

COMMITTEE ON FINANCE
SENATE AMENDMENTS TO S.B. 1149
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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

4 20-510. Standard valuation law; operative date; definitions

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

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

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

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

15 3. "COMPANY" MEANS AN ENTITY THAT EITHER:

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

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

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

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

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

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

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

19 9. "RESERVES" MEANS RESERVE LIABILITIES.

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

24 11. "VALUATION MANUAL" MEANS THE MANUAL OF VALUATION INSTRUCTIONS
25 ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AS SPECIFIED
26 IN THIS SECTION OR AS SUBSEQUENTLY AMENDED.

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

29 ~~B.~~ 1. The director shall annually value, or cause to be valued, the
30 reserves for all outstanding life insurance policies and annuity and pure
31 endowment contracts of every life insurance company doing business in this
32 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 ON OR AFTER THE OPERATIVE DATE OF SECTION 20-1231 AND 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

1 MANUAL. IN LIEU OF THE VALUATION OF THE RESERVES REQUIRED OF A FOREIGN OR
2 ALIEN COMPANY, THE DIRECTOR MAY ACCEPT A VALUATION MADE, OR CAUSED TO BE
3 MADE, BY THE INSURANCE SUPERVISORY OFFICIAL OF ANY STATE OR OTHER
4 JURISDICTION IF THE VALUATION COMPLIES WITH THE MINIMUM STANDARD PROVIDED BY
5 THIS SECTION.

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

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

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

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

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

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

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

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

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

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

16 ~~2.~~ 4. The following apply to ~~all opinions~~ EACH OPINION required by
17 PARAGRAPH 1 OF this subsection:

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

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

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

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

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

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

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

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

26 (g) EXCEPT AS PROVIDED IN SUBDIVISIONS (k), (l) AND (m) OF THIS
27 PARAGRAPH, DOCUMENTS, MATERIALS OR OTHER INFORMATION IN THE POSSESSION OR
28 CONTROL OF THE DEPARTMENT THAT ARE A MEMORANDUM IN SUPPORT OF THE OPINION,
29 AND ANY OTHER MATERIAL PROVIDED BY THE COMPANY TO THE DIRECTOR IN CONNECTION
30 WITH THE MEMORANDUM, ARE CONFIDENTIAL BY LAW AND PRIVILEGED AND ARE NOT
31 SUBJECT TO PUBLIC RECORDS REQUESTS, ARE NOT SUBJECT TO SUBPOENA AND ARE NOT
32 SUBJECT TO DISCOVERY OR ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION.

1 THE DIRECTOR IS AUTHORIZED TO USE THE DOCUMENTS, MATERIALS OR OTHER
2 INFORMATION IN THE FURTHERANCE OF ANY REGULATORY OR LEGAL ACTION BROUGHT AS
3 PART OF THE DIRECTOR'S OFFICIAL DUTIES.

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

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

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

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

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

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

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

6 (l) THE MEMORANDUM OR OTHER MATERIAL MAY OTHERWISE BE RELEASED BY THE
7 DIRECTOR WITH THE WRITTEN CONSENT OF THE COMPANY OR TO THE AMERICAN ACADEMY
8 OF ACTUARIES ON REQUEST STATING THAT THE MEMORANDUM OR OTHER MATERIAL IS
9 REQUIRED FOR THE PURPOSE OF PROFESSIONAL DISCIPLINARY PROCEEDINGS AND SETTING
10 FORTH PROCEDURES SATISFACTORY TO THE DIRECTOR FOR PRESERVING THE
11 CONFIDENTIALITY OF THE MEMORANDUM OR OTHER MATERIAL.

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

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

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

27 2. EVERY COMPANY WITH OUTSTANDING LIFE INSURANCE CONTRACTS, ACCIDENT
28 AND HEALTH INSURANCE CONTRACTS OR DEPOSIT-TYPE CONTRACTS IN THIS STATE AND
29 SUBJECT TO REGULATION BY THE DIRECTOR, EXCEPT AS EXEMPTED IN THE VALUATION
30 MANUAL, SHALL ALSO ANNUALLY INCLUDE IN THE OPINION REQUIRED BY PARAGRAPH 1 OF
31 THIS SUBSECTION AN OPINION OF THE SAME APPOINTED ACTUARY AS TO WHETHER THE
32 RESERVES AND RELATED ACTUARIAL ITEMS HELD IN SUPPORT OF THE POLICIES AND

1 CONTRACTS SPECIFIED IN THE VALUATION MANUAL, WHEN CONSIDERED IN LIGHT OF THE
2 ASSETS HELD BY THE COMPANY WITH RESPECT TO THE RESERVES AND RELATED ACTUARIAL
3 ITEMS, INCLUDING THE INVESTMENT EARNINGS ON THE ASSETS AND THE CONSIDERATIONS
4 ANTICIPATED TO BE RECEIVED AND RETAINED UNDER THE POLICIES AND CONTRACTS,
5 MAKE ADEQUATE PROVISION FOR THE COMPANY'S OBLIGATIONS UNDER THE POLICIES AND
6 CONTRACTS, INCLUDING THE BENEFITS UNDER AND EXPENSES ASSOCIATED WITH THE
7 POLICIES AND CONTRACTS.

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

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

13 (b) IF THE INSURANCE COMPANY FAILS TO PROVIDE A SUPPORTING MEMORANDUM
14 AT THE REQUEST OF THE DIRECTOR WITHIN A PERIOD SPECIFIED IN THE VALUATION
15 MANUAL OR THE DIRECTOR DETERMINES THAT THE SUPPORTING MEMORANDUM PROVIDED BY
16 THE INSURANCE COMPANY FAILS TO MEET THE STANDARDS PRESCRIBED BY THE VALUATION
17 MANUAL OR IS OTHERWISE UNACCEPTABLE TO THE DIRECTOR, THE DIRECTOR MAY ENGAGE
18 A QUALIFIED ACTUARY AT THE EXPENSE OF THE COMPANY TO REVIEW THE OPINION AND
19 THE BASIS FOR THE OPINION AND PREPARE THE SUPPORTING MEMORANDUM REQUIRED BY
20 THE DIRECTOR.

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

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

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

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

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

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

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

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

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

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

1 after the operative date of section 20-1231, subsection F, paragraph 5,
2 subdivision (b) and before the operative date as provided in section
3 20-1231.01. If any category of these policies is issued on female risks,
4 modified net premiums and present values referred to in this section may be
5 calculated according to an age not more than six years younger than the
6 actual age of the insured. For policies that are issued on or after the
7 operative date of section 20-1231.01, the following tables may be used:

8 (a) The commissioners 1980 standard ordinary mortality table.

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

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

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

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

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

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

9 (a) For policies or contracts that are issued on or after January 1,
10 ~~1996~~ 1966, the tables of period 2 disablement rates and the 1930 to 1950
11 termination rates of the 1952 disability study of the society of actuaries
12 with due regard to the type of benefit or any tables of disablement rates and
13 termination rates, adopted after 1980 by the national association of
14 insurance commissioners, that are approved by the director for use in
15 determining the minimum standard of valuation for those policies.

16 (b) For policies or contracts that are issued on or after January 1,
17 1961 and before January 1, 1966, either of the tables that are specified in
18 subdivision (a) of this paragraph, or at the option of the insurer, the class
19 three disability table (1926).

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

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

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

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

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

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

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

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

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

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

27 2. For individual single premium immediate annuity contracts that are
28 issued on or after January 1, 1979, excluding any disability and accidental
29 death benefits in those contracts, the 1971 individual annuity mortality
30 table or any individual annuity mortality table ~~that is~~ adopted after 1980 by
31 the national association of insurance commissioners and that the director
32 approves for use in determining the minimum standard valuation for those

1 contracts, or any modification of these tables that the director approves,
2 and seven and one-half per cent interest.

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

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

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

28 ~~F.~~ I. After July 1, 1974, any insurer may file with the director a
29 written notice of its election to comply with subsection ~~E- H~~ of this section
30 on a specified date before January 1, 1979. ~~The date specified by the~~
31 ~~insurer~~, WHICH shall be the operative date of subsection ~~E- H~~ of this section
32 for that insurer if the insurer elects a different operative date for

1 individual annuity and pure endowment contracts from the date that is elected
2 for group annuity and pure endowment contracts. If an insurer does not make
3 an election pursuant to this subsection, the operative date of subsection ~~I~~
4 L of this section shall be January 1, 1979.

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

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

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

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

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

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

20 2. As used in this paragraph:

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

26 (i) For life insurance:

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

27
28 (ii) For single premium immediate annuities and for annuity benefits
29 involving life contingencies arising from other annuities with cash
30 settlement options and from guaranteed interest contracts with cash
31 settlement options:

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

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

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

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

17 (b) If the calendar year statutory valuation interest rate for any
18 life insurance policies issued in any calendar year determined without
19 reference to this subdivision differs from the corresponding actual rate for
20 similar policies issued in the immediately preceding calendar year by less
21 than one-half of one per cent, the calendar year statutory valuation interest
22 rate for those life insurance policies shall be equal to the corresponding
23 actual rate for the immediately preceding calendar year. For the purposes of
24 ~~this subdivision~~ APPLYING THE IMMEDIATELY PRECEDING SENTENCE, the calendar
25 year statutory valuation interest rate for life insurance policies issued in
26 a calendar year shall be determined for 1980 using the reference interest
27 rate defined in 1979 and shall be determined for each subsequent calendar
28 year regardless of the operative date of section 20-1231.01.

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

1 (a) Weighting factors for life insurance:

2 Guarantee

3 Duration Weighting

4 (Years) Factors

5 Ten years or less .50

6 More than ten years, but ~~less~~ NOT MORE than 20 years .45

7 MORE THAN twenty years ~~or more~~ .35

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

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

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

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

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

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

	Plan type		
	A	B	C
	.15	.25	.05

1
2
3
4 (iii) For annuities and guaranteed interest contracts valued on an
5 issue year basis other than those with no cash settlement options that do not
6 guarantee interest on considerations received more than one year after issue
7 or purchase and for annuities and guaranteed interest contracts valued on a
8 change in fund basis that do not guarantee interest rates on considerations
9 received more than twelve months after the valuation date, the factors shown
10 in item (i) of this subdivision or derived in item (ii) of this subdivision
11 increased by

	Plan type		
	A	B	C
	.05	.05	.05

12
13
14
15 (iv) For other annuities with cash settlement options and guaranteed
16 interest contracts with cash settlement options, the guarantee duration is
17 the number of years for which the contract guarantees interest rates in
18 excess of the calendar year statutory valuation interest rate for life
19 insurance policies with guarantee duration of more than twenty years. For
20 other annuities with no cash settlement options and for guaranteed interest
21 contracts with no cash settlement options, the guarantee duration is the
22 number of years from the date of issue or date of purchase to the date
23 annuity benefits are scheduled to begin.

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

1 annuity or guaranteed interest contract and "change in fund basis" means a
2 valuation basis under which the interest rate used to determine the minimum
3 valuation standard applicable to each change in the fund held under the
4 annuity or guaranteed interest contract is the calendar year valuation
5 interest rate for the year of the change in the fund.

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

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

13 (b) Plan type B: Before the interest rate guarantee expires, a
14 policyholder may withdraw funds only with an adjustment to reflect changes in
15 interest rates or asset values since the insurance company received the
16 funds, without an adjustment but in installments over a period of five years
17 or more, or a policyholder may not withdraw funds. At the end of the
18 interest rate guarantee, a policyholder may withdraw funds without an
19 adjustment in a single sum or in installments over a period of less than five
20 years.

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

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

29 (a) For all life insurance, the lesser of the average over a period of
30 thirty-six months and the average over a period of twelve months, ending on
31 June 30 of the calendar year next preceding the year of issue, of the monthly

1 average of the composite yield on seasoned corporate bonds, as published by
2 Moody's investors service, incorporated.

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

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

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

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

30 (f) Except pursuant to subdivision (b) of this paragraph, for other
31 annuities with cash settlement options and guaranteed interest contracts with
32 cash settlement options that are valued on a change in fund basis, the

1 average over a period of twelve months, ending on June 30 of the calendar
2 year of the change in the fund, of the monthly average of the composite yield
3 on seasoned corporate bonds, as published by Moody's investors service,
4 incorporated.

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

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

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

28 (a) A net level annual premium equal to the present value, at the date
29 of issue, of the benefits provided for after the first policy year, divided
30 by the present value, at the date of issue, of an annuity of one per annum
31 payable on the first and each subsequent anniversary of the policy on which a
32 premium falls due, provided however that the net level annual premium shall

1 not exceed the net level annual premium on the nineteen year premium whole
2 life plan for insurance of the same amount at an age one year higher than the
3 age at issue of such policy.

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

6 2. Any life insurance policy that is issued on or after January 1,
7 1986 for which the contract premium in the first policy year exceeds that of
8 the second year and for which no comparable additional benefit is provided in
9 the first year for the excess and that provides an endowment benefit or a
10 cash surrender value or a combination thereof in an amount greater than the
11 excess premium, the reserve according to the commissioners reserve valuation
12 method as of any policy anniversary occurring on or before the assumed ending
13 date defined for the purposes of this paragraph as the first policy
14 anniversary on which the sum of any endowment benefit and any cash surrender
15 value then available is greater than the excess premium, except as otherwise
16 provided in subsection ~~F~~ 0 of this section, shall be the greater of the
17 reserve as of the policy anniversary calculated as described in paragraph 1
18 of this subsection and the reserve as of the policy anniversary calculated as
19 described in that paragraph, but with:

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

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

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

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

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

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

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

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

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

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

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

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

24 2. Reserves according to the commissioners annuity reserve method for
25 benefits under annuity or pure endowment contracts, excluding any disability
26 and accidental death benefits in those contracts, shall be the greatest of
27 the respective excesses of the present values, at the date of valuation, of
28 the future guaranteed benefits, including guaranteed nonforfeiture benefits
29 that are provided for by the contracts at the end of each respective contract
30 year, over the present value, at the date of valuation, of any future
31 valuation considerations derived from future gross considerations, required
32 by the terms of the contract, that become payable before the end of the

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

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

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

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

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

1 3. An insurer that at any time has adopted any standard of valuation
2 producing greater aggregate reserves than those calculated according to the
3 minimum standard provided by this section, with the director's approval, may
4 adopt any lower standard of valuation, but not lower than the minimum
5 provided by this section. For the purposes of this section, the holding of
6 additional reserves previously determined by ~~a-qualified~~ THE APPOINTED
7 actuary to be necessary to render the opinion required by subsection ~~E~~ of
8 this section shall not be deemed to be the adoption of a higher standard of
9 valuation.

10 ~~t.~~ 0. Reserves when the valuation net premium exceeds the gross
11 premium charged shall be calculated as follows:

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

26 2. For any life insurance policy that is issued on or after January 1,
27 1986, for which the gross premium in the first policy year exceeds that of
28 the second year, ~~AND~~ for which no comparable additional benefit is provided
29 in the first year for that excess and that provides an endowment benefit or a
30 cash surrender value or a combination ~~of endowment benefit and cash surrender~~
31 ~~value~~ in an amount greater than the excess premium, this subsection applies
32 as if the method actually used in calculating the reserve for the policy was

1 the method described in subsection ~~H~~ K, ~~paragraph~~ PARAGRAPHS 1 AND 3 of this
2 section. The minimum reserve at each policy anniversary of SUCH a policy
3 shall be the greater of the minimum reserve calculated in accordance with
4 subsection ~~H~~ K of this section, INCLUDING PARAGRAPH 2 OF THAT SUBSECTION,
5 and the minimum reserve calculated in accordance with this subsection.

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

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

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

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

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

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

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

31 1. FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION
32 MANUAL, THE STANDARD PRESCRIBED IN THE VALUATION MANUAL IS THE MINIMUM

1 STANDARD OF VALUATION REQUIRED UNDER SUBSECTION D, PARAGRAPH 1 OF THIS
2 SECTION, EXCEPT AS PROVIDED UNDER PARAGRAPH 5 OR 7 OF THIS SUBSECTION.

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

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

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

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

19 (i) THE FIFTY STATES OF THE UNITED STATES.

20 (ii) AMERICAN SAMOA.

21 (iii) THE UNITED STATES VIRGIN ISLANDS.

22 (iv) THE DISTRICT OF COLUMBIA.

23 (v) GUAM.

24 (vi) THE COMMONWEALTH OF PUERTO RICO.

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

28 (a) THE CHANGE TO THE VALUATION MANUAL HAS BEEN ADOPTED BY THE
29 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS BY AN AFFIRMATIVE VOTE
30 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.

1 (ii) ASSUMPTIONS SHALL BE PRESCRIBED FOR RISKS OVER WHICH THE COMPANY
2 DOES NOT HAVE SIGNIFICANT CONTROL OR INFLUENCE.

3 (iii) PROCEDURES FOR CORPORATE GOVERNANCE AND OVERSIGHT OF THE
4 ACTUARIAL FUNCTION AND A PROCESS FOR APPROPRIATE WAIVER OR MODIFICATION OF
5 THE PROCEDURES.

6 (d) FOR POLICIES NOT SUBJECT TO A PRINCIPLE-BASED VALUATION UNDER
7 SUBSECTION S OF THIS SECTION THE MINIMUM VALUATION STANDARD SHALL EITHER:

8 (i) BE CONSISTENT WITH THE MINIMUM STANDARD OF VALUATION BEFORE THE
9 OPERATIVE DATE OF THE VALUATION MANUAL.

10 (ii) DEVELOP RESERVES THAT QUANTIFY THE BENEFITS AND GUARANTEES, AND
11 THE FUNDING, ASSOCIATED WITH THE CONTRACTS AND THEIR RISKS AT A LEVEL OF
12 CONSERVATISM THAT REFLECTS CONDITIONS THAT INCLUDE UNFAVORABLE EVENTS THAT
13 HAVE A REASONABLE PROBABILITY OF OCCURRING.

14 (e) OTHER REQUIREMENTS, INCLUDING THOSE RELATING TO RESERVE METHODS,
15 MODELS FOR MEASURING RISK, GENERATION OF ECONOMIC SCENARIOS, ASSUMPTIONS,
16 MARGINS, USE OF COMPANY EXPERIENCE, RISK MEASUREMENT, DISCLOSURE,
17 CERTIFICATIONS, REPORTS, ACTUARIAL OPINIONS AND MEMORANDUMS, TRANSITION RULES
18 AND INTERNAL CONTROLS.

19 (f) THE DATA AND FORM OF THE DATA REQUIRED UNDER SUBSECTION T OF THIS
20 SECTION, WITH WHOM THE DATA MUST BE SUBMITTED, AND OTHER REQUIREMENTS
21 INCLUDING DATA ANALYSES AND REPORTING OF ANALYSES.

22 5. IN THE ABSENCE OF A SPECIFIC VALUATION REQUIREMENT OR IF A SPECIFIC
23 VALUATION REQUIREMENT IN THE VALUATION MANUAL IS NOT, IN THE OPINION OF THE
24 DIRECTOR, IN COMPLIANCE WITH THIS SECTION, THE COMPANY, WITH RESPECT TO THE
25 REQUIREMENTS, SHALL COMPLY WITH MINIMUM VALUATION STANDARDS PRESCRIBED BY THE
26 DIRECTOR BY RULE.

27 6. THE DIRECTOR MAY ENGAGE A QUALIFIED ACTUARY, AT THE EXPENSE OF THE
28 COMPANY, TO PERFORM AN ACTUARIAL EXAMINATION OF THE COMPANY AND OPINE ON THE
29 APPROPRIATENESS OF ANY RESERVE ASSUMPTION OR METHOD USED BY THE COMPANY, OR
30 TO REVIEW AND OPINE ON A COMPANY'S COMPLIANCE WITH ANY REQUIREMENT OF THIS
31 SECTION. THE DIRECTOR MAY RELY ON THE OPINION, REGARDING PROVISIONS
32 CONTAINED IN THIS SECTION, OF A QUALIFIED ACTUARY ENGAGED BY THE DIRECTOR OF

1 ANOTHER STATE, DISTRICT OR TERRITORY OF THE UNITED STATES. FOR THE PURPOSES
2 OF THIS PARAGRAPH, ENGAGE INCLUDES EMPLOYMENT AND CONTRACTING.

3 7. THE DIRECTOR MAY REQUIRE A COMPANY TO CHANGE ANY ASSUMPTION OR
4 METHOD THAT IN THE OPINION OF THE DIRECTOR IS NECESSARY IN ORDER TO COMPLY
5 WITH THE REQUIREMENTS OF THE VALUATION MANUAL OR THIS SECTION, AND THE
6 COMPANY SHALL ADJUST THE RESERVES AS REQUIRED BY THE DIRECTOR. THE DIRECTOR
7 MAY TAKE OTHER DISCIPLINARY ACTION AS ALLOWED PURSUANT TO SECTION 20-152.

8 S. A COMPANY MUST ESTABLISH RESERVES USING A PRINCIPLE-BASED VALUATION
9 THAT MEETS THE FOLLOWING CONDITIONS FOR POLICIES OR CONTRACTS AS SPECIFIED IN
10 THE VALUATION MANUAL:

11 1. QUANTIFY THE BENEFITS AND GUARANTEES, AND THE FUNDING, ASSOCIATED
12 WITH THE CONTRACTS AND THEIR RISKS AT A LEVEL OF CONSERVATISM THAT REFLECTS
13 CONDITIONS THAT INCLUDE UNFAVORABLE EVENTS THAT HAVE A REASONABLE PROBABILITY
14 OF OCCURRING DURING THE LIFETIME OF THE CONTRACTS, AND FOR POLICIES OR
15 CONTRACTS WITH SIGNIFICANT TAIL RISK, THAT REFLECTS CONDITIONS APPROPRIATELY
16 ADVERSE TO QUANTIFY THE TAIL RISK.

17 2. INCORPORATE ASSUMPTIONS, RISK ANALYSIS METHODS AND FINANCIAL MODELS
18 AND MANAGEMENT TECHNIQUES THAT ARE CONSISTENT WITH, BUT NOT NECESSARILY
19 IDENTICAL TO, THOSE UTILIZED WITHIN THE COMPANY'S OVERALL RISK ASSESSMENT
20 PROCESS, WHILE RECOGNIZING POTENTIAL DIFFERENCES IN FINANCIAL REPORTING
21 STRUCTURES AND ANY PRESCRIBED ASSUMPTIONS OR METHODS.

22 3. INCORPORATE ASSUMPTIONS THAT ARE DERIVED IN ONE OF THE FOLLOWING
23 MANNERS:

24 (a) THE ASSUMPTION IS PRESCRIBED IN THE VALUATION MANUAL.

25 (b) FOR ASSUMPTIONS THAT ARE NOT PRESCRIBED, THE ASSUMPTIONS SHALL
26 EITHER:

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

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

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

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

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

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

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

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

23 V. THE FOLLOWING APPLY TO CONFIDENTIALITY:

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

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

31 (b) ALL DOCUMENTS, MATERIALS AND OTHER INFORMATION, INCLUDING ALL
32 WORKING PAPERS, AND COPIES THEREOF, CREATED, PRODUCED OR OBTAINED BY OR

1 DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON IN THE COURSE OF AN EXAMINATION
2 MADE UNDER SUBSECTION R OF THIS SECTION. IF AN EXAMINATION REPORT OR OTHER
3 MATERIAL PREPARED IN CONNECTION WITH AN EXAMINATION MADE UNDER SECTION 20-156
4 IS NOT HELD AS PRIVATE AND CONFIDENTIAL INFORMATION UNDER SECTION 20-156, AN
5 EXAMINATION REPORT OR OTHER MATERIAL PREPARED IN CONNECTION WITH AN
6 EXAMINATION MADE UNDER SUBSECTION R, PARAGRAPH 6 OF THIS SECTION IS NOT
7 CONFIDENTIAL INFORMATION TO THE SAME EXTENT AS IF THE EXAMINATION REPORT OR
8 OTHER MATERIAL HAD BEEN PREPARED UNDER SECTION 20-156.

9 (c) ANY REPORTS, DOCUMENTS, MATERIALS AND OTHER INFORMATION DEVELOPED
10 BY A COMPANY IN SUPPORT OF OR IN CONNECTION WITH AN ANNUAL CERTIFICATION BY
11 THE COMPANY UNDER SUBSECTION T, PARAGRAPH 2 OF THIS SECTION EVALUATING THE
12 EFFECTIVENESS OF THE COMPANY'S INTERNAL CONTROLS WITH RESPECT TO A
13 PRINCIPLE-BASED VALUATION AND ANY OTHER DOCUMENTS, MATERIALS AND OTHER
14 INFORMATION, INCLUDING ALL WORKING PAPERS, AND COPIES THEREOF, CREATED,
15 PRODUCED OR OBTAINED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON IN
16 CONNECTION WITH THE REPORTS, DOCUMENTS, MATERIALS AND OTHER INFORMATION.

17 (d) ANY PRINCIPLE-BASED VALUATION REPORT DEVELOPED UNDER SUBSECTION T,
18 PARAGRAPH 3 OF THIS SECTION AND ANY OTHER DOCUMENTS, MATERIALS AND OTHER
19 INFORMATION, INCLUDING ALL WORKING PAPERS, AND COPIES THEREOF, CREATED,
20 PRODUCED OR OBTAINED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON IN
21 CONNECTION WITH THE REPORT.

22 (e) ANY DOCUMENTS, MATERIALS, DATA AND OTHER INFORMATION SUBMITTED BY
23 A COMPANY UNDER SUBSECTION U OF THIS SECTION (COLLECTIVELY, "EXPERIENCE
24 DATA") AND ANY OTHER DOCUMENTS, MATERIALS, DATA AND OTHER INFORMATION,
25 INCLUDING ALL WORKING PAPERS, AND COPIES THEREOF, CREATED OR PRODUCED IN
26 CONNECTION WITH THE EXPERIENCE DATA, IN EACH CASE THAT INCLUDE ANY
27 POTENTIALLY COMPANY-IDENTIFYING OR PERSONALLY IDENTIFIABLE INFORMATION THAT
28 IS PROVIDED TO OR OBTAINED BY THE DIRECTOR (TOGETHER WITH ANY "EXPERIENCE
29 DATA", THE "EXPERIENCE MATERIALS") AND ANY OTHER DOCUMENTS, MATERIALS, DATA
30 AND OTHER INFORMATION, INCLUDING ALL WORKING PAPERS, AND COPIES THEREOF,
31 CREATED, PRODUCED OR OBTAINED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER
32 PERSON IN CONNECTION WITH THE EXPERIENCE MATERIALS.

1 2. THE FOLLOWING APPLY TO THE PRIVILEGE FOR AND CONFIDENTIALITY OF
2 CONFIDENTIAL INFORMATION:

3 (a) EXCEPT AS PROVIDED IN THIS SUBSECTION, A COMPANY'S CONFIDENTIAL
4 INFORMATION IS CONFIDENTIAL BY LAW AND PRIVILEGED, AND IS NOT SUBJECT TO
5 PUBLIC RECORDS REQUESTS OR SUBPOENAS AND SHALL NOT BE SUBJECT TO DISCOVERY OR
6 ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION IF THE DIRECTOR IS
7 AUTHORIZED TO USE THE CONFIDENTIAL INFORMATION IN THE FURTHERANCE OF ANY
8 REGULATORY OR LEGAL ACTION BROUGHT AGAINST THE COMPANY AS A PART OF THE
9 DIRECTOR'S OFFICIAL DUTIES.

10 (b) NEITHER THE DIRECTOR NOR ANY PERSON WHO RECEIVED CONFIDENTIAL
11 INFORMATION WHILE ACTING UNDER THE AUTHORITY OF THE DIRECTOR SHALL BE ALLOWED
12 OR REQUIRED TO TESTIFY IN ANY PRIVATE CIVIL ACTION CONCERNING ANY
13 CONFIDENTIAL INFORMATION.

14 (c) IN ORDER TO ASSIST IN THE PERFORMANCE OF THE DIRECTOR'S DUTIES,
15 THE DIRECTOR MAY SHARE CONFIDENTIAL INFORMATION:

16 (i) WITH OTHER STATE, FEDERAL AND INTERNATIONAL REGULATORY AGENCIES
17 AND WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS
18 AFFILIATES AND SUBSIDIARIES.

19 (ii) IN THE CASE OF CONFIDENTIAL INFORMATION SPECIFIED IN PARAGRAPH 1,
20 SUBDIVISIONS (a) AND (d) OF THIS SUBSECTION ONLY, WITH THE ACTUARIAL BOARD
21 FOR COUNSELING AND DISCIPLINE OR ITS SUCCESSOR ON REQUEST STATING THAT THE
22 CONFIDENTIAL INFORMATION IS REQUIRED FOR THE PURPOSE OF PROFESSIONAL
23 DISCIPLINARY PROCEEDINGS AND WITH STATE, FEDERAL AND INTERNATIONAL LAW
24 ENFORCEMENT OFFICIALS.

25 (iii) IN THE CASE OF ITEMS (i) AND (ii) OF THIS SUBDIVISION, IF THE
26 RECIPIENT AGREES, AND HAS THE LEGAL AUTHORITY TO AGREE, TO MAINTAIN THE
27 CONFIDENTIALITY AND PRIVILEGED STATUS OF THE DOCUMENTS, MATERIALS, DATA AND
28 OTHER INFORMATION IN THE SAME MANNER AND TO THE SAME EXTENT AS REQUIRED FOR
29 THE DIRECTOR.

30 (d) THE DIRECTOR MAY RECEIVE DOCUMENTS, MATERIALS, DATA AND OTHER
31 INFORMATION, INCLUDING OTHERWISE CONFIDENTIAL AND PRIVILEGED DOCUMENTS,
32 MATERIALS, DATA OR INFORMATION, FROM THE NATIONAL ASSOCIATION OF INSURANCE

1 COMMISSIONERS AND ITS AFFILIATES AND SUBSIDIARIES, FROM REGULATORY OR LAW
2 ENFORCEMENT OFFICIALS OF OTHER FOREIGN OR DOMESTIC JURISDICTIONS AND FROM THE
3 ACTUARIAL BOARD FOR COUNSELING AND DISCIPLINE OR ITS SUCCESSOR AND SHALL
4 MAINTAIN AS CONFIDENTIAL OR PRIVILEGED ANY DOCUMENT, MATERIAL, DATA OR OTHER
5 INFORMATION RECEIVED WITH NOTICE OR THE UNDERSTANDING THAT IT IS CONFIDENTIAL
6 OR PRIVILEGED UNDER THE LAWS OF THE JURISDICTION THAT IS THE SOURCE OF THE
7 DOCUMENT, MATERIAL OR OTHER INFORMATION.

8 (e) THE DIRECTOR MAY ENTER INTO AGREEMENTS GOVERNING SHARING AND USE
9 OF INFORMATION CONSISTENT WITH THIS PARAGRAPH.

10 (f) NO WAIVER OF ANY APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY
11 IN THE CONFIDENTIAL INFORMATION SHALL OCCUR AS A RESULT OF DISCLOSURE TO THE
12 DIRECTOR UNDER THIS SECTION OR AS A RESULT OF SHARING AS AUTHORIZED IN
13 SUBDIVISION (c) OF THIS PARAGRAPH.

14 (g) PRIVILEGE ESTABLISHED UNDER THE LAW OF ANY STATE OR JURISDICTION
15 THAT IS SUBSTANTIALLY SIMILAR TO THE PRIVILEGE ESTABLISHED UNDER THIS
16 PARAGRAPH SHALL BE AVAILABLE AND ENFORCED IN ANY PROCEEDING IN AND IN ANY
17 COURT OF THIS STATE.

18 3. NOTWITHSTANDING PARAGRAPH 2 OF THIS SUBSECTION, ANY CONFIDENTIAL
19 INFORMATION SPECIFIED IN PARAGRAPH 1, SUBDIVISIONS (a) AND (d) OF THIS
20 SUBSECTION:

21 (a) MAY BE SUBJECT TO SUBPOENA FOR THE PURPOSE OF DEFENDING AN ACTION
22 SEEKING DAMAGES FROM THE APPOINTED ACTUARY SUBMITTING THE RELATED MEMORANDUM
23 IN SUPPORT OF AN OPINION SUBMITTED UNDER SUBSECTION F, PARAGRAPH 1 OF THIS
24 SECTION OR PRINCIPLE-BASED VALUATION REPORT DEVELOPED UNDER SUBSECTION T,
25 PARAGRAPH 3 OF THIS SECTION BY REASON OF AN ACTION REQUIRED BY THIS SECTION
26 OR BY RULES ADOPTED UNDER THIS SECTION.

27 (b) MAY OTHERWISE BE RELEASED BY THE DIRECTOR WITH THE WRITTEN CONSENT
28 OF THE COMPANY.

29 (c) ONCE ANY PORTION OF A MEMORANDUM IN SUPPORT OF AN OPINION
30 SUBMITTED UNDER SUBSECTION F, PARAGRAPH 1 OF THIS SECTION OR A
31 PRINCIPLE-BASED VALUATION REPORT DEVELOPED UNDER SUBSECTION T, PARAGRAPH 3 OF
32 THIS SECTION IS CITED BY THE COMPANY IN ITS MARKETING OR IS PUBLICLY

1 VOLUNTEERED TO OR BEFORE A GOVERNMENTAL AGENCY OTHER THAN A STATE INSURANCE
2 DEPARTMENT OR IS RELEASED BY THE COMPANY TO THE NEWS MEDIA, ALL PORTIONS OF
3 THE MEMORANDUM OR REPORT ARE NO LONGER CONFIDENTIAL.

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

7 W. THE FOLLOWING APPLY TO SINGLE STATE EXEMPTION:

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

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

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

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

21 Amend title to conform

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