

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 104
SENATE BILL 1089

AN ACT

AMENDING SECTIONS 20-481, 20-481.01, 20-481.02, 20-481.03, 20-481.06, 20-481.07, 20-481.09, 20-481.10, 20-481.12, 20-481.13, 20-481.18, 20-481.19, 20-481.20, 20-481.21, 20-481.23, 20-481.25 AND 20-481.26, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 2, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 20-481.31 AND 20-481.32; AMENDING SECTION 20-510, ARIZONA REVISED STATUTES; RELATING TO INSURANCE HOLDING COMPANY SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-481, Arizona Revised Statutes, is amended to
3 read:

4 20-481. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Affiliate" or person "affiliated" with a specific person means a
7 person that directly, or indirectly through one or more intermediaries,
8 controls, is controlled by or is under common control with the person
9 specified.

10 2. "Continuing proxies" means proxies that are valid for more than one
11 annual or special meeting of security holders and any adjournments thereof.

12 3. "Control" and "controlling" means the possession, direct or
13 indirect, of the power to direct or cause the direction of the management and
14 policies of a person, whether through the ownership of voting securities, by
15 contract other than a commercial contract for goods or nonmanagement
16 services, or otherwise, unless the power is the result of an official
17 position with or corporate office held by the person. Control shall be
18 presumed to exist if any person, directly or indirectly, owns, controls,
19 holds with the power to vote or holds proxies representing ten per cent or
20 more of the voting securities of any other person. This presumption may be
21 rebutted by a showing made in the manner provided by section 20-481.18 that
22 control does not exist in fact. The director may determine, after furnishing
23 all persons in interest notice and opportunity to be heard and making
24 specific findings of fact to support such determination, that control exists
25 in fact, notwithstanding the absence of a presumption to that effect.

26 4. "ENTERPRISE RISK" MEANS ANY ACTIVITY, CIRCUMSTANCE, EVENT OR SERIES
27 OF EVENTS INVOLVING ONE OR MORE AFFILIATES OF AN INSURER THAT IF NOT REMEDIED
28 PROMPTLY IS LIKELY TO HAVE A MATERIAL ADVERSE EFFECT ON THE FINANCIAL
29 CONDITION OR LIQUIDITY OF THE INSURER OR ITS INSURANCE HOLDING COMPANY SYSTEM
30 AS A WHOLE, INCLUDING CAUSING THE INSURER'S RISK-BASED CAPITAL TO DECREASE TO
31 OR BELOW A COMPANY ACTION LEVEL UNDER SECTION 20-488.02 OR WOULD CAUSE AN
32 INSURER TO BE IN HAZARDOUS FINANCIAL CONDITION PURSUANT TO SECTION 20-220.01.

33 ~~4.~~ 5. "Insurance holding company system" means two or more affiliated
34 persons, one or more of whom is an insurer.

35 ~~5.~~ 6. "Insurer" means every person engaged in the business of making
36 contracts of insurance except:

37 (a) Agencies, authorities or instrumentalities of the United States,
38 its possessions and territories, the Commonwealth of Puerto Rico, the
39 District of Columbia or a state or political subdivision of a state.

40 ~~(b) Fraternal benefit societies.~~

41 ~~(e)~~ (b) Nonprofit medical and hospital service associations.

42 ~~(d)~~ (c) Credit life and disability reinsurers as defined in section
43 20-1082 that are not affiliated with another insurer as defined in section
44 20-104.

45 ~~6.~~ 7. "Person" means an individual, a corporation, a partnership, an
46 association, a joint stock company, a trust, an unincorporated organization

1 and any similar entity or any combination of the foregoing acting in concert
2 but does not include any ~~securities broker performing no more than the usual~~
3 ~~and customary broker's function~~ JOINT VENTURE PARTNERSHIP EXCLUSIVELY ENGAGED
4 IN OWNING, MANAGING, LEASING OR DEVELOPING REAL OR TANGIBLE PERSONAL
5 PROPERTY.

6 ~~7.~~ 8. "Security holder of a specified person" means a person who owns
7 any security of such person, including common stock, preferred stock, debt
8 obligations, and any other security convertible into or evidencing the right
9 to acquire any of the foregoing.

10 ~~8.~~ 9. "Subsidiary of a specified person" means an affiliate
11 controlled by such person directly or indirectly through one or more
12 intermediaries.

13 10. "SUPERVISORY COLLEGE" MEANS A TEMPORARY OR PERMANENT FORUM FOR
14 COMMUNICATION AND COOPERATION BETWEEN REGULATORS CHARGED WITH THE SUPERVISION
15 OF ENTITIES THAT BELONG TO AN INSURANCE HOLDING COMPANY SYSTEM THAT HAS
16 INTERNATIONAL OPERATIONS.

17 ~~9.~~ 11. "Voting security" means a security that carries with it a
18 right to vote in decisions and also includes securities that are convertible
19 into or evidence a right to acquire a security that includes such right to
20 vote.

21 Sec. 2. Section 20-481.01, Arizona Revised Statutes, is amended to
22 read:

23 20-481.01. Investment limitations; exemptions

24 A. Any domestic insurer, either by itself or in cooperation with one
25 or more persons, may organize or acquire one or more subsidiaries subject to
26 the limitations of this article. Such subsidiaries may conduct any kind of
27 business or businesses and the authority to do so shall not be limited by
28 reason of the fact that such subsidiaries are subsidiaries of a domestic
29 insurer.

30 B. In addition to investments in common stock, preferred stock, debt
31 obligations and other securities permitted under all other sections of this
32 title, a domestic insurer ~~may~~, pursuant to subsection A of this section, **MAY**:

33 1. Invest in common stock, preferred stock, debt obligations and other
34 securities of one or more subsidiaries in amounts ~~which~~ **THAT** do not exceed
35 the lesser of ten per cent of such insurer's assets or fifty per cent of such
36 insurer's surplus as regards policyholders, provided that after such
37 investments the insurer's surplus as regards policyholders will be reasonable
38 in relation to the insurer's outstanding liabilities and adequate to its
39 financial needs. In calculating the amount of such investments, investments
40 in domestic or foreign insurance subsidiaries and health care service
41 organizations shall be excluded, and there shall be included total net monies
42 or other consideration expended and obligations assumed in the acquisition or
43 formation of a subsidiary including all organizational expenses and
44 contributions to capital and surplus of such subsidiary whether or not
45 represented by the purchase of capital stock or issuance of other securities,
46 and all amounts expended in acquiring additional common stock, preferred

1 stock, debt obligations, and other securities and all contributions to the
2 capital or surplus, of a subsidiary subsequent to its acquisition or
3 formation.

4 2. Invest any amount in common stock, preferred stock, debt
5 obligations and other securities of one or more subsidiaries that is engaged
6 or organized to engage exclusively in the ownership and management of assets
7 authorized as investments for the insurer if each subsidiary agrees to limit
8 its investments in any asset so that such investments will not cause the
9 amount of the total investment of the insurer to exceed any of the investment
10 limitations specified in paragraph 1 of this subsection or in chapter 3,
11 article 2 of this title, applicable to the insurer. For the purpose of this
12 paragraph, "the total investment of the insurer" includes any direct
13 investment by the insurer in an asset and the insurer's proportionate share
14 of the investment in an asset by any subsidiary of the insurer, which shall
15 be calculated by multiplying the amount of the subsidiary's investment by the
16 percentage of the insurer's ownership of such subsidiary.

17 3. With the approval of the director, invest any **GREATER** amount in
18 common stock, preferred stock, debt obligations or other securities of one or
19 more subsidiaries, provided that after such investment the insurer's surplus
20 as regards policyholders will be reasonable in relation to the insurer's
21 outstanding liabilities and adequate to its financial needs.

22 C. Investments in common stock, preferred stock, debt obligations or
23 other securities of subsidiaries made pursuant to subsection B of this
24 section ~~shall~~ **ARE** not ~~be~~ subject to any of the otherwise applicable
25 restrictions or prohibitions contained in this title applicable to such
26 investment of insurers.

27 D. Whether any investment pursuant to subsection B of this section
28 meets the applicable requirements is to be determined before the investment
29 is made by calculating the applicable investment limitations as if the
30 investment had already been made, taking into account the then outstanding
31 principal balance on all previous investments in debt obligations, and the
32 value of all previous investments in equity securities as of the date they
33 were made, **NET OF ANY RETURN OF CAPITAL INVESTED, NOT INCLUDING DIVIDENDS.**

34 E. If an insurer ceases to control a subsidiary, it shall dispose of
35 any investment in the subsidiary made pursuant to this section within three
36 years from the time of the cessation of control or within such further times
37 as the director may prescribe, unless at any time after such investment has
38 been made, such investment has met the requirements for investment under any
39 other section of this title, and the insurer has so notified the director.

40 F. For **THE** purposes of this section, in determining whether an
41 insurer's surplus as regards policyholders is reasonable in relation to the
42 insurer's outstanding liabilities and adequate to its financial needs, the
43 following factors shall be considered:

44 1. ~~The minimum expendable surplus amount required by section 20-211.~~
45 **THE QUALITY AND LIQUIDITY OF INVESTMENTS IN AFFILIATES. THE DIRECTOR MAY**
46 **TREAT ANY INVESTMENT AS A DISALLOWED ASSET FOR PURPOSES OF DETERMINING THE**

1 ADEQUACY OF SURPLUS AS REGARDS POLICYHOLDERS IF IN THE JUDGMENT OF THE
2 DIRECTOR THE INVESTMENT WARRANTS IT.

3 2. The size of the insurer as measured by its assets, capital and
4 surplus, reserves, premium writings, insurance in force and other appropriate
5 criteria.

6 3. The extent to which the insurer's business is diversified among the
7 several lines of insurance.

8 4. The number and size of risks insured in each line of business.

9 5. The extent of the geographical dispersion of the insurer's insured
10 risks.

11 6. The nature and extent of the insurer's reinsurance program.

12 7. The quality, diversification and liquidity of the insurer's
13 investment portfolio.

14 8. The recent past and projected future trend in the size of the
15 insurer's surplus as regards policyholders.

16 9. The surplus as regards policyholders maintained by other comparable
17 insurers.

18 10. The adequacy of the insurer's reserves.

19 Sec. 3. Section 20-481.02, Arizona Revised Statutes, is amended to
20 read:

21 20-481.02. Tender offers; required statements; disclosures;
22 approval or disapproval by director; definition

23 A. No person other than the issuer shall make a tender for or a
24 request or invitation for tenders of a voting security of a domestic insurer
25 or enter into any agreement to exchange securities or seek to acquire in the
26 open market or in any other place any voting security of a domestic insurer
27 if, after the consummation thereof, such person would, directly or
28 indirectly, by conversion or by the exercise of any right to acquire, be in
29 control of such insurer. No person may enter into an agreement to merge with
30 or to otherwise acquire control of a domestic insurer or a person who
31 controls a domestic insurer unless, at the time the offer, request or
32 invitation is made or the agreement is entered into or ~~prior to~~ BEFORE the
33 acquisition of the securities, if no offer or agreement is involved, such
34 person has filed with the director and has sent to such insurer a statement
35 containing the information required by section 20-481.03 and the offer,
36 request, invitation, agreement or acquisition has been approved by the
37 director. ~~For purposes of this section, a "domestic insurer" shall include~~
38 ~~any other person controlling a domestic insurer, unless such other person, as~~
39 ~~determined by the director, is either directly, or through its affiliates,~~
40 ~~primarily engaged in business other than the business of insurance.~~

41 B. With respect to the acquisition of a domestic insurer by a person,
42 directly or indirectly through an affiliate or affiliates, who is not
43 required to file a statement pursuant to subsection A of this section because
44 such person is not primarily engaged in the business of insurance, such
45 person ~~shall~~, at least thirty days ~~prior to~~ BEFORE the effective date of the
46 acquisition of the domestic insurer, **SHALL** file with the director a statement

1 containing the information required by section 20-481.03. If the director
2 finds that the acquisition does not meet the requirements of section
3 20-481.07, subsection A, the director shall issue an order disapproving the
4 acquisition of the domestic insurer and shall require the person to make an
5 expeditious divestiture of such insurer. The director shall have the
6 authority to take such actions as are necessary to assure such divestiture.

7 C. A CONTROLLING PERSON OF A DOMESTIC INSURER THAT SEEKS TO DIVEST ITS
8 CONTROLLING INTEREST IN THE DOMESTIC INSURER SHALL FILE WITH THE DIRECTOR,
9 WITH A COPY TO THE INSURER, A CONFIDENTIAL NOTICE OF ITS PROPOSED DIVESTITURE
10 AT LEAST THIRTY DAYS BEFORE THE CESSATION OF CONTROL. THE DIRECTOR SHALL
11 DETERMINE IF THE PARTY SEEKING TO DIVEST OR TO ACQUIRE A CONTROLLING INTEREST
12 IN THE INSURER WILL BE REQUIRED TO FILE FOR AND OBTAIN APPROVAL OF THE
13 TRANSACTION. THE INFORMATION SHALL REMAIN CONFIDENTIAL UNTIL THE CONCLUSION
14 OF THE TRANSACTION UNLESS THE DIRECTOR DETERMINES THAT CONFIDENTIAL TREATMENT
15 WILL INTERFERE WITH ENFORCEMENT OF THIS SECTION. THIS SUBSECTION DOES NOT
16 APPLY IF THE STATEMENT REFERRED TO IN SUBSECTION A OF THIS SECTION IS FILED.

17 ~~C.~~ D. The director may employ insurance analysts, hearing examiners
18 and such other staff as necessary to ~~insure~~ ENSURE compliance with this
19 section. Such costs shall be paid by the insurance examiners' revolving fund
20 in accordance with section 20-159.

21 ~~D.~~ E. The filing requirements provided in subsection A of this
22 section shall not be deemed in conflict with federal securities acts where
23 such federal securities acts apply. No offer, transaction, proposed
24 transaction, agreement or acquisition subject to approval of the director
25 pursuant to subsection A of this section shall become effective until
26 approved by the director.

27 F. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, THE ACQUIRING PERSON
28 SHALL FILE A PREACQUISITION NOTIFICATION WITH THE DIRECTOR THAT CONTAINS THE
29 INFORMATION PRESCRIBED IN SECTION 20-481.25, SUBSECTION C FOR ALL
30 TRANSACTIONS UNDER THIS SECTION.

31 G. FOR THE PURPOSES OF THIS SECTION:

32 1. "DOMESTIC INSURER" INCLUDES ANY PERSON CONTROLLING A DOMESTIC
33 INSURER, UNLESS THE DIRECTOR DETERMINES THAT THE PERSON IS EITHER DIRECTLY OR
34 THROUGH ITS AFFILIATES PRIMARILY ENGAGED IN BUSINESS OTHER THAN THE BUSINESS
35 OF INSURANCE.

36 2. PERSON DOES NOT INCLUDE ANY SECURITIES BROKER IN THE USUAL AND
37 CUSTOMARY BROKER'S FUNCTION HOLDING LESS THAN TWENTY PER CENT OF THE VOTING
38 SECURITIES OF AN INSURANCE COMPANY OR OF ANY PERSON THAT CONTROLS AN
39 INSURANCE COMPANY.

40 Sec. 4. Section 20-481.03, Arizona Revised Statutes, is amended to
41 read:

42 20-481.03. Contents of statement

43 A. The statement to be filed with the director as provided in section
44 20-481.02 shall be made under oath or affirmation and shall contain the
45 following ~~information~~:

1 1. The name and address of each person by whom or on whose behalf the
2 tender offer, merger or other acquisition of control referred to in section
3 20-481.02 is to be effected.

4 2. If the acquiring party is an individual, his principal occupation
5 and all offices and positions held during the past five years and any
6 convictions of crimes other than minor traffic violations during the past ten
7 years.

8 3. If the acquiring party is not an individual:

9 (a) A report of the nature of its business operations during the past
10 five years or for such lesser period as such person and any predecessors
11 thereof shall have been in existence.

12 (b) An informative description of the business intended to be done by
13 such person and such person's subsidiaries.

14 (c) A list of all individuals who are or who have been selected to
15 become directors or executive officers of such person, or who perform or will
16 perform functions appropriate to such positions. Such list shall include for
17 each such individual the information required by paragraph 2 of this
18 subsection.

19 4. The source, nature and amount of the consideration used or to be
20 used in effecting the ~~tender offer~~, merger or other acquisition of control, a
21 description of any transaction wherein funds were or are to be obtained for
22 any such purpose including a pledge of the insurer's stocks or the stock of
23 any of its subsidiaries or controlling affiliates, and the identity of
24 persons furnishing such consideration, provided that if a source of such
25 consideration is a loan made in the lender's ordinary course of business, the
26 identity of the lender shall remain confidential, if the person filing such
27 statement so requests.

28 5. Fully audited financial information as to the earnings and
29 financial condition of each acquiring party for the preceding five fiscal
30 years of each such acquiring party or for such lesser period as such
31 acquiring party and any predecessors thereof have been in existence and
32 similar unaudited information as of a date not earlier than ninety days ~~prior~~
33 ~~to~~ BEFORE the filing of the statement. If audited financial information is
34 unavailable, unaudited financial information may be substituted if such
35 information is acceptable to the director.

36 6. Any plans or proposals ~~which~~ THAT each acquiring party may have to
37 liquidate such insurer, to sell its assets or merge or consolidate it with
38 any person or to make any other material change in its business or corporate
39 structure or management.

40 7. The number of shares of any security referred to in section
41 20-481.02 ~~which~~ THAT each acquiring party proposes to acquire, and the terms
42 of the offer, request, invitation, agreement or acquisition referred to in
43 section 20-481.02 and a statement as to the method by which the fairness of
44 the proposal was arrived at.

45 8. The amount of each class of any security referred to in section
46 20-481.02 ~~which~~ THAT is beneficially owned or about which there is a right to

1 acquire beneficial ownership by each acquiring party or ~~which~~ THAT each
2 acquiring party has the right to acquire.

3 9. A full description of any contracts, arrangements or understandings
4 with respect to any security referred to in section 20-481.02 in which any
5 acquiring party is involved, including but not limited to transfer of any of
6 the securities, joint ventures, loan or option arrangements, puts or calls,
7 guarantees of loans, guarantees against loss or guarantees of profits,
8 division of losses or profits or the giving or withholding of proxies. Such
9 description shall identify the persons with whom such contracts, arrangements
10 or understandings have been entered into.

11 10. A description of the purchase of any security referred to in
12 section 20-481.02 during the twelve calendar months preceding the filing of
13 the statement, by any acquiring party, including the dates of purchases,
14 names of the purchasers and consideration paid or agreed to be paid therefor.

15 11. A description of any recommendations to purchase any security
16 referred to in section 20-481.02 made during the twelve calendar months
17 preceding the filing of the statement, by any acquiring party, or by anyone
18 based ~~upon~~ ON interviews or at the suggestion of such acquiring party.

19 12. Copies of all tender offers for, requests or invitations for
20 tenders of exchange offers for and agreements to acquire or exchange any
21 securities referred to in section 20-481.02 and any additional soliciting
22 material relating thereto.

23 13. The terms of any **PROPOSED OR EXECUTED** agreement, contract or
24 understanding made with any broker-dealer as to solicitation of securities
25 referred to in section 20-481.02 for tender, and the amount of any fees,
26 commissions or other compensation to be paid to broker-dealers with regard
27 thereto.

28 14. **AN AGREEMENT BY THE PERSON REQUIRED TO FILE THE STATEMENT REFERRED**
29 **TO IN SECTION 20-481.02 THAT THE PERSON WILL FILE WITH THE DIRECTOR THE**
30 **ANNUAL ENTERPRISE RISK REPORT PURSUANT TO SECTION 20-481.10, SUBSECTION D**
31 **WHILE IN CONTROL OF THE INSURER.**

32 15. **AN ACKNOWLEDGEMENT BY THE PERSON REQUIRED TO FILE THE STATEMENT**
33 **REFERRED TO IN SECTION 20-481.02 THAT THE PERSON AND ALL SUBSIDIARIES IN ITS**
34 **CONTROL IN THE INSURANCE HOLDING COMPANY SYSTEM WILL PROVIDE ALL INFORMATION**
35 **REQUESTED BY THE DIRECTOR FOR THE DIRECTOR TO EVALUATE ENTERPRISE RISK TO THE**
36 **INSURER.**

37 ~~14.~~ 16. Such additional information as the director may by rule
38 prescribe as necessary or appropriate for the protection of policyholders and
39 security holders of the insurer or in the public interest.

40 B. The director may require each statement to be accompanied by the
41 fingerprints of any individual named in such statement as an acquiring party
42 or as directors or executive officers of an acquiring party. Such
43 fingerprints shall be taken in an approved manner and certified by a
44 municipal police department, a sheriff's office or ~~other~~ ANOTHER recognized
45 authority acceptable to the director.

1 Sec. 5. Section 20-481.06, Arizona Revised Statutes, is amended to
2 read:

3 20-481.06. Use of other statements

4 If any ~~tender offer, for or request, or invitation, for tenders~~
5 AGREEMENT OR ACQUISITION referred to in section 20-481.02 is proposed to be
6 made by means of a registration statement under the securities act of 1933 or
7 in circumstances requiring the disclosure of similar information under the
8 securities exchange act of 1934, or under a state law requiring similar
9 registration or disclosure, the person required to file the statement
10 referred to in section 20-481.02 may ~~utilize such~~ USE THE documents in
11 furnishing the information ~~called for by~~ PROVIDED IN that statement.

12 Sec. 6. Section 20-481.07, Arizona Revised Statutes, is amended to
13 read:

14 20-481.07. Approval and issues; notice; hearings

15 A. ~~The tender offer for or request or invitation for tenders, merger~~
16 ~~or other acquisition of control may not be consummated until it is approved~~
17 ~~by the director.~~ The director shall approve ~~the transaction~~ ANY MERGER OR
18 OTHER ACQUISITION OF CONTROL DESCRIBED IN SECTION 20-481.02 unless the
19 director finds THAT:

20 1. The ~~tender offer for or request or invitation for tenders,~~ merger
21 or other acquisition of control:

22 ~~1-~~ (a) Is contrary to law.

23 ~~2-~~ (b) Is inequitable to the shareholders of any domestic insurer
24 involved.

25 ~~3-~~ (c) Would substantially reduce the security of and service to be
26 rendered to policyholders of the domestic insurer in this state or elsewhere.

27 ~~4-~~ 2. After the change of control the domestic insurer would not be
28 able to satisfy the requirements for the reissuance of a certificate of
29 authority to write the line or lines of insurance for which it is presently
30 licensed.

31 ~~5-~~ 3. The effect of ~~which~~ THE MERGER OR OTHER ACQUISITION OF CONTROL
32 would substantially lessen competition in insurance in this state or tend to
33 create a monopoly. In applying the competitive standard in this paragraph:

34 (a) The informational requirements of section 20-481.25, subsection C
35 and the standards of section 20-481.25, subsection D apply.

36 (b) The merger or other acquisition shall not be disapproved if the
37 director finds that any of the situations meeting the criteria provided by
38 section 20-481.25 exist.

39 (c) The director may condition the approval of the merger or other
40 acquisition on the removal of the basis of disapproval within a specified
41 period of time.

42 ~~6-~~ 4. The financial condition of any acquiring party might jeopardize
43 the financial stability of the insurer or prejudice the interest of its
44 policyholders.

45 ~~7-~~ 5. The plans or proposals that the acquiring party has to
46 liquidate the insurer, sell its assets or consolidate or merge it with any

1 person, or to make any other material change in its business or corporate
2 structure or management, are unfair and unreasonable to policyholders of the
3 insurer and are not in the public interest.

4 ~~8-~~ 6. The competence, experience and integrity of those persons who
5 would control the operation of the insurer are such that it would not be in
6 the interest of policyholders of the insurer and of the public to permit the
7 merger or other acquisition of control.

8 ~~9-~~ 7. The acquisition is likely to be hazardous or prejudicial to the
9 insurance buying public.

10 B. The director may conduct a hearing as prescribed in section 20-161
11 ~~regarding~~ FOR any transaction **REQUIRING THE DIRECTOR'S APPROVAL** pursuant to
12 section 20-481.02.

13 C. ~~Any public hearing conducted pursuant to subsection B of this~~
14 ~~section shall be held within thirty days after the statement required by~~
15 ~~section 20-481.02 is filed, and at least twenty days after the director gives~~
16 ~~written notice of the hearing to the person filing the statement.~~ The person
17 filing the statement **REQUIRED BY SECTION 20-481.02** shall give at least ten
18 days' written notice of the hearing to the insurer and to any other persons
19 designated by the director. The insurer shall give the written notice to its
20 security holders.

21 D. If the director does not give notice of a hearing pursuant to
22 ~~subsections~~ **SUBSECTION B** ~~and C~~ of this section, the person filing the
23 statement shall give written notice of the filing on a form prescribed by the
24 director to the insurer and to any other persons designated by the director.
25 The insurer shall give the written notice to its security holders. The
26 person filing the statement, the insurer, any designated recipient of the
27 written notice of the filing and any person whose interests may be affected
28 by the filing have ten days from the date of the written notice to request
29 that the director hold a hearing on the filing pursuant to this section. The
30 request shall specify the grounds for the hearing and the interests that
31 would be affected by the filing.

32 E. If the director finds that the request is made in good faith, that
33 the interests of the person requesting the hearing would be affected by the
34 filing if the grounds are established, ~~and that the grounds otherwise~~
35 ~~justify holding a hearing, the director shall grant the request for a hearing~~
36 ~~and issue a notice of hearing to all persons entitled to the notice pursuant~~
37 ~~to subsection C of this section. The hearing shall be held no earlier than~~
38 ~~twenty days from the date of the notice.~~

39 F. If a hearing is scheduled, the person filing the statement, the
40 insurer, any person to whom written notice of hearing was sent and any other
41 person whose interests may be affected shall have the right to present
42 evidence, examine and cross-examine the witnesses and offer oral and written
43 arguments at the hearing. ~~Prior to the hearing, persons shall be entitled to~~
44 ~~take depositions upon oral examination in the same manner as is allowed in~~
45 ~~the superior court of this state. All depositions shall be concluded not~~
46 ~~later than three days prior to the commencement of the public hearing. The~~

1 ~~director shall make a determination within thirty days after the conclusion~~
2 ~~of the hearing. Except as otherwise provided in this subsection the~~
3 ~~provisions of title 41, chapter 6, article 10 shall apply to hearings, orders~~
4 ~~and appeals.~~

5 G. IF THE PROPOSED ACQUISITION OF CONTROL WILL REQUIRE THE APPROVAL OF
6 OTHER STATES IN ADDITION TO THIS STATE, THE DIRECTOR MAY HOLD A PUBLIC
7 HEARING ON A CONSOLIDATED BASIS FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT
8 ON A PROPOSED AGENCY ACTION ON REQUEST OF THE PERSON FILING THE STATEMENT
9 REFERRED TO IN SECTION 20-481.02. THE PERSON SHALL FILE THE STATEMENT
10 REFERRED TO IN SECTION 20-481.02 WITH THE NATIONAL ASSOCIATION OF INSURANCE
11 COMMISSIONERS WITHIN FIVE DAYS AFTER MAKING THE REQUEST FOR A PUBLIC HEARING.
12 THE DIRECTOR MAY OPT OUT OF A CONSOLIDATED HEARING AND SHALL PROVIDE NOTICE
13 TO THE APPLICANT OF THE OPT OUT WITHIN TEN DAYS AFTER RECEIVING THE STATEMENT
14 REFERRED TO IN SECTION 20-481.02. A HEARING HELD BY THE DIRECTOR AND
15 CONDUCTED ON A CONSOLIDATED BASIS MUST BE PUBLIC AND HELD IN THE UNITED
16 STATES.

17 H. IN CONNECTION WITH A CHANGE OF CONTROL OF A DOMESTIC INSURER, THE
18 DIRECTOR SHALL MAKE A DETERMINATION THAT THE PERSON ACQUIRING CONTROL OF THE
19 INSURER IS REQUIRED TO MAINTAIN OR RESTORE THE CAPITAL OF THE INSURER TO THE
20 LEVEL REQUIRED BY THE LAWS AND RULES OF THIS STATE WITHIN SIXTY DAYS AFTER
21 THE DATE OF NOTIFICATION OF THE CHANGE IN CONTROL THAT IS SUBMITTED PURSUANT
22 TO SECTION 20-481.03.

23 I. THE DIRECTOR MAY RETAIN AT THE ACQUIRING PERSON'S EXPENSE
24 ATTORNEYS, ACTUARIES, ACCOUNTANTS AND OTHER EXPERTS NOT PART OF THE
25 DIRECTOR'S STAFF AS MAY BE REASONABLY NECESSARY TO ASSIST THE DIRECTOR IN
26 REVIEWING THE PROPOSED ACQUISITION OF CONTROL.

27 ~~G.~~ J. All statements, amendments or other material filed pursuant
28 thereto, and all notices of public hearing held pursuant to this section,
29 shall be mailed by the insurer to its shareholders within five business days
30 after the insurer has received the statements, amendments, other material or
31 notices. The ~~expenses of mailing shall be paid by the~~ person making the
32 filing SHALL PAY THE EXPENSES OF MAILING. As security for the payment of the
33 expenses, the person shall file with the director an acceptable bond or other
34 deposit in an amount to be determined by the director.

35 Sec. 7. Section 20-481.09, Arizona Revised Statutes, is amended to
36 read:

37 20-481.09. Registration of insurers; deadline

38 A. Every insurer ~~which~~ THAT is authorized to do business in this state
39 and ~~which~~ THAT is a member of an insurance holding company system shall
40 register with the director, except a foreign insurer subject to registration
41 requirements and standards adopted by statute or regulation in the
42 jurisdiction of its domicile ~~which~~ THAT are substantially similar to those
43 contained in this article.

44 B. Any insurer ~~which~~ THAT is subject to registration under this
45 article shall register within fifteen days after the insurer becomes subject

1 to registration and by March 31 of each year unless the director for good
2 cause extends the time for registration.

3 C. The director may require any authorized insurer ~~which~~ THAT is a
4 member of ~~a~~ AN INSURANCE holding company system ~~which~~ THAT is not subject to
5 registration under this section to furnish a copy of the registration
6 statement, THE SUMMARY PRESCRIBED IN SECTION 20-481.10 or other information
7 filed by such insurance company with the insurance regulatory authority of
8 its domiciliary jurisdiction.

9 Sec. 8. Section 20-481.10, Arizona Revised Statutes, is amended to
10 read:

11 20-481.10. Form and content of registration statement;
12 disclosure of information; enterprise risk filing

13 A. Every insurer subject to registration shall file a registration
14 statement on a form provided by the director, which shall contain current
15 information concerning:

16 1. The capital structure, general financial condition, ownership and
17 management of the insurer and the identity of any person controlling the
18 insurer.

19 2. The identity of every member of the insurance holding company
20 system ~~which~~ THAT directly or indirectly controls the insurer.

21 3. The following agreements in force, relationships subsisting and
22 transactions currently outstanding OR THAT HAVE OCCURRED DURING THE LAST
23 CALENDAR YEAR between such insurer and its affiliates:

24 (a) Loans, other investments or purchases, sales or exchanges of
25 securities of the affiliates by the insurer or of the insurer by its
26 affiliates.

27 (b) Purchases, sales or exchanges of assets.

28 (c) Transactions not in the ordinary course of business.

29 (d) Guarantees or undertakings for the benefit of any affiliate ~~which~~
30 THAT result in an actual contingent exposure of the insurer's assets to
31 liability, other than insurance contracts entered into in the ordinary course
32 of the insurer's business.

33 (e) All management and service contracts and all cost sharing
34 arrangements, ~~other than cost allocation arrangements based upon generally~~
35 ~~accepted accounting principles.~~

36 (f) Reinsurance agreements.

37 (g) Dividends and other distributions to shareholders.

38 (h) Consolidated tax allocation agreements.

39 4. A pledge of the insurer's stock, including stock of any subsidiary
40 or controlling affiliate, for a loan made to a member of the insurance
41 holding company system.

42 5. IF REQUESTED BY THE DIRECTOR, FINANCIAL STATEMENTS OF OR WITHIN AN
43 INSURANCE HOLDING COMPANY SYSTEM, INCLUDING ALL AFFILIATES. FINANCIAL
44 STATEMENTS MAY INCLUDE ANNUAL AUDITED FINANCIAL STATEMENTS FILED WITH THE
45 UNITED STATES SECURITIES AND EXCHANGE COMMISSION PURSUANT TO THE SECURITIES
46 ACT OF 1933 OR THE SECURITIES EXCHANGE ACT OF 1934. AN INSURER REQUIRED TO

1 FILE FINANCIAL STATEMENTS PURSUANT TO THIS PARAGRAPH MAY SATISFY THE REQUEST
2 BY PROVIDING THE DIRECTOR WITH THE MOST RECENT PARENT CORPORATION FINANCIAL
3 STATEMENTS FILED WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION.

4 ~~5-~~ 6. Other matters concerning transactions between registered
5 insurers and any affiliates as may be included from time to time in any
6 registration forms adopted or approved by the director.

7 7. A STATEMENT THAT THE INSURER'S BOARD OF DIRECTORS OVERSEES
8 CORPORATE GOVERNANCE AND INTERNAL CONTROLS OF THE INSURER AND THAT THE
9 INSURER'S OFFICERS OR SENIOR MANAGEMENT HAVE APPROVED, IMPLEMENTED AND
10 MAINTAIN AND MONITOR CORPORATE GOVERNANCE AND INTERNAL CONTROL PROCEDURES.

11 8. ANY OTHER INFORMATION REQUIRED BY THE DIRECTOR BY RULE.

12 B. All registration statements shall contain a summary outlining all
13 items in the current registration statement representing changes from the
14 prior registration statement.

15 C. A person within an insurance holding company system subject to
16 registration shall provide complete and accurate information to an insurer if
17 this information is reasonably necessary to enable the insurer to comply with
18 ~~the provisions of~~ this article.

19 D. THE ULTIMATE CONTROLLING PERSON OF EACH INSURER SUBJECT TO
20 REGISTRATION SHALL FILE AN ANNUAL ENTERPRISE RISK REPORT THAT TO THE BEST OF
21 THE ULTIMATE CONTROLLING PERSON'S KNOWLEDGE AND BELIEF IDENTIFIES THE
22 MATERIAL RISKS WITHIN THE INSURANCE HOLDING COMPANY SYSTEM THAT COULD POSE
23 ENTERPRISE RISK TO THE INSURER. THE ULTIMATE CONTROLLING PERSON SHALL FILE
24 THE REPORT ACCORDING TO THE PROCEDURES OF THE NATIONAL ASSOCIATION OF
25 INSURANCE COMMISSIONERS' FINANCIAL ANALYSIS HANDBOOK.

26 Sec. 9. Section 20-481.12, Arizona Revised Statutes, is amended to
27 read:

28 20-481.12. Standards

29 A. Transactions within ~~a~~ AN INSURANCE holding company system to which
30 an insurer subject to registration is a party are subject to the following
31 standards:

32 1. The terms are fair and reasonable.

33 2. AGREEMENTS FOR COST SHARING OR MANAGEMENT SERVICES AND MANAGEMENT
34 MUST INCLUDE PROVISIONS THAT ARE REQUIRED BY RULE.

35 ~~2-~~ 3. Charges or fees for services performed are reasonable.

36 ~~3-~~ 4. Expenses incurred and payment received are allocated to the
37 insurer in conformity with customary insurance accounting practices
38 consistently applied.

39 ~~4-~~ 5. The books, accounts and records of each party to all
40 transactions clearly and accurately disclose the nature and details of the
41 transactions including any accounting information that is necessary to
42 support the reasonableness of the charges or fees to the respective parties.

43 ~~5-~~ 6. The insurer's surplus as regards policyholders following any
44 dividends or distributions to shareholder affiliates is reasonable in
45 relation to the insurer's outstanding liabilities and adequate to its
46 financial needs.

1 B. The following transactions involving a domestic insurer and any
2 person in its INSURANCE holding company system, INCLUDING AMENDMENTS AND
3 MODIFICATIONS OF AFFILIATE AGREEMENTS PREVIOUSLY FILED PURSUANT TO THIS
4 SECTION THAT ARE SUBJECT TO ANY MATERIALITY STANDARDS CONTAINED IN PARAGRAPHS
5 1, 2, 3, 4 AND 5 OF THIS SUBSECTION, may not be entered into unless the
6 insurer notifies the director in writing not less than thirty days before
7 entering the transaction, unless the director permits a shorter notification
8 period, of its intention to enter into the transaction and the director does
9 not disapprove the transaction within that period:

10 1. Sales, purchases, exchanges, loans or extensions of credit,
11 guarantees or investments if the transactions equal or exceed, with respect
12 to nonlife insurers, the lesser of three per cent of the insurer's admitted
13 assets or twenty-five per cent of surplus as regards policyholders as of
14 December 31 next preceding or, with respect to life insurers, three per cent
15 of the insurer's admitted assets as of December 31 next preceding.

16 2. Loans or extensions of credit to any person who is not an affiliate
17 if the insurer makes the loans or extensions of credit with the agreement or
18 understanding that the proceeds of the transactions, in whole or in
19 substantial part, are to be used to make loans or extensions of credit to, to
20 purchase assets of or to make investments in any affiliate of the insurer
21 making such loans or extensions of credit if the transactions equal or
22 exceed, with respect to nonlife insurers, the lesser of three per cent of the
23 insurer's admitted assets or twenty-five per cent of surplus as regards
24 policyholders as of December 31 next preceding or, with respect to life
25 insurers, three per cent of the insurer's admitted assets as of December 31
26 next preceding.

27 3. Reinsurance agreements or modifications to reinsurance agreements,
28 INCLUDING:

29 (a) ALL REINSURANCE POOLING AGREEMENTS.

30 (b) AGREEMENTS in which the reinsurance premium or a change in the
31 insurer's liabilities, OR THE PROJECTED REINSURANCE PREMIUM OR A CHANGE IN
32 THE INSURER'S LIABILITIES IN ANY OF THE NEXT THREE YEARS, equals or exceeds
33 five per cent of the insurer's surplus as regards policyholders as of
34 December 31 next preceding, including those agreements that may require as
35 consideration the transfer of assets from an insurer to a nonaffiliate if an
36 agreement or understanding exists between the insurer and the nonaffiliate
37 that any portion of the assets will be transferred to one or more affiliates
38 of the insurer.

39 4. All management agreements, service contracts, TAX ALLOCATION
40 AGREEMENTS, GUARANTEES and cost-sharing arrangements.

41 5. GUARANTEES AT THE TIME EXECUTED BY A DOMESTIC INSURER, PROVIDED
42 THAT A GUARANTEE THAT IS QUANTIFIABLE AS TO AMOUNT IS NOT SUBJECT TO THE
43 NOTICE REQUIREMENTS OF THIS SUBSECTION UNLESS THE GUARANTEE EXCEEDS THE
44 LESSER OF ONE-HALF OF ONE PER CENT OF THE INSURER'S ADMITTED ASSETS OR TEN
45 PER CENT OF THE INSURER'S SURPLUS AS REGARDS POLICYHOLDERS AS OF DECEMBER 31
46 NEXT PRECEDING THE EXECUTION OF THE GUARANTEE. ALL GUARANTEES THAT ARE NOT

1 QUANTIFIABLE AS TO AMOUNT ARE SUBJECT TO THE NOTICE REQUIREMENTS OF THIS
2 SUBSECTION.

3 6. DIRECT OR INDIRECT ACQUISITIONS OR INVESTMENTS IN A PERSON THAT
4 CONTROLS THE INSURER OR IN AN AFFILIATE OF THE INSURER IN AN AMOUNT THAT,
5 TOGETHER WITH ITS PRESENT HOLDING IN SUCH INVESTMENTS, EXCEEDS TWO AND
6 ONE-HALF PER CENT OF THE INSURER'S SURPLUS TO POLICYHOLDERS. DIRECT OR
7 INDIRECT ACQUISITIONS OR INVESTMENTS IN SUBSIDIARIES ACQUIRED PURSUANT TO
8 SECTION 20-481.01, OR IN NONSUBSIDIARY INSURANCE AFFILIATES THAT ARE SUBJECT
9 TO THIS ARTICLE, ARE EXEMPT FROM THIS REQUIREMENT.

10 ~~5-~~ 7. Any material transaction that is specified by rule and that the
11 director determines may adversely affect the interests of the insurer's
12 policyholders.

13 C. THE NOTICE PRESCRIBED IN SUBSECTION B OF THIS SECTION FOR
14 AMENDMENTS OR MODIFICATIONS MUST INCLUDE THE REASONS FOR THE CHANGE AND THE
15 FINANCIAL IMPACT ON THE DOMESTIC INSURER. INFORMAL NOTICE SHALL BE GIVEN
16 WITHIN THIRTY DAYS AFTER A TERMINATION OF A PREVIOUSLY FILED AGREEMENT TO THE
17 DIRECTOR FOR DETERMINATION OF THE TYPE OF FILING REQUIRED, IF ANY.

18 ~~C-~~ D. ~~Nothing contained in~~ Subsection B of this section ~~is deemed to~~
19 DOES NOT authorize or permit any transactions that would be otherwise
20 contrary to law.

21 ~~D-~~ E. A domestic insurer shall not enter into transactions that are
22 part of a plan or series of like transactions with persons within the holding
23 company system if the purpose of those separate transactions is to avoid the
24 statutory threshold amount and thereby avoid the review that otherwise would
25 occur. If the director determines that separate transactions were entered
26 into during any twelve month period for that purpose, the director may order
27 the insurer to cease and desist under section 20-481.26.

28 ~~E-~~ F. In reviewing transactions pursuant to subsection B of this
29 section, the director shall consider if the transactions comply with the
30 standards set forth in subsection A of this section and if they adversely
31 affect the interests of policyholders.

32 ~~F-~~ G. Within thirty days of an investment of a domestic insurer in
33 any one corporation the director shall be notified of the investment if the
34 total investment in the corporation by the insurance holding company system
35 exceeds ten per cent of the corporation's voting securities.

36 ~~G-~~ H. The director may adopt rules to exempt transactions involving
37 nonmaterial amounts from the notice requirements of this section.

38 Sec. 10. Section 20-481.13, Arizona Revised Statutes, is amended to
39 read:

40 20-481.13. Material changes; amended statement; time; reporting
41 of dividends

42 A. Each registered insurer shall keep current the information required
43 to be disclosed in its registration statement by reporting all material
44 changes or additions on amendment forms provided by the director within
45 fifteen days after the end of each ~~calendar year~~ MONTH in which it learns of
46 each such change or addition.

1 B. Subject to ~~the provisions of~~ section 20-481.19, each registered
2 insurer shall report to the director all dividends and other distributions to
3 shareholders within ~~fifteen~~ FIVE business days following the declaration AND
4 AT LEAST TEN BUSINESS DAYS BEFORE PAYMENT OF THE DIVIDEND OR DISTRIBUTION.

5 C. The director may adopt rules ~~which~~ THAT provide for an extension of
6 the reporting times prescribed in subsections A and B of this section.

7 Sec. 11. Section 20-481.18, Arizona Revised Statutes, is amended to
8 read:

9 20-481.18. Disclaimer of affiliation or control; contents;
10 effect on duty to register

11 A. Any person may file with the director a disclaimer of affiliation
12 or control with any authorized insurer or such a disclaimer may be filed by
13 such insurer or any member of an insurance holding company system.

14 B. The disclaimer shall fully disclose all material relationships and
15 bases for affiliation or control between such person and such insurer as well
16 as the basis for disclaiming such affiliation or control.

17 ~~C. After a disclaimer has been filed, the insurer shall be relieved of~~
18 ~~any duty to register or report under any of the provisions of this act,~~
19 ~~unless and until the director disallows such a disclaimer.~~

20 ~~D. The director shall disallow such a disclaimer only after furnishing~~
21 ~~all parties in interest with notice and opportunity to be heard and after~~
22 ~~making specific findings of fact to support such disallowance.~~

23 C. A DISCLAIMER OF AFFILIATION SHALL BE DEEMED TO HAVE BEEN APPROVED
24 UNLESS THE DIRECTOR WITHIN THIRTY DAYS FOLLOWING RECEIPT OF A COMPLETE
25 DISCLAIMER NOTIFIES THE FILING PARTY THAT THE DISCLAIMER IS DISALLOWED. IF
26 THE DIRECTOR DISALLOWS THE DISCLAIMER, THE DISCLAIMING PARTY MAY REQUEST AN
27 ADMINISTRATIVE HEARING, WHICH SHALL BE GRANTED. THE DISCLAIMING PARTY IS NOT
28 REQUIRED TO REGISTER UNDER THIS SECTION IF THE DIRECTOR APPROVES THE
29 DISCLAIMER OR IF THE DISCLAIMER IS DEEMED TO HAVE BEEN APPROVED.

30 Sec. 12. Section 20-481.19, Arizona Revised Statutes, is amended to
31 read:

32 20-481.19. Extraordinary dividend or distribution; time;
33 notice; approval by director; definition

34 A. No insurer subject to registration under section 20-481.09 shall
35 pay an extraordinary dividend or make any other extraordinary distribution to
36 its shareholders until thirty days after the director has received notice of
37 the declaration thereof and has not within such period disapproved such
38 payment, or the director shall have approved such payment. Notice of the
39 declaration shall be provided to the director no more than five business days
40 after the declaration.

41 ~~C.~~ B. Notwithstanding any other law ~~to the contrary~~, an insurer may
42 declare an extraordinary dividend or distribution ~~which~~ THAT is conditional
43 ~~upon~~ ON the approval of the director, and such a declaration shall confer no
44 rights ~~upon~~ ON shareholders until the director has either approved the
45 payment of such dividend or distribution or has not disapproved such payment
46 within thirty days after the notice of such declaration has been received.

1 ~~B-~~ C. For the purposes of this section, ~~an~~ "extraordinary dividend or
2 distribution" includes any dividend or distribution of cash or other property
3 whose fair market value together with that of other dividends or
4 distributions made within the preceding twelve months exceeds the ~~greater~~
5 ~~LESSER~~ of either ten per cent of such insurer's surplus as regards
6 policyholders as of December 31 next preceding, or the net gain from
7 operations of such insurer, if such insurer is a life insurer, or the net
8 income, if such insurer is not a life insurer, for the twelve month period
9 ending December 31 next preceding, but shall not include pro rata
10 distributions of any class of the insurer's own securities.

11 Sec. 13. Section 20-481.20, Arizona Revised Statutes, is amended to
12 read:

13 20-481.20. Examination of registered insurers; powers; limits;
14 expense

15 A. In addition to the powers ~~which~~ THAT the director has under
16 sections 20-156 to 20-160, inclusive, relating to the examination of
17 insurers, the director shall also have the power to ~~order any insurer~~
18 ~~registered under section 20-481.09 to produce such records, books or other~~
19 ~~information papers in the possession of the insurer or its affiliates insofar~~
20 ~~as the records, books or other information papers relate to transactions~~
21 ~~between the affiliates and such insurer. If such insurer fails to comply~~
22 ~~with such order, the director shall have the power to examine records, books~~
23 ~~or other information papers in the possession of any affiliate of the insurer~~
24 ~~insofar as such records, books or other information papers in the possession~~
25 ~~of any affiliate relate to any transactions between or among the insurer and~~
26 ~~any of its affiliates.~~ EXAMINE ANY INSURER REGISTERED UNDER SECTION 20-481.09
27 AND ITS AFFILIATES TO ASCERTAIN THE FINANCIAL CONDITION OF THE INSURER,
28 INCLUDING THE ENTERPRISE RISK TO THE INSURER BY THE ULTIMATE CONTROLLING
29 PARTY OR BY ANY ENTITY OR COMBINATION OF ENTITIES WITHIN THE INSURANCE
30 HOLDING COMPANY SYSTEM OR BY THE INSURANCE HOLDING COMPANY SYSTEM ON A
31 CONSOLIDATED BASIS.

32 B. TO DETERMINE COMPLIANCE WITH THIS ARTICLE, THE DIRECTOR MAY ORDER
33 ANY INSURER REGISTERED UNDER SECTION 20-481.09 TO PRODUCE:

34 1. ALL RECORDS, BOOKS OR OTHER INFORMATION PAPERS IN THE POSSESSION OF
35 THE INSURER OR ITS AFFILIATES INSOFAR AS THE RECORDS, BOOKS OR OTHER
36 INFORMATION PAPERS IN THE POSSESSION OF ANY AFFILIATE RELATE TO ANY
37 TRANSACTIONS BETWEEN OR AMONG THE INSURER AND ANY OF ITS AFFILIATES.

38 2. INFORMATION NOT IN THE POSSESSION OF THE INSURER IF THE INSURER HAS
39 THE RIGHT TO ACCESS THE INFORMATION PURSUANT TO CONTRACTUAL RELATIONSHIPS,
40 STATUTORY OBLIGATIONS OR ANY OTHER METHOD.

41 C. IF THE INSURER CANNOT OBTAIN THE INFORMATION REQUESTED UNDER
42 SUBSECTION B OF THIS SECTION, THE INSURER SHALL PROVIDE THE DIRECTOR WITH A
43 DETAILED EXPLANATION OF THE REASON THAT THE INSURER CANNOT OBTAIN THE
44 INFORMATION AND THE IDENTITY OF THE HOLDER OF THE INFORMATION. IF THE
45 DIRECTOR DETERMINES THAT THE DETAILED EXPLANATION IS WITHOUT MERIT, THE
46 DIRECTOR, AFTER NOTICE AND A HEARING PURSUANT TO SECTION 20-161, MAY ORDER

1 THAT THE INSURER PAY A PENALTY OF NOT MORE THAN TWO HUNDRED DOLLARS FOR EACH
2 DAY'S DELAY OR THAT THE INSURER'S CERTIFICATE OF AUTHORITY BE SUSPENDED OR
3 REVOKED.

4 ~~B.~~ D. The director shall exercise his examination power under
5 subsection A of this section only if the examination of the insurer under
6 sections 20-156 ~~to~~ THROUGH 20-160, inclusive, is inadequate or the interests
7 of the policyholders of such insurer may be adversely affected.

8 ~~C.~~ E. Each registered insurer shall be liable for and shall pay the
9 expenses of such examination in accordance with section 20-159.

10 F. IF AN INSURER FAILS TO COMPLY WITH AN ORDER UNDER SUBSECTION C OF
11 THIS SECTION, THE DIRECTOR MAY EXAMINE RECORDS, BOOKS OR OTHER INFORMATION
12 PAPERS IN THE POSSESSION OF ANY AFFILIATE OF THE INSURER INsofar AS SUCH
13 RECORDS, BOOKS OR OTHER INFORMATION PAPERS IN THE POSSESSION OF ANY AFFILIATE
14 RELATE TO ANY TRANSACTIONS BETWEEN OR AMONG THE INSURER AND ANY OF ITS
15 AFFILIATES. THE DIRECTOR MAY ALSO ISSUE SUBPOENAS, ADMINISTER OATHS AND
16 EXAMINE UNDER OATH ANY PERSON FOR PURPOSES OF DETERMINING COMPLIANCE WITH
17 THIS SECTION. IF A PERSON FAILS OR REFUSES TO OBEY A SUBPOENA, THE DIRECTOR
18 MAY PETITION A COURT OF COMPETENT JURISDICTION SEEKING RELIEF FROM THE COURT.
19 THE COURT MAY ENTER AN ORDER COMPELLING THE WITNESS TO APPEAR AND TESTIFY OR
20 PRODUCE DOCUMENTARY EVIDENCE. EACH WITNESS IS ENTITLED TO THE SAME FEES AND
21 MILEAGE, IF CLAIMED, AS IF THE PERSON WAS A WITNESS IN SUPERIOR COURT
22 PURSUANT TO SECTION 12-303 AND THE COSTS OF THOSE FEES AND MILEAGE AND ANY
23 ACTUAL EXPENSE NECESSARILY INCURRED IN SECURING THE ATTENDANCE OF WITNESSES
24 SHALL BE ITEMIZED AND CHARGED AGAINST AND PAID BY THE COMPANY BEING EXAMINED.

25 Sec. 14. Section 20-481.21, Arizona Revised Statutes, is amended to
26 read:

27 20-481.21. Confidential records; consent to release; release
28 without consent; information sharing

29 A. All documents, materials or other information that is in the
30 possession or control of the department and that is obtained by or disclosed
31 to the director or any other person in the course of a filing, an examination
32 or an investigation made pursuant to sections 20-481.03, 20-481.10,
33 20-481.12, 20-481.19 and 20-481.20 is confidential and privileged, is not
34 subject to title 39, chapter 1, article 2, ~~and~~ is not subject to subpoena **AND**
35 **SHALL NOT BE SUBJECT TO DISCOVERY OR ADMISSIBLE AS EVIDENCE IN A PRIVATE**
36 **CIVIL ACTION.** The director may use the documents, materials or other
37 information in the furtherance of any regulatory or legal action brought as a
38 part of the director's official duties. The director shall not make the
39 documents, materials or other information public without the prior written
40 consent of the insurer to which it pertains unless the director determines,
41 after giving the insurer and its affiliates who would be affected by the
42 publication notice and an opportunity to be heard, that the interests of
43 policyholders, shareholders or the public will be served by the publication.
44 The director may then publish all or any part of the documents, materials or
45 other information as the director deems appropriate.

46 B. The director may:

1 1. Share nonpublic documents, materials or other information with
2 other state, federal and international regulatory agencies, with the national
3 association of insurance commissioners and its affiliates and subsidiaries
4 and with state, federal and international law enforcement authorities,
5 INCLUDING MEMBERS OF ANY SUPERVISORY COLLEGE DESCRIBED IN SECTION 20-481.31,
6 if the recipient agrees and warrants that it has the authority to maintain
7 the confidentiality and privileged status of the documents, materials or
8 other information AND HAS VERIFIED IN WRITING THE LEGAL AUTHORITY TO MAINTAIN
9 CONFIDENTIALITY.

10 2. Receive documents, materials and other information from the
11 national association of insurance commissioners and its affiliates and
12 subsidiaries and from regulatory and law enforcement officials of other
13 jurisdictions and shall maintain as confidential or privileged any document,
14 material or other information received with notice or the understanding that
15 it is confidential or privileged under the laws of the jurisdiction that is
16 the source of the document, material or other information.

17 ~~3. Enter into agreements that govern the sharing and use of documents,~~
18 ~~materials and other information and that are consistent with this section.~~

19 C. THE DIRECTOR SHALL ENTER INTO WRITTEN AGREEMENTS WITH THE NATIONAL
20 ASSOCIATION OF INSURANCE COMMISSIONERS THAT GOVERN THE SHARING AND USE OF
21 INFORMATION PROVIDED PURSUANT TO THIS ARTICLE AND THAT ARE CONSISTENT WITH
22 THIS SECTION AND THAT DO ALL OF THE FOLLOWING:

23 1. SPECIFY PROCEDURES AND PROTOCOLS REGARDING THE CONFIDENTIALITY AND
24 SECURITY OF INFORMATION SHARED WITH THE NATIONAL ASSOCIATION OF INSURANCE
25 COMMISSIONERS AND ITS AFFILIATES AND SUBSIDIARIES PURSUANT TO THIS ARTICLE,
26 INCLUDING PROCEDURES AND PROTOCOLS FOR SHARING INFORMATION BY THE NATIONAL
27 ASSOCIATION OF INSURANCE COMMISSIONERS WITH OTHER STATE, FEDERAL OR
28 INTERNATIONAL REGULATORS.

29 2. SPECIFY THAT THE DIRECTOR HAS OWNERSHIP OF ALL INFORMATION SHARED
30 WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS AFFILIATES
31 AND SUBSIDIARIES PURSUANT TO THIS ARTICLE AND THE NATIONAL ASSOCIATION OF
32 INSURANCE COMMISSIONERS' USE OF THE INFORMATION IS SUBJECT TO THE DIRECTION
33 OF THE DIRECTOR.

34 3. REQUIRE PROMPT NOTICE TO BE GIVEN TO AN INSURER WHOSE CONFIDENTIAL
35 INFORMATION IN THE POSSESSION OF THE NATIONAL ASSOCIATION OF INSURANCE
36 COMMISSIONERS OR ITS AFFILIATES OR SUBSIDIARIES PURSUANT TO THIS ARTICLE IS
37 SUBJECT TO A REQUEST OR SUBPOENA TO THE NATIONAL ASSOCIATION OF INSURANCE
38 COMMISSIONERS OR ITS AFFILIATES OR SUBSIDIARIES FOR DISCLOSURE OR PRODUCTION.

39 4. REQUIRE THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS
40 AFFILIATES AND SUBSIDIARIES TO CONSENT TO INTERVENTION BY AN INSURER IN ANY
41 JUDICIAL OR ADMINISTRATIVE ACTION IN WHICH THE NATIONAL ASSOCIATION OF
42 INSURANCE COMMISSIONERS AND ITS AFFILIATES AND SUBSIDIARIES MAY BE REQUIRED
43 TO DISCLOSE CONFIDENTIAL INFORMATION ABOUT THE INSURER SHARED WITH THE
44 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS AFFILIATES AND
45 SUBSIDIARIES PURSUANT TO THIS ARTICLE.

1 D. NOTWITHSTANDING SUBSECTION B, PARAGRAPH 1 OF THIS SECTION, THE
2 DIRECTOR MAY SHARE CONFIDENTIAL AND PRIVILEGED DOCUMENTS, MATERIAL OR
3 INFORMATION REPORTED PURSUANT TO SECTION 20-481.10, SUBSECTION D ONLY WITH
4 THE DIRECTORS OR COMMISSIONERS OF INSURANCE OF OTHER STATES HAVING STATUTES
5 OR REGULATIONS SUBSTANTIALLY SIMILAR TO SUBSECTION A OF THIS SECTION AND WHO
6 HAVE AGREED IN WRITING NOT TO DISCLOSE SUCH INFORMATION. THE SHARING OF
7 INFORMATION BY THE DIRECTOR PURSUANT TO THIS ARTICLE DOES NOT CONSTITUTE A
8 DELEGATION OF REGULATORY AUTHORITY BY THE DIRECTOR AND THE DIRECTOR IS SOLELY
9 RESPONSIBLE FOR THE ADMINISTRATION, EXECUTION AND ENFORCEMENT OF THIS
10 ARTICLE.

11 ~~C.~~ E. A disclosure to or by the director pursuant to this section or
12 as a result of sharing information pursuant to subsection B of this section
13 is not a waiver of any applicable privilege or claim of confidentiality in
14 the documents, materials or other information disclosed or shared.

15 F. DOCUMENTS, MATERIALS OR OTHER INFORMATION IN THE POSSESSION OR
16 CONTROL OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR ITS
17 AFFILIATES OR SUBSIDIARIES PURSUANT TO THIS ARTICLE IS CONFIDENTIAL BY LAW
18 AND PRIVILEGED, IS NOT SUBJECT TO TITLE 39, CHAPTER 1, ARTICLE 2, IS NOT
19 SUBJECT TO SUBPOENA AND IS NOT SUBJECT TO DISCOVERY OR ADMISSIBLE IN EVIDENCE
20 IN ANY PRIVATE CIVIL ACTION.

21 Sec. 15. Section 20-481.23, Arizona Revised Statutes, is amended to
22 read:

23 20-481.23. Violations

24 The following acts or omissions shall be deemed to be violations of
25 this article:

26 1. The intentional failure to file or make any statement, amendment or
27 other material required to be filed pursuant to sections 20-481.02, 20-
28 481.03, 20.481.04 and 20-481.05.

29 2. The ~~consummation of a tender offer or request or invitation for~~
30 ~~tenders which~~ EFFECTUATION OR ANY ATTEMPT TO EFFECTUATE AN ACQUISITION OF
31 CONTROL OF, DIVESTITURE OF OR MERGER WITH A DOMESTIC INSURER THAT is subject
32 to ~~the provisions of~~ section 20-481.02 without the required approval of the
33 director pursuant to section 20-481.07.

34 3. The intentional failure to file a registration statement or any
35 amendment thereto required by this article within the time specified for such
36 filing.

37 4. The payment of a dividend in violation of section 20-481.19.

38 Sec. 16. Section 20-481.25, Arizona Revised Statutes, is amended to
39 read:

40 20-481.25. Acquisitions involving insurers not otherwise
41 covered; anticompetitive considerations; civil
42 penalty; definitions

43 A. Except as provided in subsection B of this section, this section
44 applies to any acquisition in which there is a change in control of an
45 insurer authorized to do business in this state.

1 B. This section does not apply to the following, except as provided
2 under subsections C and D of this section:

3 ~~1. An acquisition otherwise subject to approval or disapproval by the~~
4 ~~director pursuant to this article.~~

5 ~~2.~~ 1. A purchase of securities solely for investment purposes as long
6 as the securities are not used by voting or otherwise to cause or attempt to
7 cause the substantial lessening of competition in any insurance market in
8 this state. If a purchase of securities results in a presumption of control
9 ~~under~~ AS DEFINED IN section 20-481, the purchase of securities is not solely
10 for investment purposes unless the director of insurance of the insurer's
11 state of domicile accepts a disclaimer of control or affirmatively finds that
12 control does not exist and the disclaimer action or affirmative finding is
13 communicated by the domiciliary insurance director to the director of
14 insurance of this state.

15 ~~3.~~ 2. The acquisition of a person by another person if both persons
16 are neither directly nor through affiliates primarily engaged in the business
17 of insurance and if preacquisition notification is filed with the director
18 pursuant to subsection C of this section thirty days before the proposed
19 effective date of the acquisition. Preacquisition notification is not
20 required if the acquisition would otherwise be excluded from this section by
21 any other provision of this subsection.

22 ~~4.~~ 3. The acquisition of already affiliated persons.

23 ~~5.~~ 4. If, as an immediate result of an acquisition, the combined
24 market share of the involved insurers in any market would not exceed five per
25 cent of the total market, there would not be an increase in any market share
26 or the combined market share of the involved insurers in any market would not
27 exceed twelve per cent of the total market and the market share increases by
28 more than two per cent of the total market. For the purposes of this
29 paragraph, "market" means direct written insurance premiums in this state for
30 a line of business as contained in the annual statement required to be filed
31 by insurers licensed to do business in this state.

32 ~~6.~~ 5. An acquisition for which a preacquisition notification is
33 required pursuant to this section because of the resulting effect on the
34 ocean marine insurance line of business.

35 ~~7.~~ 6. An acquisition of an insurer whose domiciliary director of
36 insurance finds that the insurer is failing, that there is no feasible
37 alternative to improve the insurer's condition and that the public benefits
38 that would result from improving the insurer's condition through the
39 acquisition exceed the public benefits that would result from not lessening
40 competition and the domiciliary director of insurance communicates these
41 findings to the director of insurance of this state.

42 C. An acquisition under subsection B of this section may be subject to
43 an order pursuant to subsection F of this section unless the acquiring person
44 files a preacquisition notification and the waiting period has expired. The
45 acquired person may file a preacquisition notification. Information submitted
46 under this subsection is confidential. The preacquisition notification shall

1 be in a form and contain the information that is prescribed by the national
2 association of insurance commissioners relating to those markets ~~which~~ THAT
3 are not exempt from the provisions of this section. The director may require
4 additional material and information that the director deems necessary in
5 order to determine if the proposed acquisition, if consummated, would lessen
6 competition or tend to create a monopoly. The information may include an
7 economist's opinion on the competitive impact of the acquisition in this
8 state and a summary of the economist's education and experience that
9 indicates the ~~director's~~ ECONOMIST'S ability to render an informed opinion.
10 The waiting period begins on the date the director receives a preacquisition
11 notification and ends thirty days after the date of receipt or on termination
12 of the waiting period by the director, whichever is earlier. Before the
13 waiting period ends, the director on a one-time basis may require the
14 submission of additional information that is relevant to the proposed
15 acquisition. The waiting period shall end thirty days after the director
16 receives the additional information or terminates the waiting period,
17 whichever is earlier.

18 D. No acquisition subject to the provisions of this section shall
19 substantially lessen competition in any line of insurance in this state or
20 tend to create a monopoly. The director may enter a cease and desist order
21 under subsection F of this section if there is substantial evidence that the
22 effect of the acquisition may be to substantially lessen competition in any
23 line of insurance in this state or may tend to create a monopoly or if the
24 insurer fails to file adequate information pursuant to subsection C of this
25 section. The director has the burden of showing prima facie evidence of a
26 violation of this subsection. In determining if a proposed acquisition would
27 lessen competition or tend to create a monopoly, the director shall consider
28 the following:

29 1. An acquisition covered under subsection B of this section that
30 involves two or more insurers competing in the same market is prima facie
31 evidence of a violation of this subsection if:

32 (a) The market is highly concentrated and the involved insurers
33 possess the following market shares:

	<u>Insurer A</u>	<u>Insurer B</u>
34		
35	(i) four per cent	four per cent or more
36	(ii) ten per cent	two per cent or more
37	(iii) fifteen per cent	one per cent or more

38 (b) The market is not highly concentrated and the involved insurers
39 possess the following market shares:

	<u>Insurer A</u>	<u>Insurer B</u>
40		
41	(i) five per cent	five per cent or more
42	(ii) ten per cent	four per cent or more
43	(iii) fifteen per cent	three per cent or more
44	(iv) nineteen per cent	one per cent or more

45 A highly concentrated market is a market in which the share of the four
46 largest insurers is seventy-five per cent or more of the market. Percentages

1 not shown in the tables are interpolated proportionately to the percentages
2 that are shown. If more than two insurers are involved, exceeding the total
3 of the two columns in the table is prima facie evidence of a violation of
4 this subsection. For the purposes of this paragraph, the insurer with the
5 largest market share is deemed to be insurer A.

6 2. A significant trend toward increased concentration exists if the
7 aggregate market share of any grouping of the largest insurers in the market,
8 from the two largest to the eight largest, has increased by seven per cent or
9 more of the market over a period of time that extends from a base year five
10 to ten years before the acquisition up to the time of the acquisition. Any
11 acquisition or merger under subsection B of this section that involves two or
12 more insurers competing in the same market is prima facie evidence of a
13 violation of this subsection if:

14 (a) There is a significant trend toward increased concentration in the
15 market.

16 (b) One of the insurers involved is one of the insurers in a grouping
17 of large insurers whose market share has increased by seven per cent or more.

18 (c) Another involved insurer's market is two per cent or more.

19 E. If an acquisition is not prima facie evidence of a violation of
20 subsection D of this section, the director may establish the requisite
21 anticompetitive effect based on other substantial evidence. If an
22 acquisition is prima facie evidence of a violation of subsection D of this
23 section, a party may establish the absence of the requisite anticompetitive
24 effect based on other substantial evidence. Relevant factors in making a
25 determination under this subsection include market shares, volatility of
26 ranking of market leaders, number of competitors, concentration, trend of
27 concentration in the industry and ease of entry into and exit from the
28 market.

29 F. If an acquisition violates this section, the director may enter an
30 order:

31 1. Requiring an involved insurer to cease and desist from doing
32 business in this state with respect to the line or lines of insurance
33 involved in the violation.

34 2. Denying the application of an acquired or acquiring insurer for a
35 license to do business in this state.

36 G. The director shall not enter an order pursuant to subsection F of
37 this section unless a hearing is held and notice of the hearing is issued
38 before the end of the waiting period prescribed in subsection C of this
39 section and not less than fifteen days before the hearing. The hearing shall
40 be concluded and the order shall be issued no later than sixty days after the
41 end of the waiting period. The director shall include with each order a
42 written decision setting forth the director's findings of fact and
43 conclusions of law. The order does not become final earlier than thirty days
44 after it is issued. Before the order becomes final the involved insurer may
45 submit a plan to remedy within a reasonable time the anticompetitive impact
46 of the acquisition. Based on the submitted plan or other information, the

1 director shall specify the conditions, if any, that would remedy the aspects
2 of the acquisition causing the violation and shall vacate or modify the
3 order. An order does not apply if the acquisition is not consummated.

4 H. An order shall not be entered under subsection F of this section
5 if:

6 1. The acquisition will yield substantial economies of scale or
7 economies in resource utilization that cannot be achieved feasibly in any
8 other way and the public benefits that would arise from the economies exceed
9 the public benefits that would arise from not lessening competition.

10 2. The acquisition will increase substantially the availability of
11 insurance and the public benefits of the increase exceed the public benefits
12 that would arise from not lessening competition.

13 I. The director, after notice and a hearing, may impose one or more of
14 the following civil penalties against a person who violates a cease and
15 desist order that is in effect:

16 1. Up to and including ten thousand dollars for every day of
17 violation.

18 2. Suspension or revocation of the person's license.

19 J. An insurer or other person who fails to make a filing required by
20 this section and who fails to demonstrate a good faith effort to comply with
21 the filing requirement is subject to a civil penalty of not more than fifty
22 thousand dollars.

23 K. FOR THE PURPOSES OF SUBSECTION D OF THIS SECTION:

24 1. "INSURER" MEANS A COMPANY OR GROUP OF COMPANIES UNDER COMMON
25 MANAGEMENT, OWNERSHIP OR CONTROL.

26 2. "MARKET" MEANS THE RELEVANT PRODUCT AND GEOGRAPHICAL MARKETS. IN
27 DETERMINING THE RELEVANT PRODUCT AND GEOGRAPHICAL MARKETS, THE DIRECTOR SHALL
28 CONSIDER THE DEFINITIONS OR GUIDELINES ADOPTED BY THE NATIONAL ASSOCIATION OF
29 INSURANCE COMMISSIONERS AND TO INFORMATION SUBMITTED BY THE PARTIES TO THE
30 ACQUISITION. IN THE ABSENCE OF SUFFICIENT INFORMATION TO THE CONTRARY, THE
31 RELEVANT PRODUCT MARKET IS ASSUMED TO BE THE DIRECT WRITTEN INSURANCE PREMIUM
32 FOR A LINE OF BUSINESS THAT IS USED IN THE ANNUAL STATEMENT REQUIRED TO BE
33 FILED BY INSURERS DOING BUSINESS IN THIS STATE. THE RELEVANT GEOGRAPHICAL
34 MARKET IS THIS STATE.

35 ~~K.~~ L. For the purposes of this section:

36 1. "Acquisition" means any agreement, arrangement or activity that
37 results in a person acquiring directly or indirectly the control of another
38 person, including the acquisition of voting securities, assets, bulk
39 reinsurance and mergers.

40 ~~2. "Insurer" means a company or group of companies under common
41 management, ownership or control.~~

42 ~~3.~~ 2. "Involved insurer" means an insurer that acquires or is
43 acquired, is affiliated with an acquirer or acquired or is the result of a
44 merger.

45 ~~4. "Market" means the relevant product and geographical markets. In
46 determining the relevant product and geographical markets, the director shall~~

~~1 give due consideration to the definitions or guidelines, if any, adopted by
2 the national association of insurance commissioners and to information, if
3 any, submitted by the parties to the acquisition. In the absence of
4 sufficient information to the contrary, the relevant product market is
5 assumed to be the direct written insurance premium for a line of business
6 that is used in the annual statement required to be filed by insurers doing
7 business in this state. The relevant geographical market is this state.~~

8 Sec. 17. Section 20-481.26, Arizona Revised Statutes, is amended to
9 read:

10 20-481.26. Penalties; cease and desist order; violation;
11 classification

12 A. An insurer failing to file without just cause a registration
13 statement required by this article after notice and a hearing shall pay a
14 penalty of two hundred fifty dollars for each day's delay in filing, not to
15 exceed fifty thousand dollars. The director may reduce the penalty if the
16 insurer demonstrates that the imposition of the penalty would constitute a
17 financial hardship to the insurer. The director shall deposit, pursuant to
18 sections 35-146 and 35-147, the penalties collected in the state general
19 fund.

20 B. Every director or officer of an insurance holding company system
21 who knowingly violates, participates in, assents to or permits an officer or
22 agent of the insurer to engage in transactions or make investments that have
23 not been properly reported or submitted pursuant to section 20-481.02,
24 20-481.05 or 20-481.09 or who violates this article in his individual
25 capacity after notice and a hearing shall pay a civil penalty of not more
26 than ten thousand dollars for each violation. In determining the amount of
27 the civil penalty, the director shall consider the appropriateness of the
28 penalty with respect to the gravity of the violation, the history of previous
29 violations and other matters as justice may require.

30 C. If it appears to the director that an insurer subject to this
31 article or a director, officer, employee or agent of the insurer has engaged
32 in a transaction or entered into a contract that is subject to this article
33 and that would not have been approved had such approval been requested, the
34 director may order the insurer to cease and desist immediately any further
35 activity under that transaction or contract. After notice and a hearing the
36 director also may order the insurer to void the contract and restore the
37 status quo if that action is in the best interest of the policyholders, the
38 creditors or the public.

39 D. A knowing violation of this article is a class 1 misdemeanor.
40 Notwithstanding any other law, an insurer that wilfully violates this article
41 may be fined not more than fifty thousand dollars or an individual who
42 wilfully violates this article may be fined in his individual capacity not
43 more than ten thousand dollars.

44 E. An officer, director or employee of an insurance holding company
45 system who wilfully and knowingly subscribes to or makes or causes to be made
46 any false statements, reports or filings with the intent to deceive the

1 director in the performance of his duties under this article is guilty of a
2 class 6 felony. No insurance holding company system shall pay a fine on
3 behalf of an officer, director or employee found guilty under this
4 subsection.

5 F. WHENEVER IT APPEARS TO THE DIRECTOR THAT ANY PERSON HAS COMMITTED A
6 VIOLATION OF SECTION 20-481.02 AND THAT VIOLATION PREVENTS A FULL
7 UNDERSTANDING BY THE DIRECTOR OF THE ENTERPRISE RISK TO THE INSURER BY
8 AFFILIATES OR BY THE INSURANCE HOLDING COMPANY SYSTEM, THE VIOLATION MAY
9 SERVE AS AN INDEPENDENT BASIS FOR DISAPPROVING DIVIDENDS OR DISTRIBUTIONS AND
10 FOR PLACING THE INSURER UNDER AN ORDER OF SUPERVISION IN ACCORDANCE SECTION
11 20-169.

12 Sec. 18. Title 20, chapter 2, article 8, Arizona Revised Statutes, is
13 amended by adding sections 20-481.31 and 20-481.32, to read:

14 20-481.31. Supervisory colleges

15 A. WITH RESPECT TO ANY INSURER REGISTERED UNDER SECTION 20-481.09 AND
16 IN ACCORDANCE WITH SUBSECTION C OF THIS SECTION, IN ORDER TO DETERMINE
17 COMPLIANCE BY THE INSURER WITH THIS TITLE, THE DIRECTOR MAY PARTICIPATE IN A
18 SUPERVISORY COLLEGE FOR ANY DOMESTIC INSURER THAT IS PART OF AN INSURANCE
19 HOLDING COMPANY SYSTEM WITH INTERNATIONAL OPERATIONS. THE DIRECTOR, WITH
20 RESPECT TO SUPERVISORY COLLEGES, MAY:

21 1. INITIATE THE ESTABLISHMENT OF A SUPERVISORY COLLEGE.

22 2. CLARIFY THE MEMBERSHIP AND PARTICIPATION OF OTHER SUPERVISORS IN
23 THE SUPERVISORY COLLEGE.

24 3. CLARIFY THE FUNCTIONS OF THE SUPERVISORY COLLEGE AND THE ROLE OF
25 OTHER REGULATORS, INCLUDING THE ESTABLISHMENT OF A GROUP WIDE SUPERVISOR.

26 4. COORDINATE THE ONGOING ACTIVITIES OF THE SUPERVISORY COLLEGE,
27 INCLUDING PLANNING MEETINGS, SUPERVISORY ACTIVITIES AND PROCESSES FOR
28 INFORMATION SHARING.

29 5. ESTABLISH A CRISIS MANAGEMENT PLAN.

30 B. EACH REGISTERED INSURER SUBJECT TO THIS SECTION SHALL BE LIABLE FOR
31 AND SHALL PAY THE REASONABLE EXPENSES OF THE DIRECTOR'S PARTICIPATION IN A
32 SUPERVISORY COLLEGE IN ACCORDANCE WITH SUBSECTION C OF THIS SECTION,
33 INCLUDING REASONABLE TRAVEL EXPENSES. THE DIRECTOR MAY ESTABLISH A REGULAR
34 ASSESSMENT TO THE INSURER FOR THE PAYMENT OF THESE EXPENSES. FOR THE
35 PURPOSES OF THIS SECTION, A SUPERVISORY COLLEGE MAY BE CONVENED AS EITHER A
36 TEMPORARY OR PERMANENT FORUM FOR COMMUNICATION AND COOPERATION BETWEEN THE
37 REGULATORS CHARGED WITH THE SUPERVISION OF THE INSURER OR ITS AFFILIATES.

38 C. THE DIRECTOR MAY PARTICIPATE IN A SUPERVISORY COLLEGE WITH OTHER
39 REGULATORS CHARGED WITH SUPERVISION OF THE INSURER OR ITS AFFILIATES,
40 INCLUDING OTHER STATE, FEDERAL AND INTERNATIONAL REGULATORY AGENCIES. IN
41 ORDER TO ASSESS THE BUSINESS STRATEGY, FINANCIAL POSITION, LEGAL AND
42 REGULATORY POSITION, RISK EXPOSURE, RISK MANAGEMENT AND GOVERNANCE PROCESSES,
43 AND AS PART OF THE EXAMINATION OF INDIVIDUAL INSURERS IN ACCORDANCE WITH
44 SECTION 20-481.20, THE DIRECTOR MAY ENTER INTO AGREEMENTS IN COMPLIANCE WITH
45 SECTION 20-481.21 PROVIDING THE BASIS FOR COOPERATION BETWEEN THE DIRECTOR
46 AND THE OTHER REGULATORY AGENCIES AND THE ACTIVITIES OF THE SUPERVISORY

1 COLLEGE. THIS SECTION DOES NOT DELEGATE TO THE SUPERVISORY COLLEGE THE
2 AUTHORITY OF THE DIRECTOR TO REGULATE OR SUPERVISE THE INSURER OR ITS
3 AFFILIATES WITHIN ITS JURISDICTION.

4 20-481.32. Management of domestic insurers subject to
5 registration

6 A. NOTWITHSTANDING THE CONTROL OF A DOMESTIC INSURER BY ANY PERSON,
7 THE OFFICERS AND DIRECTORS OF AN INSURER MAY NOT BE RELIEVED OF ANY
8 OBLIGATION OR LIABILITY TO WHICH THEY ARE SUBJECT BY LAW AND THE INSURER
9 SHALL BE MANAGED SO AS TO ASSURE ITS SEPARATE OPERATING IDENTITY CONSISTENT
10 WITH THIS ARTICLE.

11 B. THIS SECTION DOES NOT PRECLUDE A DOMESTIC INSURER FROM HAVING OR
12 SHARING A COMMON MANAGEMENT OR THE COOPERATIVE OR JOINT USE OF PERSONNEL,
13 PROPERTY OR SERVICES WITH ONE OR MORE OTHER PERSONS UNDER ARRANGEMENTS
14 MEETING THE STANDARDS OF SECTION 20-481.12.

15 C. AT LEAST ONE-THIRD OF THE DIRECTORS OF A DOMESTIC INSURER AND AT
16 LEAST ONE-THIRD OF THE MEMBERS OF EACH COMMITTEE OF THE BOARD OF DIRECTORS OF
17 ANY DOMESTIC INSURER MUST BE COMPOSED OF PERSONS WHO ARE NOT OFFICERS OR
18 EMPLOYEES OF THE INSURER OR OF ANY ENTITY CONTROLLING, CONTROLLED BY OR UNDER
19 COMMON CONTROL WITH THE INSURER AND WHO ARE NOT BENEFICIAL OWNERS OF A
20 CONTROLLING INTEREST IN THE VOTING STOCK OF THE INSURER OR ENTITY. AT LEAST
21 ONE PERSON MUST BE INCLUDED IN ANY QUORUM FOR THE TRANSACTION OF BUSINESS AT
22 ANY MEETING OF THE BOARD OF DIRECTORS OR ANY COMMITTEE.

23 D. THE BOARD OF DIRECTORS OF A DOMESTIC INSURER SHALL ESTABLISH ONE OR
24 MORE COMMITTEES COMPOSED SOLELY OF DIRECTORS WHO ARE NOT OFFICERS OR
25 EMPLOYEES OF THE INSURER OR OF ANY ENTITY CONTROLLING, CONTROLLED BY OR UNDER
26 COMMON CONTROL WITH THE INSURER AND WHO ARE NOT BENEFICIAL OWNERS OF A
27 CONTROLLING INTEREST IN THE VOTING STOCK OF THE INSURER OR ANY SUCH ENTITY.
28 THE COMMITTEE OR COMMITTEES SHALL HAVE RESPONSIBILITY FOR NOMINATING
29 CANDIDATES FOR DIRECTOR FOR ELECTION BY SHAREHOLDERS OR POLICYHOLDERS,
30 EVALUATING THE PERFORMANCE OF OFFICERS DEEMED TO BE PRINCIPAL OFFICERS OF THE
31 INSURER AND RECOMMENDING TO THE BOARD OF DIRECTORS THE SELECTION AND
32 COMPENSATION OF THE PRINCIPAL OFFICERS.

33 E. SUBSECTIONS C AND D OF THIS SECTION DO NOT APPLY TO A DOMESTIC
34 INSURER IF THE PERSON CONTROLLING THE INSURER, INCLUDING AN INSURER, A MUTUAL
35 INSURANCE HOLDING COMPANY OR A PUBLICLY HELD CORPORATION, HAS A BOARD OF
36 DIRECTORS AND COMMITTEES THAT MEET THE REQUIREMENTS OF SUBSECTIONS C AND D OF
37 THIS SECTION.

38 F. AN INSURER MAY MAKE APPLICATION TO THE DIRECTOR FOR A WAIVER FROM
39 THE REQUIREMENTS OF THIS SECTION IF THE INSURER'S ANNUAL DIRECT WRITTEN AND
40 ASSUMED PREMIUM EXCLUDING PREMIUMS REINSURED WITH THE FEDERAL CROP INSURANCE
41 CORPORATION AND FEDERAL FLOOD PROGRAM IS LESS THAN THREE HUNDRED MILLION
42 DOLLARS. AN INSURER MAY ALSO MAKE APPLICATION TO THE DIRECTOR FOR A WAIVER
43 FROM THE REQUIREMENTS OF THIS SECTION BASED ON UNIQUE CIRCUMSTANCES. THE
44 DIRECTOR MAY CONSIDER VARIOUS FACTORS INCLUDING THE TYPE OF BUSINESS ENTITY,
45 VOLUME OF BUSINESS WRITTEN, AVAILABILITY OF QUALIFIED BOARD MEMBERS AND THE
46 OWNERSHIP OR ORGANIZATIONAL STRUCTURE OF THE ENTITY.

1 Sec. 19. Section 20-510, Arizona Revised Statutes, is amended to read:

2 20-510. Standard valuation law; operative date; definitions

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

4 B. For the purposes of this section, the following definitions apply
5 on or after the operative date of the valuation manual:

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

10 2. "Appointed actuary" means a qualified actuary who is appointed in
11 accordance with the valuation manual to prepare the actuarial opinion
12 required in subsection F of this section.

13 3. "Company" means an entity that either:

14 (a) Has written, issued or reinsured life insurance contracts,
15 accident and health insurance contracts or deposit-type contracts in this
16 state and that has at least one such policy in force or on claim.

17 (b) Has written, issued or reinsured life insurance contracts,
18 accident and health insurance contracts or deposit-type contracts in any
19 state and that is required to hold a certificate of authority to write life
20 insurance, accident and health insurance or deposit-type contracts in this
21 state.

22 4. "Deposit-type contract" means contracts that do not incorporate
23 mortality or morbidity risks and as may be specified in the valuation manual.

24 5. "Life insurance" means contracts that incorporate mortality risk,
25 including annuity and pure endowment contracts, and as may be specified in
26 the valuation manual.

27 6. "Policyholder behavior" means any action a policyholder, a contract
28 holder or any other person with the right to elect options, such as a
29 certificate holder, may take under a policy or contract subject to this
30 section, including lapse, withdrawal, transfer, deposit, premium payment,
31 loan, annuitization or benefit elections prescribed by the policy or contract
32 but excluding events of mortality or morbidity that result in benefits
33 prescribed in their essential aspects by the terms of the policy or contract.

34 7. "Principle-based valuation" means a reserve valuation that uses one
35 or more methods or one or more assumptions determined by the insurer and that
36 is required to comply with subsection S of this section as specified in the
37 valuation manual.

38 8. "Qualified actuary" means an individual who is qualified to sign
39 the applicable statement of actuarial opinion in accordance with the American
40 academy of actuaries qualification standards for actuaries signing those
41 statements and who meets the requirements specified in the valuation manual.

42 9. "Reserves" means reserve liabilities.

43 10. "Tail risk" means a risk that occurs either where the frequency of
44 low probability events is higher than expected under a normal probability
45 distribution or where there are observed events of very significant size or
46 magnitude.

1 11. "Valuation manual" means the manual of valuation instructions
2 adopted by the national association of insurance commissioners as specified
3 in this section.

4 C. The following apply to reserve valuation for policies and contracts
5 issued before the operative date of the valuation manual:

6 1. The director shall annually value, or cause to be valued, the
7 reserves for all outstanding life insurance policies and annuity and pure
8 endowment contracts of every life insurance company doing business in this
9 state that are issued before the operative date of the valuation manual. In
10 calculating reserves, the director may use group methods and approximate
11 averages for fractions of a year or otherwise. In lieu of the valuation of
12 the reserves required of a foreign or alien insurer, the director may accept
13 a valuation made, or caused to be made, by the insurance supervisory official
14 of any state or other jurisdiction if the valuation complies with the minimum
15 standard provided by this section.

16 2. Subsections G, H, I, J, K, L, M, N, O, P and Q of this section
17 apply to all policies and contracts, as appropriate, subject to this section
18 issued on or after the operative date of section 20-1231 and before the
19 operative date of the valuation manual and subsections R, S and T of this
20 section do not apply to those policies and contracts.

21 3. The minimum standard for the valuation of policies and contracts
22 issued before the operative date of section 20-1231 is the standard provided
23 by the laws in effect immediately before that date.

24 D. The following apply to reserve valuation for policies and contracts
25 issued on or after the operative date of the valuation manual:

26 1. The director shall annually value, or cause to be valued, the
27 reserves for all outstanding life insurance contracts, annuity and pure
28 endowment contracts, accident and health contracts and deposit-type contracts
29 of every company issued on or after the operative date of the valuation
30 manual. In lieu of the valuation of the reserves required of a foreign or
31 alien company, the director may accept a valuation made, or caused to be
32 made, by the insurance supervisory official of any state or other
33 jurisdiction if the valuation complies with the minimum standard provided by
34 this section.

35 2. Subsections R, S and T of this section apply to all policies and
36 contracts issued on or after the operative date of the valuation manual.

37 E. The following apply to actuarial opinion of reserves before the
38 operative date of the valuation manual:

39 1. Every life insurance company doing business in this state shall
40 annually submit the opinion of a qualified actuary. The opinion shall state
41 whether the reserves and related actuarial items that are held in support of
42 the policies and contracts specified by the director are computed
43 appropriately, are based on assumptions that satisfy contractual provisions,
44 are consistent with prior reported amounts and comply with the applicable
45 laws of this state. The director shall define the specifics of this opinion

1 and shall add any other items to the scope of the opinion as the director
2 deems necessary.

3 2. For actuarial analysis of reserves and assets supporting reserves:

4 (a) Every life insurance company, unless exempted by rule, shall
5 annually include in the opinion required by paragraph 1 of this subsection an
6 opinion of the same qualified actuary as to whether, if considered in light
7 of the assets held by the company with respect to the reserves and related
8 actuarial items, including but not limited to the investment earnings on the
9 assets and the considerations anticipated to be received and retained under
10 the policies and contracts, the reserves and related actuarial items held in
11 support of the policies and contracts specified by the director make adequate
12 provision for the company's obligations under the policies and contracts,
13 including but not limited to the benefits under and expenses associated with
14 the policies and contracts.

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

18 3. The following apply to each opinion required by paragraph 2 of this
19 subsection:

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

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

30 4. The following apply to each opinion required by paragraph 1 of this
31 subsection:

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

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

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

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

1 (e) Except in cases of fraud or wilful misconduct, the qualified
2 actuary is not liable for damages to any person other than the director and
3 the insurance company for any act, error, omission, decision or conduct with
4 respect to the actuary's opinion.

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

7 (g) Except as provided in subdivisions (k), (l) and (m) of this
8 paragraph, documents, materials or other information in the possession or
9 control of the department that are a memorandum in support of the opinion,
10 and any other material provided by the company to the director in connection
11 with the memorandum, are confidential by law and privileged and are not
12 subject to public records requests, are not subject to subpoena and are not
13 subject to discovery or admissible in evidence in any private civil action.
14 The director is authorized to use the documents, materials or other
15 information in the furtherance of any regulatory or legal action brought as
16 part of the director's official duties.

17 (h) The director or any person who received documents, materials or
18 other information while acting under the authority of the director is not
19 allowed or required to testify in any private civil action concerning any
20 confidential documents, materials or information subject to subdivision (g)
21 of this paragraph.

22 (i) In order to assist in the performance of the director's duties,
23 the director may:

24 (i) Share documents, materials or other information, including the
25 confidential and privileged documents, materials or information subject to
26 subdivision (g) of this paragraph, with other state, federal and
27 international regulatory agencies, with the national association of insurance
28 commissioners and its affiliates and subsidiaries, and with state, federal
29 and international law enforcement authorities, if the recipient agrees to
30 maintain the confidentiality and privileged status of the document, material
31 or other information.

32 (ii) Receive documents, materials or information, including otherwise
33 confidential and privileged documents, materials or information, from the
34 national association of insurance commissioners and its affiliates and
35 subsidiaries, and from regulatory and law enforcement officials of other
36 foreign or domestic jurisdictions, and shall maintain as confidential or
37 privileged any document, material or information received with notice or the
38 understanding that it is confidential or privileged under the laws of the
39 jurisdiction that is the source of the document, material or information.

40 (iii) Enter into agreements governing sharing and use of information
41 consistent with subdivision (g) of this paragraph and this subdivision.

42 (j) No waiver of any applicable privilege or claim of confidentiality
43 in the documents, materials or information shall occur as a result of
44 disclosure to the director under this subsection or as a result of sharing as
45 authorized in subdivision (i) of this paragraph.

1 (k) A memorandum in support of the opinion, and any other material
2 provided by the company to the director in connection with the memorandum,
3 may be subject to subpoena for the purpose of defending an action seeking
4 damages from the actuary submitting the memorandum by reason of an action
5 required by this section or by rules adopted under this section.

6 (l) The memorandum or other material may otherwise be released by the
7 director with the written consent of the company or to the American academy
8 of actuaries on request stating that the memorandum or other material is
9 required for the purpose of professional disciplinary proceedings and setting
10 forth procedures satisfactory to the director for preserving the
11 confidentiality of the memorandum or other material.

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

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

19 F. The following apply to actuarial opinion of reserves after the
20 operative date of the valuation manual:

21 1. 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 shall annually submit the opinion of
24 the appointed actuary as to whether the reserves and related actuarial items
25 held in support of the policies and contracts are computed appropriately, are
26 based on assumptions that satisfy contractual provisions, are consistent with
27 prior reported amounts and comply with applicable laws of this state. The
28 valuation manual will prescribe the specifics of this opinion including any
29 items deemed to be necessary to its scope.

30 2. Every company with outstanding life insurance contracts, accident
31 and health insurance contracts or deposit-type contracts in this state and
32 subject to regulation by the director, except as exempted in the valuation
33 manual, shall also annually include in the opinion required by paragraph 1 of
34 this subsection an opinion of the same appointed actuary as to whether the
35 reserves and related actuarial items held in support of the policies and
36 contracts specified in the valuation manual, when considered in light of the
37 assets held by the company with respect to the reserves and related actuarial
38 items, including the investment earnings on the assets and the considerations
39 anticipated to be received and retained under the policies and contracts,
40 make adequate provision for the company's obligations under the policies and
41 contracts, including the benefits under and expenses associated with the
42 policies and contracts.

43 3. The following apply to each opinion required by paragraph 2 of this
44 subsection:

1 (a) A memorandum, in form and substance as specified in the valuation
2 manual, and acceptable to the director, shall be prepared to support each
3 actuarial opinion.

4 (b) If the insurance company fails to provide a supporting memorandum
5 at the request of the director within a period specified in the valuation
6 manual or the director determines that the supporting memorandum provided by
7 the insurance company fails to meet the standards prescribed by the valuation
8 manual or is otherwise unacceptable to the director, the director may engage
9 a qualified actuary at the expense of the company to review the opinion and
10 the basis for the opinion and prepare the supporting memorandum required by
11 the director.

12 4. The following apply to all opinions subject to this subsection:

13 (a) The opinion shall be in form and substance as specified in the
14 valuation manual and acceptable to the director.

15 (b) The opinion shall be submitted with the annual statement
16 reflecting the valuation of the reserves for each year ending on or after the
17 operative date of the valuation manual.

18 (c) The opinion shall apply to all policies and contracts subject to
19 this subsection, plus other actuarial liabilities as may be specified in the
20 valuation manual.

21 (d) The opinion shall be based on standards adopted from time to time
22 by the actuarial standards board or its successor, and on any additional
23 standards as may be prescribed in the valuation manual.

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

29 (f) Except in cases of fraud or wilful misconduct, the appointed
30 actuary is not liable for damages to any person, other than the insurance
31 company and the director, for any act, error, omission, decision or conduct
32 with respect to the appointed actuary's opinion.

33 (g) Disciplinary action by the director against the company or the
34 appointed actuary shall be defined by the director in rule.

35 G. Except as otherwise provided in subsections H, I, J and Q of this
36 section, the minimum standard for the valuation of all policies and contracts
37 that were issued before the operative date of section 20-1231 is that
38 provided by the laws in effect immediately before January 1, 1955. Except as
39 otherwise provided in subsections H, I, J and Q of this section, the minimum
40 standard for the valuation of all policies and contracts that are issued on
41 or after January 1, 1955 is the commissioners reserve valuation methods
42 defined in subsections K, L, O and P of this section, three and one-half per
43 cent interest or, in the case of life insurance policies and contracts, other
44 than annuity and pure endowment contracts, that are issued on or after July
45 1, 1974, four per cent interest for those policies that are issued before
46 January 1, 1979, five and one-half per cent interest for single premium life

1 insurance policies and four and one-half per cent interest for all other
2 policies that are issued on and after January 1, 1979, and the following
3 tables:

4 1. For all ordinary policies of life insurance that are issued on the
5 standard basis, excluding any disability and accidental death benefits in
6 those policies, the commissioners 1941 standard ordinary mortality table for
7 those policies issued before the operative date of section 20-1231,
8 subsection F, paragraph 5, subdivision (b) and the commissioners 1958
9 standard ordinary mortality table for those policies that are issued on or
10 after the operative date of section 20-1231, subsection F, paragraph 5,
11 subdivision (b) and before the operative date as provided in section
12 20-1231.01. If any category of these policies is issued on female risks,
13 modified net premiums and present values referred to in this section may be
14 calculated according to an age not more than six years younger than the
15 actual age of the insured. For policies that are issued on or after the
16 operative date of section 20-1231.01, the following tables may be used:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 H. Except as provided in subsection I of this section, the minimum
44 standard for the valuation for individual annuity and pure endowment
45 contracts issued on or after the operative date of this subsection and
46 annuities and pure endowments purchased on or after the operative date of

1 this subsection under group annuity and pure endowment contracts shall be the
2 commissioners reserve valuation methods defined in subsections K and L of
3 this section and the following tables and interest rates:

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

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

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

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

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

1 I. After July 1, 1974, any insurer may file with the director a
2 written notice of its election to comply with subsection H of this section on
3 a specified date before January 1, 1979, which shall be the operative date of
4 subsection H of this section for that insurer if the insurer elects a
5 different operative date for individual annuity and pure endowment contracts
6 from the date that is elected for group annuity and pure endowment
7 contracts. If an insurer does not make an election pursuant to this
8 subsection, the operative date of subsection L of this section shall be
9 January 1, 1979.

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

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

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

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

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

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

25 2. As used in this paragraph:

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

31 (i) For life insurance:

$$32 \quad I = .03 + W(R1 - .03) + W/2 (R2 - .09).$$

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

$$37 \quad I = .03 + W(R - .03).$$

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

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

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

9 (b) If the calendar year statutory valuation interest rate for any
10 life insurance policies issued in any calendar year determined without
11 reference to this subdivision differs from the corresponding actual rate for
12 similar policies issued in the immediately preceding calendar year by less
13 than one-half of one per cent, the calendar year statutory valuation interest
14 rate for those life insurance policies shall be equal to the corresponding
15 actual rate for the immediately preceding calendar year. For the purposes of
16 applying the immediately preceding sentence, the calendar year statutory
17 valuation interest rate for life insurance policies issued in a calendar year
18 shall be determined for 1980 using the reference interest rate defined in
19 1979 and shall be determined for each subsequent calendar year regardless of
20 the operative date of section 20-1231.01.

21 3. For the purposes of this subsection, the weighting factors referred
22 to in the formulas stated above are given in the following tables:

23 (a) Weighting factors for life insurance:

24	Guarantee	
25	Duration	Weighting
26	(Years)	Factors
27	Ten years or less	.50
28	More than ten years, but not more than 20 years	.45
29	More than twenty years	.35

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

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

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

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

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

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

	Plan type		
	A	B	C
	.15	.25	.05

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

	Plan type		
	A	B	C
	.05	.05	.05

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

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

1 valuation standard applicable to each change in the fund held under the
2 annuity or guaranteed interest contract is the calendar year valuation
3 interest rate for the year of the change in the fund.

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

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

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

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

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

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

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

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

1 (d) 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 year of issue basis, with
4 guaranteed duration of ten years or less, the average over a period of twelve
5 months, ending on June 30 of the calendar year of issue or purchase, of the
6 monthly average of the composite yield on seasoned corporate bonds, as
7 published by Moody's investors service, incorporated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 N. Optional reserves may be calculated as follows:

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

41 2. At the option of the insurer, reserves for any category of
42 policies, contracts or benefits that the director establishes and that are
43 issued on or after the operative date of section 20-1231 may be calculated
44 according to any standards that produce greater aggregate reserves for that
45 category than those calculated according to the minimum standard provided in
46 this section, but the rate or rates of interest used for policies and

1 contracts, other than annuity and pure endowment contracts, shall not be
2 greater than the corresponding rate or rates of interest used in calculating
3 any nonforfeiture benefits provided for in the policy or contract.

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

12 0. Reserves when the valuation net premium exceeds the gross premium
13 charged shall be calculated as follows:

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

28 2. For any life insurance policy that is issued on or after January 1,
29 1986, for which the gross premium in the first policy year exceeds that of
30 the second year and for which no comparable additional benefit is provided in
31 the first year for that excess and that provides an endowment benefit or a
32 cash surrender value or a combination in an amount greater than the excess
33 premium, this subsection applies as if the method actually used in
34 calculating the reserve for the policy was the method described in subsection
35 K, paragraphs 1 and 3 of this section. The minimum reserve at each policy
36 anniversary of such a policy shall be the greater of the minimum reserve
37 calculated in accordance with subsection K of this section, including
38 paragraph 2 of that subsection, and the minimum reserve calculated in
39 accordance with this subsection.

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

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

3 2. Be computed by a method that is consistent with the principles of
4 this section, as determined by rules adopted by the director related to the
5 minimum standards applicable to the valuation of health plans.

6 Q. For accident and health insurance contracts issued on or after the
7 operative date of the valuation manual, the standard prescribed in the
8 valuation manual is the minimum standard of valuation required under
9 subsection D, paragraph 1 of this section. For disability insurance
10 contracts issued on or after the operative date of section 20-1231 and before
11 the operative date of the valuation manual, the minimum standard of valuation
12 is the standard adopted by the director by rule.

13 R. The following apply to the valuation manual for policies issued on
14 or after the operative date of the valuation manual:

15 1. For policies issued on or after the operative date of the valuation
16 manual, the standard prescribed in the valuation manual is the minimum
17 standard of valuation required under subsection D, paragraph 1 of this
18 section, except as provided under paragraph 5 or 7 of this subsection.

19 2. The operative date of the valuation manual is January 1 of the
20 first calendar year following the first July 1 as of which all of the
21 following have occurred:

22 (a) The valuation manual has been adopted by the national association
23 of insurance commissioners by an affirmative vote of at least forty-two
24 members, or three-fourths of the members voting, whichever is greater.

25 (b) The standard valuation law, as amended by the national association
26 of insurance commissioners in 2009, or legislation including substantially
27 similar terms and provisions, has been enacted by states representing greater
28 than seventy-five per cent of the direct premiums written as reported in the
29 following annual statements submitted for 2008: life, accident and health
30 annual statements, health annual statements, or fraternal annual statements.

31 (c) The standard valuation law, as amended by the national association
32 of insurance commissioners in 2009, or legislation including substantially
33 similar terms and provisions, has been enacted by at least forty-two of the
34 following fifty-five jurisdictions:

35 (i) The fifty states of the United States.

36 (ii) American Samoa.

37 (iii) The United States Virgin Islands.

38 (iv) The District of Columbia.

39 (v) Guam.

40 (vi) The Commonwealth of Puerto Rico.

41 3. Unless a change in the valuation manual specifies a later effective
42 date, changes to the valuation manual shall be effective on January 1
43 following the date when all of the following have occurred:

44 (a) The change to the valuation manual has been adopted by the
45 national association of insurance commissioners by an affirmative vote
46 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~~ 3 of this section and that shall include
31 information necessary to determine if the valuation is appropriate and in
32 compliance with 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~~
18 ENSURE that all material risks inherent in the liabilities and associated
19 assets subject to the valuation are included in the valuation, and that
20 valuations are made in accordance with the valuation manual. The
21 certification shall be based on the controls in place as of the end of the
22 preceding calendar year.

23 3. Develop, and file with the director on request, a principle-based
24 valuation report that complies with standards prescribed in the valuation
25 manual. A principle-based valuation may include a prescribed formulaic
26 reserve component.

27 U. A company shall submit mortality, morbidity, policyholder behavior
28 or expense experience and other data as prescribed in the valuation manual.

29 V. The following apply to confidentiality:

30 1. For the purposes of this subsection, "confidential information"
31 means:

32 (a) A memorandum in support of an opinion submitted under subsection F
33 of this section and any other documents, materials and other information,
34 including all working papers, and copies thereof, created, produced or
35 obtained by or disclosed to the director or any other person in connection
36 with the memorandum.

37 (b) All documents, materials and other information, including all
38 working papers, and copies thereof, created, produced or obtained by or
39 disclosed to the director or any other person in the course of an examination
40 made under subsection R of this section. If an examination report or other
41 material prepared in connection with an examination made under section 20-156
42 is not held as private and confidential information under section 20-156, an
43 examination report or other material prepared in connection with an
44 examination made under subsection R, paragraph 6 of this section is not
45 confidential information to the same extent as if the examination report or
46 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
46 confidential information is required for the purpose of professional

1 disciplinary proceedings and with state, federal and international law
2 enforcement officials.

3 (iii) In the case of items (i) and (ii) of this subdivision, if the
4 recipient agrees, and has the legal authority to agree, to maintain the
5 confidentiality and privileged status of the documents, materials, data and
6 other information in the same manner and to the same extent as required for
7 the director.

8 (d) The director may receive documents, materials, data and other
9 information, including otherwise confidential and privileged documents,
10 materials, data or information, from the national association of insurance
11 commissioners and its affiliates and subsidiaries, from regulatory or law
12 enforcement officials of other foreign or domestic jurisdictions and from the
13 actuarial board for counseling and discipline or its successor and shall
14 maintain as confidential or privileged any document, material, data or other
15 information received with notice or the understanding that it is confidential
16 or privileged under the laws of the jurisdiction that is the source of the
17 document, material or other information.

18 (e) The director may enter into agreements governing sharing and use
19 of information consistent with this paragraph.

20 (f) No waiver of any applicable privilege or claim of confidentiality
21 in the confidential information shall occur as a result of disclosure to the
22 director under this section or as a result of sharing as authorized in
23 subdivision (c) of this paragraph.

24 (g) Privilege established under the law of any state or jurisdiction
25 that is substantially similar to the privilege established under this
26 paragraph shall be available and enforced in any proceeding in and in any
27 court of this state.

28 3. Notwithstanding paragraph 2 of this subsection, any confidential
29 information specified in paragraph 1, subdivisions (a) and (d) of this
30 subsection:

31 (a) May be subject to subpoena for the purpose of defending an action
32 seeking damages from the appointed actuary submitting the related memorandum
33 in support of an opinion submitted under subsection F, paragraph 1 of this
34 section or principle-based valuation report developed under subsection T,
35 paragraph 3 of this section by reason of an action required by this section
36 or by rules adopted under this section.

37 (b) May otherwise be released by the director with the written consent
38 of the company.

39 (c) Once any portion of a memorandum in support of an opinion
40 submitted under subsection F, paragraph 1 of this section or a
41 principle-based valuation report developed under subsection T, paragraph 3 of
42 this section is cited by the company in its marketing or is publicly
43 volunteered to or before a governmental agency other than a state insurance
44 department or is released by the company to the news media, all portions of
45 the memorandum or report are no longer confidential.

1 4. For the purposes of this subsection, "regulatory agency", "law
2 enforcement agency" and "national association of insurance commissioners"
3 include the employees, agents, consultants and contractors of those entities.

4 W. The following apply to single state exemption:

5 1. The director may exempt specific product forms or product lines of
6 a domestic company that is licensed and doing business only in this state
7 from the requirements of subsection R of this section if:

8 (a) The director has issued an exemption in writing to the company and
9 has not subsequently revoked the exemption in writing.

10 (b) The company computes reserves using assumptions and methods used
11 before the operative date of the valuation manual in addition to any
12 requirements established by the director and adopted by rule.

13 2. For any company granted an exemption under this section,
14 subsections D, E, F, G, H, I, J, K, L, M, N, O, P and Q of this section
15 apply. For any company applying this exemption, any reference to subsection
16 R found in subsections D, E, F, G, H, I, J, K, L, M, N, O, P and Q of this
17 section does not apply.

18 Sec. 20. Department of insurance; rulemaking exemption

19 For the purposes of implementing this act, the department of insurance
20 is exempt from the rulemaking requirements of title 41, chapter 6, Arizona
21 Revised Statutes, for two years after the effective date of this act.

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.