

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

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)

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

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 F 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.

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

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

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

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

44 9. "RESERVES" MEANS RESERVE LIABILITIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (a) For policies or contracts that are issued on or after January 1,
42 ~~1996~~ 1966, the tables of period 2 disablement rates and the 1930 to 1950
43 termination rates of the 1952 disability study of the society of actuaries
44 with due regard to the type of benefit or any tables of disablement rates and
45 termination rates, adopted after 1980 by the national association of

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

3 (b) For policies or contracts that are issued on or after January 1,
4 1961 and before January 1, 1966, either of the tables that are specified in
5 subdivision (a) of this paragraph, or at the option of the insurer, the class
6 three disability table (1926).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 2. As used in this paragraph:

15 (a) R_1 is the lesser of R and 0.09, R_2 is the greater of R and 0.09, R
16 is the reference interest rate defined in this subsection and W is the
17 weighting factor defined in this subsection, the calendar year statutory
18 valuation interest rates, or I , shall be determined as follows and the
19 results shall be rounded to the nearer one-quarter of one per cent:

20 (i) For life insurance:

$$21 \qquad I = .03 + W(R_1 - .03) + W/2 (R_2 - .09).$$

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

$$26 \qquad I = .03 + W(R - .03).$$

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

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

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

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

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

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

12 (a) Weighting factors for life insurance:

13	Guarantee	
14	Duration	Weighting
15	(Years)	Factors
16	Ten years or less	.50
17	More than ten years, but less NOT MORE than 20 years	.45
18	MORE THAN twenty years or more	.35

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

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

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

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

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

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

	Plan type		
	A	B	C
	.15	.25	.05

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

	Plan type		
	A	B	C
9			
10			
11	.05	.05	.05

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 2. Any life insurance policy that is issued on or after January 1,
42 1986 for which the contract premium in the first policy year exceeds that of
43 the second year and for which no comparable additional benefit is provided in
44 the first year for the excess and that provides an endowment benefit or a
45 cash surrender value or a combination thereof in an amount greater than the

1 excess premium, the reserve according to the commissioners reserve valuation
2 method as of any policy anniversary occurring on or before the assumed ending
3 date defined for the purposes of this paragraph as the first policy
4 anniversary on which the sum of any endowment benefit and any cash surrender
5 value then available is greater than the excess premium, except as otherwise
6 provided in subsection ~~I~~ 0 of this section, shall be the greater of the
7 reserve as of the policy anniversary calculated as described in paragraph 1
8 of this subsection and the reserve as of the policy anniversary calculated as
9 described in that paragraph, but with:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 2. For any life insurance policy that is issued on or after January 1,
23 1986, for which the gross premium in the first policy year exceeds that of
24 the second year, ~~AND~~ AND for which no comparable additional benefit is provided
25 in the first year for that excess and that provides an endowment benefit or a
26 cash surrender value or a combination ~~of endowment benefit and cash surrender~~
27 ~~value~~ in an amount greater than the excess premium, this subsection applies
28 as if the method actually used in calculating the reserve for the policy was
29 the method described in subsection ~~H~~ K, ~~paragraph~~ PARAGRAPHS 1 AND 3 of this
30 section. The minimum reserve at each policy anniversary of SUCH a policy
31 shall be the greater of the minimum reserve calculated in accordance with
32 subsection ~~H~~ K of this section, INCLUDING PARAGRAPH 2 OF THAT SUBSECTION,
33 and the minimum reserve calculated in accordance with this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (ii) AMERICAN SAMOA.

36 (iii) THE UNITED STATES VIRGIN ISLANDS.

37 (iv) THE DISTRICT OF COLUMBIA.

38 (v) GUAM.

39 (vi) THE COMMONWEALTH OF PUERTO RICO.

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

43 (a) THE CHANGE TO THE VALUATION MANUAL HAS BEEN ADOPTED BY THE
44 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS BY AN AFFIRMATIVE VOTE
45 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:

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

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

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

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

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

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

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

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

28 V. THE FOLLOWING APPLY TO CONFIDENTIALITY:

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

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

36 (b) ALL DOCUMENTS, MATERIALS AND OTHER INFORMATION, INCLUDING ALL
37 WORKING PAPERS, AND COPIES THEREOF, CREATED, PRODUCED OR OBTAINED BY OR
38 DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON IN THE COURSE OF AN EXAMINATION
39 MADE UNDER SUBSECTION R OF THIS SECTION. IF AN EXAMINATION REPORT OR OTHER
40 MATERIAL PREPARED IN CONNECTION WITH AN EXAMINATION MADE UNDER SECTION 20-156
41 IS NOT HELD AS PRIVATE AND CONFIDENTIAL INFORMATION UNDER SECTION 20-156, AN
42 EXAMINATION REPORT OR OTHER MATERIAL PREPARED IN CONNECTION WITH AN
43 EXAMINATION MADE UNDER SUBSECTION R, PARAGRAPH 6 OF THIS SECTION IS NOT
44 CONFIDENTIAL INFORMATION TO THE SAME EXTENT AS IF THE EXAMINATION REPORT OR
45 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

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

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

6 W. THE FOLLOWING APPLY TO SINGLE STATE EXEMPTION:

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

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

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

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

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

22 20-696.01. Definitions

23 In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 20-696.04. Description of actuarial memorandum including an
38 asset adequacy analysis and regulatory asset
39 adequacy issues summary

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

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

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

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

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

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

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

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

35 1. For reserves:

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

39 (b) Source of liability in force.

40 (c) Reserve method and basis.

41 (d) Investment reserves.

42 (e) Reinsurance arrangements.

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

- 1 appointed actuary to provide for the guarantees in the asset adequacy
2 analysis.
- 3 (g) Documentation of assumptions, including documentation to allow an
4 actuary reviewing the actuarial memorandum to form a conclusion about the
5 reasonableness of the assumptions, to test reserves for the following:
- 6 (i) Base lapse rates and excess lapse rates.
7 (ii) Interest crediting rate strategy.
8 (iii) Mortality.
9 (iv) Policyholder dividend strategy.
10 (v) Competitor or market interest rate.
11 (vi) Annuitization rates.
12 (vii) Commissions and expenses.
13 (viii) Morbidity.
- 14 2. For assets:
- 15 (a) Portfolio descriptions, including a risk profile that discloses
16 the quality, distribution and types of assets.
17 (b) Investment and disinvestment assumptions.
18 (c) Source of asset data.
19 (d) Asset valuation bases.
20 (e) Documentation of assumptions, including documentation to allow an
21 actuary reviewing the actuarial memorandum to form a conclusion about the
22 reasonableness of the assumptions, made for:
- 23 (i) Default costs.
24 (ii) Bond call function.
25 (iii) Mortgage prepayment function.
26 (iv) Determining market value for assets sold due to disinvestment
27 strategy.
28 (v) Determining yield on assets acquired through the investment
29 strategy.
- 30 3. For the analysis basis:
- 31 (a) Methodology.
32 (b) Rationale for inclusion or exclusion of different blocks of
33 business and how pertinent risks were analyzed.
34 (c) Rationale for degree of rigor in analyzing different blocks of
35 business.
36 (d) Criteria for determining asset adequacy.
37 (e) Impact of federal income taxes and the method of treating
38 reinsurance in the asset adequacy analysis.
- 39 4. A summary of material changes in methods, procedures or assumptions
40 from a prior year's asset adequacy analysis.
- 41 5. A summary of results.
- 42 6. Conclusions.
- 43 H. The regulatory asset adequacy issues summary shall include:
- 44 1. Descriptions of the scenarios tested, including whether those
45 scenarios are stochastic or deterministic, and the sensitivity testing done

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

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

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

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

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

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

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

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

30 I. The memorandum shall include the following statement:

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

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

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

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

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

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

8 20-1231.01. Standard nonforfeiture law for life insurance;
9 table for calculating adjusted premiums;
10 definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (a) (a) Equals the sum of:

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

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

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

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

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

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

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

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

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

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

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

36 (f) FOR POLICIES ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION
37 MANUAL, any COMMISSIONERS STANDARD ordinary mortality tables, adopted after
38 1980 by the national association of insurance commissioners, that are
39 approved by the director for use in determining the minimum nonforfeiture
40 standard may be substituted for the commissioners 1980 standard ordinary
41 mortality table with or without ten year select mortality factors or for the
42 commissioners 1980 extended term insurance table. FOR POLICIES ISSUED ON OR
43 AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE VALUATION MANUAL SHALL
44 PROVIDE THE COMMISSIONERS STANDARD MORTALITY TABLE FOR USE IN DETERMINING THE
45 MINIMUM NONFORFEITURE STANDARD THAT MAY BE SUBSTITUTED FOR THE COMMISSIONERS

1 1980 STANDARD ORDINARY MORTALITY TABLE WITH OR WITHOUT TEN-YEAR SELECT
2 MORTALITY FACTORS OR FOR THE COMMISSIONERS 1980 EXTENDED TERM INSURANCE
3 TABLE. IF THE DIRECTOR APPROVES BY RULE ANY COMMISSIONERS STANDARD ORDINARY
4 MORTALITY TABLE ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE
5 COMMISSIONERS FOR USE IN DETERMINING THE MINIMUM NONFORFEITURE STANDARD FOR
6 POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THAT
7 MINIMUM NONFORFEITURE STANDARD SUPERSEDES THE MINIMUM NONFORFEITURE STANDARD
8 PROVIDED BY THE VALUATION MANUAL.

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

26 9. THE NONFORFEITURE INTEREST RATE IS AS FOLLOWS:

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

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

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

1 11. After July 24, 1982 any insurer may file with the director a
2 written notice of its election to comply with the provisions of this section
3 after a specified date before January 1, 1989, which is the operative date of
4 this section for the insurer. If an insurer makes no such election, the
5 operative date of this section for the insurer is January 1, 1989.
6 12. FOR THE PURPOSES OF THIS SECTION:
7 (a) "OPERATIVE DATE OF THE VALUATION MANUAL" HAS THE SAME MEANING
8 PRESCRIBED IN SECTION 20-510, SUBSECTION R, PARAGRAPH 2.
9 (b) "VALUATION MANUAL" HAS THE SAME MEANING PRESCRIBED IN SECTION
10 20-510, SUBSECTION B.