION AND THE MINIMUM VALUATION STANDARDS CONSISTENT WITH THOSE
26 REQUIREMENTS.
27 (c) FOR POLICIES AND CONTRACTS SUBJECT TO A PRINCIPLE-BASED VALUATION
28 UNDER SUBSECTION S OF THIS SECTION:
29 (i) REQUIREMENTS FOR THE FORMAT OF REPORTS TO THE DIRECTOR UNDER
30 SUBSECTION T, PARAGRAPH 2 OF THIS SECTION AND THAT SHALL INCLUDE INFORMATION
31 NECESSARY TO DETERMINE IF THE VALUATION IS APPROPRIATE AND IN COMPLIANCE WITH
32 THIS SECTION.
33 (ii) ASSUMPTIONS SHALL BE PRESCRIBED FOR RISKS OVER WHICH THE COMPANY
34 DOES NOT HAVE SIGNIFICANT CONTROL OR INFLUENCE.
35 (iii) PROCEDURES FOR CORPORATE GOVERNANCE AND OVERSIGHT OF THE
36 ACTUARIAL FUNCTION AND A PROCESS FOR APPROPRIATE WAIVER OR MODIFICATION OF
37 THE PROCEDURES.
38 (d) FOR POLICIES NOT SUBJECT TO A PRINCIPLE-BASED VALUATION UNDER
39 SUBSECTION S OF THIS SECTION THE MINIMUM VALUATION STANDARD SHALL EITHER:
40 (i) BE CONSISTENT WITH THE MINIMUM STANDARD OF VALUATION BEFORE THE
41 OPERATIVE DATE OF THE VALUATION MANUAL.
42 (ii) DEVELOP RESERVES THAT QUANTIFY THE BENEFITS AND GUARANTEES, AND
43 THE FUNDING, ASSOCIATED WITH THE CONTRACTS AND THEIR RISKS AT A LEVEL OF
44 CONSERVATISM THAT REFLECTS CONDITIONS THAT INCLUDE UNFAVORABLE EVENTS THAT
45 HAVE A REASONABLE PROBABILITY OF OCCURRING.

1 (e) OTHER REQUIREMENTS, INCLUDING THOSE RELATING TO RESERVE METHODS,
2 MODELS FOR MEASURING RISK, GENERATION OF ECONOMIC SCENARIOS, ASSUMPTIONS,
3 MARGINS, USE OF COMPANY EXPERIENCE, RISK MEASUREMENT, DISCLOSURE,
4 CERTIFICATIONS, REPORTS, ACTUARIAL OPINIONS AND MEMORANDUMS, TRANSITION RULES
5 AND INTERNAL CONTROLS.
6 (f) THE DATA AND FORM OF THE DATA REQUIRED UNDER SUBSECTION T OF THIS
7 SECTION, WITH WHOM THE DATA MUST BE SUBMITTED, AND OTHER REQUIREMENTS
8 INCLUDING DATA ANALYSES AND REPORTING OF ANALYSES.
9 5. IN THE ABSENCE OF A SPECIFIC VALUATION REQUIREMENT OR IF A SPECIFIC
10 VALUATION REQUIREMENT IN THE VALUATION MANUAL IS NOT, IN THE OPINION OF THE
11 DIRECTOR, IN COMPLIANCE WITH THIS SECTION, THE COMPANY, WITH RESPECT TO THE
12 REQUIREMENTS, SHALL COMPLY WITH MINIMUM VALUATION STANDARDS PRESCRIBED BY THE
13 DIRECTOR BY RULE.
14 6. THE DIRECTOR MAY ENGAGE A QUALIFIED ACTUARY, AT THE EXPENSE OF THE
15 COMPANY, TO PERFORM AN ACTUARIAL EXAMINATION OF THE COMPANY AND OPINE ON THE
16 APPROPRIATENESS OF ANY RESERVE ASSUMPTION OR METHOD USED BY THE COMPANY, OR
17 TO REVIEW AND OPINE ON A COMPANY'S COMPLIANCE WITH ANY REQUIREMENT OF THIS
18 SECTION. THE DIRECTOR MAY RELY ON THE OPINION, REGARDING PROVISIONS
19 CONTAINED IN THIS SECTION, OF A QUALIFIED ACTUARY ENGAGED BY THE DIRECTOR OF
20 ANOTHER STATE, DISTRICT OR TERRITORY OF THE UNITED STATES. FOR THE PURPOSES
21 OF THIS PARAGRAPH, ENGAGE INCLUDES EMPLOYMENT AND CONTRACTING.
22 7. THE DIRECTOR MAY REQUIRE A COMPANY TO CHANGE ANY ASSUMPTION OR
23 METHOD THAT IN THE OPINION OF THE DIRECTOR IS NECESSARY IN ORDER TO COMPLY
24 WITH THE REQUIREMENTS OF THE VALUATION MANUAL OR THIS SECTION, AND THE
25 COMPANY SHALL ADJUST THE RESERVES AS REQUIRED BY THE DIRECTOR. THE DIRECTOR
26 MAY TAKE OTHER DISCIPLINARY ACTION AS ALLOWED PURSUANT TO SECTION 20-152.
27 S. A COMPANY MUST ESTABLISH RESERVES USING A PRINCIPLE-BASED VALUATION
28 THAT MEETS THE FOLLOWING CONDITIONS FOR POLICIES OR CONTRACTS AS SPECIFIED IN
29 THE VALUATION MANUAL:
30 1. QUANTIFY THE BENEFITS AND GUARANTEES, AND THE FUNDING, ASSOCIATED
31 WITH THE CONTRACTS AND THEIR RISKS AT A LEVEL OF CONSERVATISM THAT REFLECTS
32 CONDITIONS THAT INCLUDE UNFAVORABLE EVENTS THAT HAVE A REASONABLE PROBABILITY
33 OF OCCURRING DURING THE LIFETIME OF THE CONTRACTS, AND FOR POLICIES OR
34 CONTRACTS WITH SIGNIFICANT TAIL RISK, THAT REFLECTS CONDITIONS APPROPRIATELY
35 ADVERSE TO QUANTIFY THE TAIL RISK.
36 2. INCORPORATE ASSUMPTIONS, RISK ANALYSIS METHODS AND FINANCIAL MODELS
37 AND MANAGEMENT TECHNIQUES THAT ARE CONSISTENT WITH, BUT NOT NECESSARILY
38 IDENTICAL TO, THOSE UTILIZED WITHIN THE COMPANY'S OVERALL RISK ASSESSMENT
39 PROCESS, WHILE RECOGNIZING POTENTIAL DIFFERENCES IN FINANCIAL REPORTING
40 STRUCTURES AND ANY PRESCRIBED ASSUMPTIONS OR METHODS.
41 3. INCORPORATE ASSUMPTIONS THAT ARE DERIVED IN ONE OF THE FOLLOWING
42 MANNERS:
43 (a) THE ASSUMPTION IS PRESCRIBED IN THE VALUATION MANUAL.
44 (b) FOR ASSUMPTIONS THAT ARE NOT PRESCRIBED, THE ASSUMPTIONS SHALL
45 EITHER:

(i) BE ESTABLISHED UTILIZING THE COMPANY'S AVAILABLE EXPERIENCE TO THE EXTENT IT IS RELEVANT AND STATISTICALLY CREDIBLE.

(ii) TO THE EXTENT THAT COMPANY DATA IS NOT AVAILABLE, RELEVANT OR STATISTICALLY CREDIBLE, BE ESTABLISHED UTILIZING OTHER RELEVANT, STATISTICALLY CREDIBLE EXPERIENCE.

4. PROVIDE MARGINS FOR UNCERTAINTY INCLUDING ADVERSE DEVIATION AND ESTIMATION ERROR, SUCH THAT THE GREATER THE UNCERTAINTY THE LARGER THE MARGIN AND RESULTING RESERVE.

T. A COMPANY USING A PRINCIPLE-BASED VALUATION FOR ONE OR MORE POLICIES OR CONTRACTS SUBJECT TO THIS SECTION AS SPECIFIED IN THE VALUATION MANUAL SHALL:

1. ESTABLISH PROCEDURES FOR CORPORATE GOVERNANCE AND OVERSIGHT OF THE ACTUARIAL VALUATION FUNCTION CONSISTENT WITH THOSE DESCRIBED IN THE VALUATION MANUAL.

2. PROVIDE TO THE DIRECTOR AND THE BOARD OF DIRECTORS AN ANNUAL CERTIFICATION OF THE EFFECTIVENESS OF THE INTERNAL CONTROLS WITH RESPECT TO THE PRINCIPLE-BASED VALUATION. THE CONTROLS SHALL BE DESIGNED TO ASSURE THAT ALL MATERIAL RISKS INHERENT IN THE LIABILITIES AND ASSOCIATED ASSETS SUBJECT TO THE VALUATION ARE INCLUDED IN THE VALUATION, AND THAT VALUATIONS ARE MADE IN ACCORDANCE WITH THE VALUATION MANUAL. THE CERTIFICATION SHALL BE BASED ON THE CONTROLS IN PLACE AS OF THE END OF THE PRECEDING CALENDAR YEAR.

3. DEVELOP, AND FILE WITH THE DIRECTOR ON REQUEST, A PRINCIPLE-BASED VALUATION REPORT THAT COMPLIES WITH STANDARDS PRESCRIBED IN THE VALUATION MANUAL. A PRINCIPLE-BASED VALUATION MAY INCLUDE A PRESCRIBED FORMULAIC RESERVE COMPONENT.

U. A COMPANY SHALL SUBMIT MORTALITY, MORBIDITY, POLICYHOLDER BEHAVIOR OR EXPENSE EXPERIENCE AND OTHER DATA AS PRESCRIBED IN THE VALUATION MANUAL.

V. THE FOLLOWING APPLY TO CONFIDENTIALITY:

1. FOR THE PURPOSES OF THIS SUBSECTION, "CONFIDENTIAL INFORMATION" MEANS:

(a) A MEMORANDUM IN SUPPORT OF AN OPINION SUBMITTED UNDER SUBSECTION F OF THIS SECTION AND ANY OTHER DOCUMENTS, MATERIALS AND OTHER INFORMATION, INCLUDING ALL WORKING PAPERS, AND COPIES THEREOF, CREATED, PRODUCED OR OBTAINED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON IN CONNECTION WITH THE MEMORANDUM.

(b) ALL DOCUMENTS, MATERIALS AND OTHER INFORMATION, INCLUDING ALL WORKING PAPERS, AND COPIES THEREOF, CREATED, PRODUCED OR OBTAINED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON IN THE COURSE OF AN EXAMINATION MADE UNDER SUBSECTION R OF THIS SECTION. IF AN EXAMINATION REPORT OR OTHER MATERIAL PREPARED IN CONNECTION WITH AN EXAMINATION MADE UNDER SECTION 20-156 IS NOT HELD AS PRIVATE AND CONFIDENTIAL INFORMATION UNDER SECTION 20-156, AN EXAMINATION REPORT OR OTHER MATERIAL PREPARED IN CONNECTION WITH AN EXAMINATION MADE UNDER SUBSECTION R, PARAGRAPH 6 OF THIS SECTION IS NOT CONFIDENTIAL INFORMATION TO THE SAME EXTENT AS IF THE EXAMINATION REPORT OR OTHER MATERIAL HAD BEEN PREPARED UNDER SECTION 20-156.

1 (c) ANY REPORTS, DOCUMENTS, MATERIALS AND OTHER INFORMATION DEVELOPED
2 BY A COMPANY IN SUPPORT OF OR IN CONNECTION WITH AN ANNUAL CERTIFICATION BY
3 THE COMPANY UNDER SUBSECTION T, PARAGRAPH 2 OF THIS SECTION EVALUATING THE
4 EFFECTIVENESS OF THE COMPANY'S INTERNAL CONTROLS WITH RESPECT TO A
5 PRINCIPLE-BASED VALUATION AND ANY OTHER DOCUMENTS, MATERIALS AND OTHER
6 INFORMATION, INCLUDING ALL WORKING PAPERS, AND COPIES THEREOF, CREATED,
7 PRODUCED OR OBTAINED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON IN
8 CONNECTION WITH THE REPORTS, DOCUMENTS, MATERIALS AND OTHER INFORMATION.
9 (d) ANY PRINCIPLE-BASED VALUATION REPORT DEVELOPED UNDER SUBSECTION T,
10 PARAGRAPH 3 OF THIS SECTION AND ANY OTHER DOCUMENTS, MATERIALS AND OTHER
11 INFORMATION, INCLUDING ALL WORKING PAPERS, AND COPIES THEREOF, CREATED,
12 PRODUCED OR OBTAINED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON IN
13 CONNECTION WITH THE REPORT.
14 (e) ANY DOCUMENTS, MATERIALS, DATA AND OTHER INFORMATION SUBMITTED BY
15 A COMPANY UNDER SUBSECTION U OF THIS SECTION (COLLECTIVELY, "EXPERIENCE
16 DATA") AND ANY OTHER DOCUMENTS, MATERIALS, DATA AND OTHER INFORMATION,
17 INCLUDING ALL WORKING PAPERS, AND COPIES THEREOF, CREATED OR PRODUCED IN
18 CONNECTION WITH THE EXPERIENCE DATA, IN EACH CASE THAT INCLUDE ANY
19 POTENTIALLY COMPANY-IDENTIFYING OR PERSONALLY IDENTIFIABLE INFORMATION THAT
20 IS PROVIDED TO OR OBTAINED BY THE DIRECTOR (TOGETHER WITH ANY "EXPERIENCE
21 DATA", THE "EXPERIENCE MATERIALS") AND ANY OTHER DOCUMENTS, MATERIALS, DATA
22 AND OTHER INFORMATION, INCLUDING ALL WORKING PAPERS, AND COPIES THEREOF,
23 CREATED, PRODUCED OR OBTAINED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER
24 PERSON IN CONNECTION WITH THE EXPERIENCE MATERIALS.
25 2. THE FOLLOWING APPLY TO THE PRIVILEGE FOR AND CONFIDENTIALITY OF
26 CONFIDENTIAL INFORMATION:
27 (a) EXCEPT AS PROVIDED IN THIS SUBSECTION, A COMPANY'S CONFIDENTIAL
28 INFORMATION IS CONFIDENTIAL BY LAW AND PRIVILEGED, AND IS NOT SUBJECT TO
29 PUBLIC RECORDS REQUESTS OR SUBPOENAS AND SHALL NOT BE SUBJECT TO DISCOVERY OR
30 ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION. THE DIRECTOR IS
31 AUTHORIZED TO USE THE CONFIDENTIAL INFORMATION IN THE FURTHERANCE OF ANY
32 REGULATORY OR LEGAL ACTION BROUGHT AGAINST THE COMPANY AS A PART OF THE
33 DIRECTOR'S OFFICIAL DUTIES.
34 (b) NEITHER THE DIRECTOR NOR ANY PERSON WHO RECEIVED CONFIDENTIAL
35 INFORMATION WHILE ACTING UNDER THE AUTHORITY OF THE DIRECTOR SHALL BE ALLOWED
36 OR REQUIRED TO TESTIFY IN ANY PRIVATE CIVIL ACTION CONCERNING ANY
37 CONFIDENTIAL INFORMATION.
38 (c) IN ORDER TO ASSIST IN THE PERFORMANCE OF THE DIRECTOR'S DUTIES,
39 THE DIRECTOR MAY SHARE CONFIDENTIAL INFORMATION:
40 (i) WITH OTHER STATE, FEDERAL AND INTERNATIONAL REGULATORY AGENCIES
41 AND WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS
42 AFFILIATES AND SUBSIDIARIES.
43 (ii) IN THE CASE OF CONFIDENTIAL INFORMATION SPECIFIED IN PARAGRAPH 1,
44 SUBDIVISIONS (a) AND (d) OF THIS SUBSECTION ONLY, WITH THE ACTUARIAL BOARD
45 FOR COUNSELING AND DISCIPLINE OR ITS SUCCESSOR ON REQUEST STATING THAT THE

1 CONFIDENTIAL INFORMATION IS REQUIRED FOR THE PURPOSE OF PROFESSIONAL
2 DISCIPLINARY PROCEEDINGS AND WITH STATE, FEDERAL AND INTERNATIONAL LAW
3 ENFORCEMENT OFFICIALS.
4 (iii) IN THE CASE OF ITEMS (i) AND (ii) OF THIS SUBDIVISION, IF THE
5 RECIPIENT AGREES, AND HAS THE LEGAL AUTHORITY TO AGREE, TO MAINTAIN THE
6 CONFIDENTIALITY AND PRIVILEGED STATUS OF THE DOCUMENTS, MATERIALS, DATA AND
7 OTHER INFORMATION IN THE SAME MANNER AND TO THE SAME EXTENT AS REQUIRED FOR
8 THE DIRECTOR.
9 (d) THE DIRECTOR MAY RECEIVE DOCUMENTS, MATERIALS, DATA AND OTHER
10 INFORMATION, INCLUDING OTHERWISE CONFIDENTIAL AND PRIVILEGED DOCUMENTS,
11 MATERIALS, DATA OR INFORMATION, FROM THE NATIONAL ASSOCIATION OF INSURANCE
12 COMMISSIONERS AND ITS AFFILIATES AND SUBSIDIARIES, FROM REGULATORY OR LAW
13 ENFORCEMENT OFFICIALS OF OTHER FOREIGN OR DOMESTIC JURISDICTIONS AND FROM THE
14 ACTUARIAL BOARD FOR COUNSELING AND DISCIPLINE OR ITS SUCCESSOR AND SHALL
15 MAINTAIN AS CONFIDENTIAL OR PRIVILEGED ANY DOCUMENT, MATERIAL, DATA OR OTHER
16 INFORMATION RECEIVED WITH NOTICE OR THE UNDERSTANDING THAT IT IS CONFIDENTIAL
17 OR PRIVILEGED UNDER THE LAWS OF THE JURISDICTION THAT IS THE SOURCE OF THE
18 DOCUMENT, MATERIAL OR OTHER INFORMATION.
19 (e) THE DIRECTOR MAY ENTER INTO AGREEMENTS GOVERNING SHARING AND USE
20 OF INFORMATION CONSISTENT WITH THIS PARAGRAPH.
21 (f) NO WAIVER OF ANY APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY
22 IN THE CONFIDENTIAL INFORMATION SHALL OCCUR AS A RESULT OF DISCLOSURE TO THE
23 DIRECTOR UNDER THIS SECTION OR AS A RESULT OF SHARING AS AUTHORIZED IN
24 SUBDIVISION (c) OF THIS PARAGRAPH.
25 (g) PRIVILEGE ESTABLISHED UNDER THE LAW OF ANY STATE OR JURISDICTION
26 THAT IS SUBSTANTIALLY SIMILAR TO THE PRIVILEGE ESTABLISHED UNDER THIS
27 PARAGRAPH SHALL BE AVAILABLE AND ENFORCED IN ANY PROCEEDING IN AND IN ANY
28 COURT OF THIS STATE.
29 3. NOTWITHSTANDING PARAGRAPH 2 OF THIS SUBSECTION, ANY CONFIDENTIAL
30 INFORMATION SPECIFIED IN PARAGRAPH 1, SUBDIVISIONS (a) AND (d) OF THIS
31 SUBSECTION:
32 (a) MAY BE SUBJECT TO SUBPOENA FOR THE PURPOSE OF DEFENDING AN ACTION
33 SEEKING DAMAGES FROM THE APPOINTED ACTUARY SUBMITTING THE RELATED MEMORANDUM
34 IN SUPPORT OF AN OPINION SUBMITTED UNDER SUBSECTION F, PARAGRAPH 1 OF THIS
35 SECTION OR PRINCIPLE-BASED VALUATION REPORT DEVELOPED UNDER SUBSECTION T,
36 PARAGRAPH 3 OF THIS SECTION BY REASON OF AN ACTION REQUIRED BY THIS SECTION
37 OR BY RULES ADOPTED UNDER THIS SECTION.
38 (b) MAY OTHERWISE BE RELEASED BY THE DIRECTOR WITH THE WRITTEN CONSENT
39 OF THE COMPANY.
40 (c) ONCE ANY PORTION OF A MEMORANDUM IN SUPPORT OF AN OPINION
41 SUBMITTED UNDER SUBSECTION F, PARAGRAPH 1 OF THIS SECTION OR A
42 PRINCIPLE-BASED VALUATION REPORT DEVELOPED UNDER SUBSECTION T, PARAGRAPH 3 OF
43 THIS SECTION IS CITED BY THE COMPANY IN ITS MARKETING OR IS PUBLICLY
44 VOLUNTEERED TO OR BEFORE A GOVERNMENTAL AGENCY OTHER THAN A STATE INSURANCE

DEPARTMENT OR IS RELEASED BY THE COMPANY TO THE NEWS MEDIA, ALL PORTIONS OF THE MEMORANDUM OR REPORT ARE NO LONGER CONFIDENTIAL.

4. FOR THE PURPOSES OF THIS SUBSECTION, "REGULATORY AGENCY", "LAW ENFORCEMENT AGENCY" AND "NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS" INCLUDE THE EMPLOYEES, AGENTS, CONSULTANTS AND CONTRACTORS OF THOSE ENTITIES.

W. THE FOLLOWING APPLY TO SINGLE STATE EXEMPTION:

1. THE DIRECTOR MAY EXEMPT SPECIFIC PRODUCT FORMS OR PRODUCT LINES OF A DOMESTIC COMPANY THAT IS LICENSED AND DOING BUSINESS ONLY IN THIS STATE FROM THE REQUIREMENTS OF SUBSECTION R OF THIS SECTION IF:

(a) THE DIRECTOR HAS ISSUED AN EXEMPTION IN WRITING TO THE COMPANY AND HAS NOT SUBSEQUENTLY REVOKED THE EXEMPTION IN WRITING.

(b) THE COMPANY COMPUTES RESERVES USING ASSUMPTIONS AND METHODS USED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL IN ADDITION TO ANY REQUIREMENTS ESTABLISHED BY THE DIRECTOR AND ADOPTED BY RULE.

2. FOR ANY COMPANY GRANTED AN EXEMPTION UNDER THIS SECTION, SUBSECTIONS D, E, F, G, H, I, J, K, L, M, N, O, P AND Q OF THIS SECTION APPLY. FOR ANY COMPANY APPLYING THIS EXEMPTION, ANY REFERENCE TO SUBSECTION R FOUND IN SUBSECTIONS D, E, F, G, H, I, J, K, L, M, N, O, P AND Q OF THIS SECTION DOES NOT APPLY.

Sec. 2. Section 20-696.01, Arizona Revised Statutes, is amended to read:

20-696.01. <u>Definitions</u>

In this article, unless the context otherwise requires:

1. "Actuarial opinion" means the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items that is based on an asset adequacy analysis conducted pursuant to section 20-696.03 and that is based on presently accepted actuarial standards of practice.

2. "Actuarial standards board" means the board that is established by the American academy of actuaries to develop and promulgate actuarial standards of practice.

3. "Annual statement" means the statement that an insurer annually files with the director pursuant to section 20-223.

4. "Appointed actuary" means an individual who is appointed or retained pursuant to section 20-696.02, subsection D to provide the actuarial opinion and supporting memorandum prescribed by section 20-510, subsection ~~C~~ E OR F.

5. "Asset adequacy analysis" means an analysis that meets the standards and other requirements prescribed pursuant to section 20-696.02, subsection E.

6. "Company" means an insurer, fraternal benefit society or reinsurer that is subject to this article pursuant to section 20-696.

7. "Qualified actuary" means any individual who meets the requirements prescribed in section 20-696.02, subsection B.

Sec. 3. Section 20-696.02, Arizona Revised Statutes, is amended to read:

20-696.02. General requirements; statement of actuarial opinion; qualified actuary; appointed actuary; analysis

A. The following apply to the submission of statements of actuarial opinion:

1. Pursuant to section 20-696.03, a company shall include with or attach to page one of its annual statement the statement of actuarial opinion that is made by an appointed actuary and that states an opinion relating to reserves and related actuarial items held in support of policies and contracts.

2. On written request by the company, the director may grant an extension of the date for submission of the statement of actuarial opinion.

B. A qualified actuary is an individual who meets the following requirements:

1. Is a member in good standing of the American academy of actuaries.

2. Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements pursuant to the American academy of actuaries qualification standards for actuaries signing these statements.

3. Is familiar with the valuation requirements that are applicable to life and health insurance companies.

4. Has not been found by the director, after appropriate notice and hearing and without subsequent reinstatement as a qualified actuary, to have done any of the following:

(a) Violated any provision of or any obligation imposed by this title or other law in the course of the person's conduct as a qualified actuary.

(b) Been convicted of a fraudulent or dishonest practice.

(c) Demonstrated incompetence, lack of cooperation or untrustworthiness to act as a qualified actuary.

(d) Pursuant to this article, submitted to the director during the past five years an actuarial opinion or memorandum that the director rejected because it did not meet the requirements prescribed by this article, including standards prescribed by the actuarial standards board.

(e) Resigned or been removed as an actuary within the past five years as a result of acts or omissions that are indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards.

5. Has notified the director of any action taken against the actuary by the director or commissioner of another state for an act that is prohibited under paragraph 4 of this subsection.

C. Notwithstanding subsection B, paragraph 4 of this section, for good cause shown the director may classify an individual as a qualified actuary.

D. An appointed actuary is a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion that is required by

this article, either directly by or by the authority of the board of directors through an executive officer of the company who shall not be the qualified actuary. The company shall give the director timely written notice of the name and title of the appointed actuary, the name of the firm if the actuary is a consulting actuary, and the manner of appointment or retention of each person who is appointed or retained by the company as an appointed actuary, and shall state that the person meets the requirements of subsection B of this section. After the company furnishes this notice, no further notice is required with respect to this person, except that the company shall give the director timely written notice if the actuary ceases to be appointed or retained as an appointed actuary or fails to meet the requirements prescribed in subsection B of this section. If a person who is appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall state this and shall give the reasons for the replacement.

E. The asset adequacy analysis required by this article shall:

1. Conform to the actuarial standards of practice as promulgated by the actuarial standards board in effect on the effective date of this article and to any additional standards pursuant to this article that form the basis of the statement of actuarial opinion pursuant to this article.

2. Be based on methods of analysis as are deemed appropriate for these purposes by the actuarial standards board.

F. Liabilities shall be covered in the actuarial opinion as follows:

1. Pursuant to section 20-510, subsection ~~C~~ E OR F, the statement of actuarial opinion applies to all in force business on the statement date, whether directly issued or assumed and regardless of when or where issued.

2. If the appointed actuary determines as the result of an asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated pursuant to the methods prescribed in section 20-510, the company shall establish the additional reserve.

3. Additional reserves that are established under paragraph 2 of this subsection and that are deemed unnecessary in subsequent years may be released. Any amounts released shall be disclosed in the actuarial opinion for the applicable year. The release of these reserves is not deemed an adoption of a lower standard of valuation.

Sec. 4. Section 20-696.04, Arizona Revised Statutes, is amended to read:

20-696.04. <u>Description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary</u>

A. Pursuant to section 20-510, subsection ~~C~~ E OR F, the appointed actuary shall prepare a memorandum to the company describing the analysis in support of the appointed actuary's opinion regarding the reserves.

B. The director may examine the memorandum pursuant to this section and shall return the memorandum to the company after the examination. The

memorandum is not a record of the department and is not subject to automatic filing with the director.

C. The appointed actuary may rely on and include as a part of the memorandum other memoranda that are prepared and signed by other actuaries who are qualified pursuant to section 20-696.02, subsection B. The memorandum shall state that the appointed actuary relied on other qualified actuaries to prepare the memorandum.

D. If the director requests a memorandum and no such memorandum exists, or if the director finds that the analysis described in the memorandum fails to meet the standards of the actuarial standards board or the standards and requirements of this article, the director may designate a qualified actuary to review the opinion and prepare a supporting memorandum as is required for review. The company shall pay any reasonable and necessary expenses of the independent review. The director shall direct and control the review.

E. The reviewing actuary who is designated under subsection D of this section has the same status as an examiner for the purposes of obtaining data from the company. The director shall retain the work papers and documentation of the reviewing actuary. The director shall keep the work papers and documentation confidential. The reviewing actuary shall not be an employee of a consulting firm that is involved with the preparation of any prior actuarial memorandum or opinion for the insurer pursuant to this article during the current year or the preceding three years.

F. The appointed actuary shall prepare a regulatory asset adequacy issues summary pursuant to subsection H of this section. The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The director shall keep the regulatory asset adequacy issues summary confidential to the same extent and under the same conditions as the actuarial memorandum.

G. If an actuarial opinion is provided the memorandum shall demonstrate that the analysis was conducted pursuant to the standards for asset adequacy prescribed pursuant to section 20-696.03 and any additional standards prescribed pursuant to this article. The memorandum shall specify:

1. For reserves:

(a) Product descriptions, including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant.

(b) Source of liability in force.

(c) Reserve method and basis.

(d) Investment reserves.

(e) Reinsurance arrangements.

(f) Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the

appointed actuary to provide for the guarantees in the asset adequacy analysis.

(g) Documentation of assumptions, including documentation to allow an actuary reviewing the actuarial memorandum to form a conclusion about the reasonableness of the assumptions, to test reserves for the following:

(i) Base lapse rates and excess lapse rates.

(ii) Interest crediting rate strategy.

(iii) Mortality.

(iv) Policyholder dividend strategy.

(v) Competitor or market interest rate.

(vi) Annuitization rates.

(vii) Commissions and expenses.

(viii) Morbidity.

2. For assets:

(a) Portfolio descriptions, including a risk profile that discloses the quality, distribution and types of assets.

(b) Investment and disinvestment assumptions.

(c) Source of asset data.

(d) Asset valuation bases.

(e) Documentation of assumptions, including documentation to allow an actuary reviewing the actuarial memorandum to form a conclusion about the reasonableness of the assumptions, made for:

(i) Default costs.

(ii) Bond call function.

(iii) Mortgage prepayment function.

(iv) Determining market value for assets sold due to disinvestment strategy.

(v) Determining yield on assets acquired through the investment strategy.

3. For the analysis basis:

(a) Methodology.

(b) Rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed.

(c) Rationale for degree of rigor in analyzing different blocks of business.

(d) Criteria for determining asset adequacy.

(e) Impact of federal income taxes and the method of treating reinsurance in the asset adequacy analysis.

4. A summary of material changes in methods, procedures or assumptions from a prior year's asset adequacy analysis.

5. A summary of results.

6. Conclusions.

H. The regulatory asset adequacy issues summary shall include:

1. Descriptions of the scenarios tested, including whether those scenarios are stochastic or deterministic, and the sensitivity testing done

relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the appointed actuary shall describe those tests and the amount of additional reserve as of the valuation date that, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined either by extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force.

2. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis.

3. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but that were not subject to analysis for the current opinion.

4. Comments on any interim results that may be of significant concern to the appointed actuary.

5. The methods used by the appointed actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested.

6. The extent to which the appointed actuary is satisfied that all options, whether explicit or embedded, in any asset or liability and equity-like features in any investments are appropriately considered in the asset adequacy analysis.

7. The name of the company for which the regulatory asset adequacy issues summary is being supplied.

8. The signature of the appointed actuary and the date of the signature.

I. The memorandum shall include the following statement:

> Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate actuarial standards of practice as promulgated by the actuarial standards board that form the basis for this memorandum.

J. An appropriate allocation of assets in the amount of the interest maintenance reserve whether positive or negative, shall be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the asset valuation reserve. These asset valuation reserve assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

K. The amount of the assets used for the asset valuation reserve shall be disclosed in the table of reserves and liabilities of the opinion and in

the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

L. The appointed actuary shall retain on file, for at least seven years, sufficient documentation to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

Sec. 5. Section 20-1231.01, Arizona Revised Statutes, is amended to read:

20-1231.01. Standard nonforfeiture law for life insurance; table for calculating adjusted premiums; definitions

Except as provided in paragraph 7 of this section, on a policy issued on or after the operative date as provided in this section:

1. The adjusted premiums for any policy shall be calculated on an annual basis and shall be such a uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of:

(a) The then present value of the future guaranteed benefits provided for by the policy.

(b) One per cent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years.

(c) One hundred twenty-five per cent of the nonforfeiture net level premium. In applying the percentage specified in subdivision (c) of this paragraph no nonforfeiture net level premium shall be deemed to exceed four per cent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years. The date of issue of a policy for the purpose of this section is the date as of which the rated age of the insured is determined.

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

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

such a change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

4. Except as otherwise provided in paragraph 7 of this section, the recalculated future adjusted premiums for any such policy are the uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of the sum of the then present value of the then future guaranteed benefits provided for by the policy and the additional expense allowance, if any, over the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

5. The additional expense allowance, at the time of the change to the newly defined benefits or premiums, is the sum of:

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

(b) One hundred twenty-five per cent of the increase, if positive, in the nonforfeiture net level premium.

6. The recalculated nonforfeiture net level premium is equal to the result obtained by dividing (a) by (b) where:

(a) (a) Equals the sum of:

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

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

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

7. Notwithstanding any other provisions of this section, in the case of a policy issued on a substandard basis ~~which~~ THAT provides reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis ~~which~~ THAT provides higher uniform amounts of insurance, adjusted premiums and present values for the substandard policy may be calculated as

if it were issued to provide higher uniform amounts of insurance on the standard basis.

8. All adjusted premiums and present values referred to in this section shall, for all policies of ordinary insurance, be calculated on the basis of either the commissioners 1980 standard ordinary mortality table, or at the election of the insurer for any one or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten year select mortality factors, for all policies of industrial insurance, be calculated on the basis of the commissioners 1961 standard industrial mortality table, and for all policies issued in a particular calendar year, be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate for policies issued in that calendar year. However:

(a) At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as ~~defined~~ PRESCRIBED in this section, for policies issued in the immediately preceding calendar year.

(b) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by section 20-1231, subsection B, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

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

(d) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioners 1961 industrial extended term insurance table for policies of industrial insurance.

(e) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the tables prescribed in this section and section 20-1231.

(f) FOR POLICIES ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL, any COMMISSIONERS STANDARD ordinary mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by the director for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten year select mortality factors or for the commissioners 1980 extended term insurance table. FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE VALUATION MANUAL SHALL PROVIDE THE COMMISSIONERS STANDARD MORTALITY TABLE FOR USE IN DETERMINING THE MINIMUM NONFORFEITURE STANDARD THAT MAY BE SUBSTITUTED FOR THE COMMISSIONERS

1980 STANDARD ORDINARY MORTALITY TABLE WITH OR WITHOUT TEN-YEAR SELECT MORTALITY FACTORS OR FOR THE COMMISSIONERS 1980 EXTENDED TERM INSURANCE TABLE. IF THE DIRECTOR APPROVES BY RULE ANY COMMISSIONERS STANDARD ORDINARY MORTALITY TABLE ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS FOR USE IN DETERMINING THE MINIMUM NONFORFEITURE STANDARD FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THAT MINIMUM NONFORFEITURE STANDARD SUPERSEDES THE MINIMUM NONFORFEITURE STANDARD PROVIDED BY THE VALUATION MANUAL.

(g) FOR POLICIES ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL, any industrial mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by the director for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table. FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE VALUATION MANUAL SHALL PROVIDE THE COMMISSIONERS STANDARD MORTALITY TABLE FOR USE IN DETERMINING THE MINIMUM NONFORFEITURE STANDARD THAT MAY BE SUBSTITUTED FOR THE COMMISSIONERS 1961 STANDARD INDUSTRIAL MORTALITY TABLE OR THE COMMISSIONERS 1961 INDUSTRIAL EXTENDED TERM INSURANCE TABLE. IF THE DIRECTOR APPROVES BY RULE ANY COMMISSIONERS STANDARD INDUSTRIAL MORTALITY TABLE ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS FOR USE IN DETERMINING THE MINIMUM NONFORFEITURE STANDARD FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THAT MINIMUM NONFORFEITURE STANDARD SUPERSEDES THE MINIMUM NONFORFEITURE STANDARD PROVIDED BY THE VALUATION MANUAL.

9. THE NONFORFEITURE INTEREST RATE IS AS FOLLOWS:

(a) FOR POLICIES ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five per cent of the calendar year statutory valuation interest rate for such policy as defined in the standard valuation law, rounded to the nearer one-quarter of one per cent.

(b) FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE NONFORFEITURE INTEREST RATE PER ANNUM FOR ANY POLICY ISSUED IN A PARTICULAR CALENDAR YEAR SHALL BE PROVIDED BY THE VALUATION MANUAL.

10. Notwithstanding any other provision in this title, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form ~~which~~ THAT involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

11. After July 24, 1982 any insurer may file with the director a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1989, which is the operative date of this section for the insurer. If an insurer makes no such election, the operative date of this section for the insurer is January 1, 1989.

12. FOR THE PURPOSES OF THIS SECTION:

(a) "OPERATIVE DATE OF THE VALUATION MANUAL" HAS THE SAME MEANING PRESCRIBED IN SECTION 20-510, SUBSECTION R, PARAGRAPH 2.

(b) "VALUATION MANUAL" HAS THE SAME MEANING PRESCRIBED IN SECTION 20-510, SUBSECTION B.

APPROVED BY THE GOVERNOR APRIL 4, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 4, 2013.

Passed the House March 25, 2013,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate February 28, 2013,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Susan Acevedo
Assistant Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

3 day of April, 2013,

at 12:05 o'clock P M.

Mikhaila Howard
Secretary to the Governor

Approved this 4th day of

April, 2013,

at 4:40 o'clock P. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4th day of April, 2013,

at 5:00p o'clock P M.

Secretary of State

S.B. 1149