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IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N   A C T

RELATING TO INSURANCE -- THE STANDARD NONFORFEITURE LAW FOR LIFE INSURANCE

Introduced By: Representatives Messier, Kennedy, San Bento, Palumbo, and Keable

Date Introduced: February 27, 2013

Referred To: House Corporations

(Business Regulation)

It is enacted by the General Assembly as follows:

SECTION 1. Section 27-4.3-5 of the General Laws in Chapter 27-4.3 entitled "The Standard Nonforfeiture Law for Life Insurance" is hereby amended to read as follows:

27-4.3-5. Calculations of adjusted premiums by the nonforfeiture net level premium method. -- (a) This section shall apply to all policies issued on or after January 1, 1994. Except as provided in subsection (g) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such a uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid up nonforfeiture benefits, ~~so~~ that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of: (1) the then present value of the future guaranteed benefits provided for by the policy; (2) one percent (1%) of either the amount of insurance, if the insurance ~~is~~ be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and (3) one hundred twenty-five percent (125%) of the nonforfeiture net level premium as defined in subsection (b); provided, however, that in applying the percentage specified in subdivision (a)(3), no nonforfeiture net level premium shall be deemed to exceed four percent (4%) of either the amount of insurance, if the insurance ~~is~~ be uniform in amount, or the average amount of insurance at the beginning of each of the first ten

(10) policy years. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

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

(c) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums, other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums, and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(d) Except as otherwise provided in subsection (g), the recalculated future adjusted premiums for any policy shall be a uniform percentage of the future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid up nonforfeiture benefits, so that the present value, at the time of change to the newly defined benefits or premiums, of all future adjusted premiums shall be equal to the excess of: (1) the sum of: (i) the then present value of the then future guaranteed benefits provided for by the policy and (ii) the additional expense allowance, if any, over (2) the then cash surrender value, if any, or present value of any paid up nonforfeiture benefit under this policy.

(e) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of: (1) one percent (1%) of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten (10) policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten (10) policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (2) one hundred twenty-five percent (125%) of the increase, if positive, in the nonforfeiture net level premium.

(f) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing subdivision (f)(1) by subdivision (f)(2) where:

(1) Equals the sum of:

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

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

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

(g) Notwithstanding any other provisions of this section to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as a similar policy issued on the standard basis which provides for a higher uniform amount of insurance, adjusted premiums and present values for the substandard policy may be calculated as if it were issued to provide ~~the~~ higher uniform amounts of insurance on the standard basis.

(h) All adjusted premiums and present values referred to in this chapter shall for all policies of ordinary insurance be calculated on the basis of the commissioners 1980 standard ordinary mortality table or, at the election of the ~~insurance~~ company for any one or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten (10) year select mortality factors; adjusted premiums and present values shall for all policies of industrial insurance be calculated on the basis of the commissioners 1961 standard industrial mortality table; ~~and adjusted premiums and present values shall~~ for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section, for policies issued in that calendar year~~;~~ . Provided ~~provided~~, however that:

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

(2) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by section 27-4.3-2, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of any paid-up nonforfeiture benefit and paid-up dividend additions, if any;

(3) An insurance company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest

rate no lower than that specified in the policy for calculating cash surrender values;

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

(5) For insurance issued on a substandard basis, the calculation of any adjusted premiums and present values may be based on appropriate modifications of the tables mentioned in this subsection;

(6)(i) For policies issued prior to the operative date of the valuation manual, any ~~Any~~ commissioners' standard ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner of insurance for use in determining the minimum nonforfeiture standard, may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten (10) year select mortality factors or for the commissioners 1980 extended term insurance table.~~; and~~

(ii) For policies issued on or after the operative date of the valuation manual the valuation manual shall provide the commissioners' standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1980 Standard Ordinary Mortality Table with or without ten (10) year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. If the commissioner approves by regulation any commissioners' standard ordinary mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(7)(i) For policies issued prior to the operative date of the valuation manual, any ~~Any~~ commissioners' standard industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner of insurance for use in determining the minimum nonforfeiture standard, may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table.

(ii) For policies issued on or after the operative date of the valuation manual the valuation manual shall provide the commissioners' standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.

If the commissioner approves by regulation any commissioners' standard industrial mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(i) The nonforfeiture interest rate is defined below:

(A) For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred and twenty-five percent (125%) of the calendar year statutory valuation interest rate for the policy as defined in chapter 4.5 of this title, rounded to the nearer one-quarter of one percent (.25%).

(B) For policies issued on and after the operative date of the valuation manual the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.

(j) Notwithstanding any other provision in this title to the contrary, any re-filing of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require re-filing of any other provisions of that policy form.

SECTION 2. Sections 27-4.5-1, 27-4.5-2, 27-4.5-3, 27-4.5-4, 27-4.5-4.1, 27-4.5-5, 27-4.5-6, 27-4.5-7, 27-4.5-8, 27-4.5-9 and 27-4.5-10 of the General Laws in Chapter 27-4.5 entitled "The Standard Valuation Law" are hereby amended to read as follows:

27-4.5-1. ~~Short title~~ Short title and Definitions. -- (a) This chapter shall be known as the "Standard Valuation Law."

(b) For the purpose of this chapter, the following definitions shall apply on or after the operative date of the valuation manual:

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

(2) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in subsection 27-4.5-3(a).

(3) "Commissioner of insurance" means the director of the department of business regulation or his or her designee.

(4) "Company" means an entity, which: (i) Has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and has at

least one such policy in force or on claim; or (ii) Has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this state.

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

(6) "Life insurance" means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.

(7) "NAIC" means the National Association of Insurance Commissioners.

(8) "Policyholder behavior" means any action a policyholder, contract holder or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this chapter including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization , or benefit elections prescribed by the policy or contract, but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(9) "Principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with section 27-4.5-14 as specified in the valuation manual.

(10) "Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(11) "Tail risk" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(12) "Valuation manual" means the manual of valuation instructions adopted by the NAIC as specified in this chapter or as subsequently amended.

27-4.5-2. Reserve valuation. -- (a) Policies and contracts issued prior to the operative date of the valuation manual:

(1) The commissioner of insurance shall annually value, or cause to be valued, the reserve liabilities, called "reserves" in this chapter, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state~~, and may certify the amount of any reserves, specifying the mortality table or tables, rate or rates of interest, and methods, net level premium method or other, used in the calculation of the~~

~~reserves~~ issued on or after January 1, 1994, and prior to the operative date of the valuation manual. In calculating the reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required in this chapter of ~~any~~ foreign or alien ~~company~~ companies, the commissioner may accept ~~any~~ the valuation made or caused to be made by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this chapter~~, and if the official of the other state or jurisdiction accepts as sufficient and for all valid legal purposes the certificate of valuation of the commissioner of insurance when the certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction~~.

(2) The provisions set forth in sections 27-4.5-4, 27-4.5-4.1, 27-4.5-5, 27-4.5-5.1, 27-4.5-6, 27-4.5-7, 27-4.5-8, 27-4.5-9, and 27-4.5-10 shall apply to all policies and contracts, as appropriate, subject to this chapter issued on or after January 1, 1994 and prior to the operative date of the valuation manual and the provisions set forth in sections 27-4.5-13 and 27-4.5-14 shall not apply to any such policies and contracts.

(3) The minimum standard for the valuation of policies and contracts issued prior to January 1, 1994 shall be that provided by the laws in effect immediately prior to that date.

(b) Policies and contracts issued on or after the operative date of the valuation manual. (1) The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this chapter.

(2) The provisions set forth in sections 27-4.5-13 and 27-4.5-14 shall apply to all policies and contracts issued on or after the operative date of the valuation manual.

27-4.5-3. Actuarial opinion of reserves. -- (a) Actuarial opinion prior to the operative date of the valuation manual:

(1) General. - Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner of insurance by regulation are computed appropriately, are based on assumptions which satisfy contractual

provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner of insurance by regulation shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

~~(b)~~(2) Actuarial analysis of reserves and assets supporting ~~the~~ reserves. -

~~(1)~~(i) Every life insurance company, except as exempted by ~~or pursuant to regulation,~~ shall also annually include in the opinion required by subsection (a) above an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner of insurance by regulation, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

~~(2)~~(ii) The commissioner of insurance may provide by regulation for a transition period for establishing any higher reserves that the qualified actuary may deem necessary in order to render the opinion required by this section.

~~(c)~~(3) Requirement for opinion under ~~subsection (b)~~ subdivision (2) above. - Each opinion required by subdivision (2) shall be governed by the following provisions:

~~(1)~~(i) A memorandum, in form and substance acceptable to the commissioner of insurance as specified by regulation, shall be prepared to support each actuarial opinion; and

~~(2)~~(ii) If the insurance company fails to provide a supporting memorandum at the request of the commissioner of insurance within a period specified by regulation or the commissioner of insurance determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the regulations or is otherwise unacceptable to the commissioner of insurance, the commissioner of insurance may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner of insurance.

~~(d)~~(4) Requirement for all opinions subject to subsection (a). - Every opinion required by subsection (a) shall be governed by the following provisions:

~~(1)~~(i) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1994;

~~(2)~~(ii) The opinion shall apply to all business in force including individual and group health insurance plans, in a form and substance acceptable to the commissioner of insurance as specified by regulation;

~~(3)~~(iii) The opinion shall be based on standards adopted by the actuarial standards board and on any additional standards as that commissioner of insurance may by regulation prescribe;

~~(4)~~(iv) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner of insurance may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner of insurance determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state;

~~(5)~~(v) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in the regulations;

~~(6)~~(vi) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurance company and the commissioner of insurance, for any act, error, omission, decision, or conduct with respect to the actuary's opinion;

~~(7)~~(vii) Disciplinary action by the commissioner of insurance against the company or the qualified actuary shall be defined in regulations by the commissioner of insurance; and

~~(8)~~(viii) Except as provided in paragraphs (xii), (xiii) and (xiv) below, documents, materials or other information in the possession or control of the department of insurance that are a ~~Any~~ memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, shall be confidential and privileged, shall not be subject to chapter 42-35, ~~the company to the commissioner of insurance in connection with the opinion, shall be kept confidential by the commissioner of insurance and shall not be made public and~~ shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence as any private/civil action. ~~other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by regulations promulgated under this section; provided, that the memorandum or other material may be released by the commissioner of insurance (i) with the written consent of the company or (ii) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner of insurance for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.~~ However, the commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

(ix) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to paragraph (viii).

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

(A) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to paragraph (viii) with other state, federal and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;

(B) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(C) May enter into agreements governing sharing and use of information consistent with paragraphs (viii) through (x).

(xi) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in paragraph (x).

(xii) A memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this section or by regulations promulgated hereunder.

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

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

(b) Actuarial opinion of reserves after the operative date of the valuation manual.

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

(2) Actuarial analysis of reserves and assets supporting reserves. Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this state and subject to regulation by the commissioner, except as exempted in the valuation manual, shall also annually include in the opinion required by subdivision (1) of this section, an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(3) Requirements for opinions subject to subdivision 27-4.5-3(b)(2). Each opinion required by subdivision 27-4.5-3(b)(2) shall be governed by the following provisions:

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

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

(4) Requirement for all opinions Subject to subsection 27-4.5-3(b). Every opinion shall be governed by the following provisions:

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

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

(iii) The opinion shall apply to all policies and contracts subject to subdivision 27-4.5-3(b)(2), plus other actuarial liabilities as may be specified in the valuation manual.

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

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

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

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

27-4.5-4. Computation of minimum standard. -- (a) ~~Except as provided in this section, section 27-4.5-4.1 and section 27-4.5-10, the~~ The minimum standard for valuation of all policies and contracts ~~described in section 27-4.5-2 shall be consistent with the provisions of section 27-4-17~~ issued prior to the effective date of this chapter shall be that provided by the laws in effect immediately prior to that date. Except as otherwise provided in sections 27-4.5-4, 27-4.5-4.1 and 27-4.5-10, the minimum standard for the valuation of all policies and contracts issued on or after the effective date of this chapter and prior to the effective date of the valuation manual shall be the commissioners reserve valuation methods defined in sections 27-4.5-5, 27-4.5-5.1, 27-4.5-8 and 27-4.5-10 and the following tables:

~~(b) The valuation of all policies and contracts issued on or after January 1, 2000 shall be subject to sections 27-4.5-4.1 and 27-4.5-10 and the following tables:~~

(1) For ordinary policies of life insurance issued on the standard basis:

(i) The Commissioners 1980 Standard Ordinary Mortality Table;

(ii) At the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten (10) Year Select Mortality Factors; or

(iii) Any ordinary mortality table, adopted after 1980 by the NAIC, which is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies;

(2) For industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies: the 1941 Standard Industrial Mortality Table for policies issued prior to the operative date of section 27-4.3-5.3, and for policies issued on or after the operative date of section 27-4.3-5.3, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table adopted after 1980 by the NAIC that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for the policies;

(b) The valuation of all policies and contracts issued on or after January 1, 2000 shall be subject to sections 27-4.5-4.1 and 27-4.5-10 and the following tables:

(1) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in those contracts, the Annuity 2000 Mortality Table or any individual annuity mortality table adopted after 2000 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the insurance commissioner for use in determining the minimum standard of valuation for those contracts;

(2) For all annuities and pure endowments purchased under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under those contracts, the 1994 Group Annuity Reserving Table, or any group annuity mortality table adopted after 2000 by the National Association of Insurance Commissioners that is approved by regulation promulgated by the insurance commissioner for use in determining the minimum standard of valuation for annuities and pure endowments, or any modification of these tables approved by the insurance commissioner; and

(c) For group life insurance, life insurance issued on the substandard basis and other special benefits and tables approved by the insurance commissioner.

27-4.5-4.1. Computation of minimum standard by calendar year of issue. -- (a) ~~Applicability. --~~ The interest rates used in determining the minimum ~~standards~~ standard for the valuation of the following shall be calendar year statutory valuation interest rates as defined in this section: (1) ~~all~~ life insurance policies issued in a particular calendar year on or after January 1, 1994; (2) ~~all~~ individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1994; (3) ~~all~~ annuities and pure endowments purchased in a particular calendar year on or after January 1, 1994, under group annuity and pure endowment contracts; and (4) the net increase, if any, in a particular calendar year after January 1, 1994, in amounts held under guaranteed interest contracts;~~ shall be the calendar year statutory valuation interest rates as defined in this section.~~

(b) Calendar year statutory valuation interest rates. (1) The calendar year statutory valuation interest rates, "I", shall be determined as follows and the results rounded to the nearer one-quarter of one percent ~~(.25%)~~ (1/4 of 1%)~~, where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate as defined in this section, and W is the weighting factor as defined in this section~~:

(i) For life insurance: ~~I = .03 + W(R1 -.03) + W/2(R2 -.09)~~ $I=.03+W(R_1-.03)+W/2(R_2-.09)$;

(ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options: ~~I = .03 + W(R1 -.03)~~ $I=.03+W(R-.03)$;

Where R_1 is the lesser of R and .09,

R_2 is the greater of R and .09,

R is the reference interest rate defined in this section,

W is the weighting factor defined in this section;

(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an ~~issued~~ issue year basis, except as stated in ~~subdivision~~ paragraph ~~(b)(1)~~(ii) above, the formula for life insurance stated in ~~subdivision~~ paragraph ~~(b)(1)~~(i) above shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten (10) years and the formula for single premium immediate annuities stated in ~~subdivision~~ paragraph ~~(b)(1)~~(ii) above shall apply to annuities and guaranteed interest contracts with guarantee duration of ten (10) years or less;

(iv) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in ~~subdivision~~ paragraph ~~(b)(1)~~(ii) above shall apply; and

(v) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in ~~subdivision~~ paragraph (b)(1)(ii) above shall apply; and

(2) ~~If~~ However if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this ~~subsection~~ sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent ~~(.5%)~~ (1/2 of 1%), the calendar year statutory valuation interest rate for ~~those~~ the life insurance policies shall be equal to the corresponding

actual rate for the immediately preceding calendar year.

For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined in 1979) and shall be determined for each subsequent calendar year regardless of when section 27-4.3-5 becomes operative.

(c) Weighting factors. - (1) The weighting factors referred to in the formulas stated ~~in subdivisions (b)(1)(i) and (ii)~~ above are ~~as follows~~ given in the following tables:

(i) WEIGHTING FACTORS FOR LIFE INSURANCE:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

~~(2)~~(ii) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options is .80;

~~(3)~~(iii) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in ~~subdivision (c)(2)~~ paragraph (ii) above, shall be as specified in ~~paragraphs~~ subparagraphs ~~(i)~~(A), ~~(ii)~~(B) and ~~(iii)~~(C) ~~in this subdivision~~ below, according to the rules and definitions in ~~paragraphs~~ subparagraphs ~~(iv)~~(D), ~~(v)~~(E) and ~~(vi)~~(F) ~~in this subdivision~~ below:

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

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

~~(ii)~~(B) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors show in ~~subdivision (c)(3)~~ paragraph (i) above increased by:

Plan Type

A B C

.15	.25	.05

~~(iii)~~(C) For annuities and guaranteed interest contracts valued on an ~~issued~~ issue year basis, other than those with no cash settlement options, which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis ~~which~~ that do not guarantee interest rates on ~~consideration~~ considerations received more than twelve (12) months beyond the valuation date, the factors shown in ~~subdivision (c)(3)~~ paragraph (i) or derived in ~~subdivision (c)(3)~~ paragraph (ii) increased by:

Plan Type

A	B	C
.05	.05	.05

~~(iv)~~(D) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee durations in excess of twenty (20) years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guaranteed duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence;

~~(v)~~(E) Plan Type as used in the tables in this subdivision is defined as follows:

~~(A)~~(I) Plan Type A: At any time the policyholder may withdraw funds only (I) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (II) without an adjustment but in installments over five (5) years or more, or (III) as an immediate life annuity, or (IV) no withdrawal permitted;

~~(B)~~(II) Plan Type B: Before expiration of the interest rate guarantee, the policyholder may withdraw funds only (I) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (II) without an adjustment but in installments over five (5) years or more, or (III) no withdrawal permitted. At the end of the interest rate guarantee, funds may be withdrawn without ~~the~~ an adjustment in a single sum or installments over less than five (5) years; ~~and~~

~~(C)~~(III) Plan Type C: ~~The policyholder~~ Policyholder may withdraw funds before the expiration of interest rate guarantee in a single sum or installments over less than five (5) years either (I) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (II) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund; and

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

(d) Reference interest rate. - Reference interest rate referred to in subsection (b) is defined as follows:

(1) For ~~all~~ life insurance, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year ~~next~~ preceding the year of issue, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.;

(2) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or year of purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.;

(3) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in ~~subdivision~~ paragraph ~~(d)~~(2) above, with guarantee duration in excess of ten (10) years, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.;

(4) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in ~~subdivision~~ paragraph ~~(d)~~(2) above, with guarantee duration of ten (10) years or less, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.;

(5) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.; and

(6) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in subdivision (d)(2), the average over a period of twelve (12) months, ending on June 30 of the calendar year of the change in the fund, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(e) Alternative method for determining reference interest rates. - In the event that the monthly average of the composite yield on seasoned corporate bonds is no longer published by Moody's Investors Service, Inc., or in the event that the National Association of Insurance Commissioners determines that the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the commissioner of insurance, may be substituted.

27-4.5-5. Reserve valuation method -- Life insurance and endowment benefits. -- (a) Except as provided in sections 27-4.5-5.1, 27-4.5-8 and 27-4.5-10, reserves according to the commissioners' reserve valuation method for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided for by the policies therefor, over the then present value of any future modified net premiums. The modified net premiums for any policy shall be ~~a~~ the uniform percentage of the respective contract premiums for the benefits ~~so~~ such that the present value, at the date of issue of the policy, of all modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the policy and the excess of (1) over (2), as follows:

(1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of the policy on which a premium falls due; ~~provided~~ however, that the net level annual premium shall not exceed the net level annual premium on the nineteen (19) year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of the policy; and

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

(b) For any life insurance policy issued on or after January 1, 1994 for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess, and which provides an endowment benefit or a cash surrender value or a combination ~~of them~~ in an amount greater than the excess premium, the reserve according to the commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date, defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium, shall, except as provided in section 27-4.5-8, be the greater of the reserve as of the policy anniversary calculated as described in subsection (a) and the reserve as of the policy anniversary calculated as described in subsection (a), but with:

(1) the value defined in ~~subdivision~~ subsection (a)~~(1)~~ being reduced by fifteen percent (15%) of the amount of ~~the~~ such excess first year premium,

(2) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date,

(3) the policy being assumed to mature on ~~the~~ that date as an endowment, and

(4) the cash surrender value provided on ~~the~~ that date being considered as an endowment benefit. In making the above comparison ~~contained in this subsection~~ the mortality and interest ~~basis~~ bases stated in sections 27-4.5-4 and 27-4.5-4.1 shall be used.

(c) Reserves according to the commissioner's reserve valuation method shall be calculated by a method consistent with the principles of the preceding paragraphs of this section for: (1) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums; (2) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer including a partnership or sole proprietorship or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under 26 U.S.C. section 408 as now or hereafter amended; (3) disability and accidental death benefits in all policies and contracts; and (4) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts~~; shall be calculated by a method consistent with the principles of subsections (a) and (b) of this section~~.

27-4.5-6. Minimum reserves. -- (a) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after January 1, 1994, be less than the aggregate reserves calculated in accordance with the methods set forth in sections 27-4.5-5, 27-4.5-5.1, 27-4.5-8 and 27-4.5-9 and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies.

(b) In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the ~~qualified~~ appointed actuary to be necessary to render the opinion required by section 27-4.5-3.

27-4.5-7. Optional reserve calculation. -- (a) Reserves for all policies and contracts issued prior to January 1, 1994, may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by ~~consistent wit~~h the laws in effect immediately prior to that date.

(b) Reserves for any category of policies, contracts, or benefits as established by the commissioner of insurance, issued on or after the January 1, 1994, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for the category than those calculated according to the minimum standard provided in this chapter, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be ~~higher~~ greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided in ~~them~~ the policies or contracts.

(c) ~~Any~~ A company which adopts at any time ~~shall have adopted any~~ a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in this chapter may adopt a lower standard of valuation, with the approval of the commissioner of insurance, ~~adopt any lower standard of valuation,~~ but not lower than the minimum provided in this chapter; provided that, for the purposes of this section, the holding of additional reserves previously determined by ~~a qualified~~ the appointed actuary to be necessary to render the opinion required by section 27-4.5-3 shall not be deemed to be the adoption of a higher standard of valuation.

27-4.5-8. Reserve calculation -- Valuation net premium exceeding the gross premium charged. -- (a) If in any contract year the gross premium charged by the ~~any life insurance~~ company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve ~~on it~~ but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract, or the reserve calculated by the method actually used for the policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in sections 27-4.5-4 and 27-4.5-4.1.

(b) For any life insurance policy issued on or after January 1, 1994, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess, and which provides an endowment benefit or a cash surrender value or a combination ~~of them~~ in an amount greater than the excess premium, the provisions of ~~subsection (a)~~ this section shall be applied as if the method actually used in calculating the reserve for the policy were the method described in section 27-4.5-5, ignoring section 27-4.5-5(b). The minimum reserve at each policy anniversary of ~~the~~ such a policy shall be the greater of the minimum reserve calculated in accordance with section 27-4.5-5, including section 27-4.5-5(b), and the minimum reserve calculated in accordance with this section.

27-4.5-9. Reserve calculation -- Indeterminate premium plans. -- In the case of ~~any~~ plan of life insurance ~~which~~ that provides for future premium determination, the amounts of which are to be determined by the insurance company based on the then estimates of future experience, or in the case of any plan of life insurance or annuity ~~which~~ that is of such a nature that the minimum reserves cannot be determined by the methods described in sections 27-4.5-5, 27-4.5-5.1 and 27-4.5-8, the reserves ~~which~~ that are held under ~~that~~ the plan ~~must~~ shall:

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

(2) Be computed by a method that is consistent with the principles of this chapter, as determined by regulations promulgated by the commissioner of insurance.

Notwithstanding any other provision in the laws of this state, a policy, contract or certificate providing life insurance under such a plan shall be affirmatively approved by the commissioner before it can be marketed, issued, delivered or used in this state.

27-4.5-10. ~~Minimum standards for accident and sickness plans~~ Minimum standards for accident and health insurance contracts. -- ~~The commissioner of insurance shall promulgate a regulation containing the minimum standards applicable to the valuation of accident and sickness plans.~~ For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection 27-4.5-2(b). For accident and health insurance contracts issued on or after January 1, 1994 and prior to the operative date of the valuation manual the minimum standard of valuation is the standard adopted by the commissioner by regulation.

SECTION 3. Chapter 27-4.3 of the General Laws entitled "The Standard Nonforfeiture Law for Life Insurance" is hereby amended by adding thereto the following section:

27-4.3-1.1. Definitions. -- "Operative date of the valuation manual" means January 1 of the first calendar year that the valuation manual as defined in chapter 27-4.5 is effective.

SECTION 4. Chapter 27-4.5 of the General Laws entitled "The Standard Valuation Law" is hereby amended by adding thereto the following sections:

27-4.5-13. Valuation manual for policies issued on or after the operative date of the valuation manual. -- (a) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection 27-4.5-2(b), except as provided under subsections (e) or (g) of this section.

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

(1) The valuation manual has been adopted by the NAIC by an affirmative vote of at least forty-two (42) members, or three-fourths (3/4) of the members voting, whichever is greater.

(2) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five percent (75%) of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health annual statements; health annual statements; or fraternal annual statements.

(3) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two (42) of the following fifty-five (55) jurisdictions: The fifty (50) States of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

(c) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when all of the following have occurred:

(1) The change to the valuation manual has been adopted by the NAIC by an affirmative vote representing:

(i) At least three-fourths (3/4) of the members of the NAIC voting, but not less than a majority of the total membership, and

(ii) Members of the NAIC representing jurisdictions totaling greater than seventy-five percent (75%) of the direct premiums written as reported in the following annual statements most recently available prior to the vote in subsection (c)(1)(i): life, accident and health annual statements, health annual statements, or fraternal annual statements.

(2) The valuation manual becomes effective pursuant to a regulation adopted by the commissioner.

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

(1) Minimum valuation standards for and definitions of the policies or contracts subject to subsection 27-4.5-2(b). Such minimum valuation standards shall be:

(i) The commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to subsection 27-4.5-2(b);

(ii) The commissioner's annuity reserve valuation method for annuity contracts subject to subsection 27-4.5- 2(b); and

(iii) Minimum reserves for all other policies or contracts subject to subsection 27-4.5-2(b).

(2) Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in subsection 27-4.5-14(a) and the minimum valuation standards consistent with those requirements;

(3) For policies and contracts subject to a principle-based valuation under section 27-4.5-14:

(i) Requirements for the format of reports to the commissioner under subdivision 27-4.5-14(b)(2) and which shall include information necessary to determine if the valuation is appropriate and in compliance with this chapter;

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

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

(4) For policies not subject to a principle-based valuation under section 27-4.5-14 the minimum valuation standard shall either:

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

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

(5) Other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and

memorandums, transition rules and internal controls; and

(6) The data and form of the data required under section 27-4.5-15, with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.

(e) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with this chapter, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the commissioner by regulation.

(f) The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this chapter. The commissioner may rely upon the opinion, regarding provisions contained within this chapter, of a qualified actuary engaged by the commissioner of another state, district or territory of the United States. As used in this subsection, term "engage" includes employment and contracting.

(g) The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary in order to comply with the requirements of the valuation manual or this chapter; and the company shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted pursuant to section 42-14-16.

27-4.5-14. Requirements of a principle-based valuation. -- (a) A company must establish reserves using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:

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

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

(3) Incorporate assumptions that are derived in one of the following manners:

(i) The assumption is prescribed in the valuation manual.

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

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

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

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

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

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

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

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

(c) A principle-based valuation may include a prescribed formulaic reserve component.

27-4.5-15. Experience reporting for policies in force on or after the operative date of the valuation manual. -- A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

27-4.5-16. Confidentiality. -- (a) For purposes of this section, "confidential information" shall mean:

(1) A memorandum in support of an opinion submitted under section 27-4-3 and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with such memorandum;

(2) All documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in the course of an examination made under subsection 27-4.5-13(f); provided, however, that if an examination report or other material prepared in connection with an examination made under chapter 27-13.1 is not held as private and confidential

information under chapter 27-13.1, an examination report or other material prepared in connection with an examination made under subsection 27-4.5-13(f) of this chapter shall not be "confidential information" to the same extent as if such examination report or other material had been prepared in accordance with chapter 27-13.1;

(3) Any reports, documents, materials and other information developed by a company in support of, or in connection with, an annual certification by the company under subdivision 27-4.5- 14(b)(1) of this chapter evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with such reports, documents, materials and other information;

(4) Any principle-based valuation report developed under subdivision 27-4.5-14(b)(2) and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with such report; and

(5) Any documents, materials, data and other information submitted by a company under section 27-4.5- 15 (collectively, "experience data") and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data, in each case that include any potentially company-identifying or personally identifiable information, that is provided to or obtained by the commissioner (together with any "experience data", the "experience materials") and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with such experience materials.

(b) Privilege for, and confidentiality of, confidential information.

(1) Except as provided in this section 27-4.5-16, a company's confidential information is confidential by law and privileged, and shall not be subject to chapter 38-2, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action; provided, however, that the commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the commissioner's official duties.

(2) Neither the commissioner nor any person who received confidential information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential information.

(3) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential information: (i) With other state, federal and international regulatory agencies and with the NAIC and its affiliates and subsidiaries; and (ii) In the case of confidential information specified in subdivisions 27-4.5-16(a)(1) and 27-4.5-16(a)(4) only, with the actuarial board for counseling and discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal and international law enforcement officials; in the case of subsections (a) and (b), provided, that, such recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data and other information in the same manner and to the same extent as required for the commissioner.

(4) The commissioner may receive documents, materials, data and other information, including otherwise confidential and privileged documents, materials, data or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the actuarial board for counseling and discipline or its successor and shall maintain as confidential or privileged any document, material, data or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other information.

(5) The commissioner may enter into agreements governing sharing and use of information consistent with subsection 27-4.5-16(b).

(6) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subdivision 27-4.5-16(b)(3).

(7) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under subsection 27-4.5-16(b) shall be available and enforced in any proceeding in, and in any court of, this state.

(8) In section 27-4.5-16 "regulatory agency," "law enforcement agency" and the "NAIC" include, but are not limited to, their employees, agents, consultants and contractors.

(c) Notwithstanding subsection 27-4.5-16(b), any confidential information specified in subdivisions 27-4.5-16(a)(1) and 27-4.5-14(a)(4):

(1) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under section 27-4.5-3 or principle-based valuation report developed under subdivision 27-4.5-14(b)(3) by reason of an action required by this chapter or by regulations promulgated hereunder;

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

(3) Once any portion of a memorandum in support of an opinion submitted under section 27-4.5-3 or a principle-based valuation report developed under subdivision 27-4.5-14(b)(3) is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential.

27-4.5-17. Single state exemption. -- (a) The commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in Rhode Island from the requirements of section 27-4.5-13 provided:

(1) The commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and

(2) The company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the commissioner and promulgated by regulation.

(b) For any company granted an exemption under this section, and sections 27-4.5-3, 27-4.5-4, 27-4.5-4.1, 27-4.5-4.2, 27-4.5-5, 27-4.5-5.1, 27-4.5-6, 27-4.5-7, 27-4.5-8, 27-4.5-9 and 27-4.5-10 shall be applicable. With respect to any company applying this exemption, any reference to section 27-4.5-13 found in sections 27-4.5-3, 27-4.5-4, 27-4.5-4.1, 27-4.5-4.2, 27-4.5-5, 27-4.5-5.1, 27-4.5-6, 27-4.5-7, 27-4.5-8, 27-4.5-9 and 27-4.5-10 shall not be applicable.

SECTION 5. Sections 27-4-17, 27-4-18, 27-4-19, 27-4-20 and 27-4-21 of the General Laws in Chapter 27-4 entitled "Life Insurance Policies and Reserves" are hereby repealed.

~~**27-4-17. Annual valuation of policies and reserves. --** (a) The director of business regulation shall make annual valuations of all outstanding policies, additions to policies, unpaid dividends, and all other obligations of every life insurance corporation doing business in this state. All valuations made by the director, or by his or her authority, shall be made upon the net premium basis. The legal minimum standard for valuation of contracts issued before January 1, 1907, shall be the American experience table of mortality with the interest at four percent (4%) per annum, and for contracts issued on or after that date the same table of mortality with interest at three and one-half percent (3 1/2%) per annum. Any company may adopt as a legal minimum standard, for the valuation of life insurance policies issued on or after January 1, 1948, the commissioners reserve valuation method, with interest at three and one-half percent (3 1/2%) per annum, or in the case of policies issued on or after April 17, 1975, four percent (4%) per annum for policies issued prior to April 27, 1979, and four and one-half percent (4 1/2%) per annum for~~

~~policies issued on or after April 27, 1979, and either the commissioners 1941 standard ordinary mortality table or the commissioners 1958 standard ordinary mortality table for ordinary policies, and either the 1941 standard industrial mortality table or the commissioners 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for industrial policies, for industrial policies in lieu of the legal minimum standard allowed by this section. (b) The interest rates used in determining the minimum standard for the valuation of all life insurance policies issued in a particular calendar year on or after May 15, 1981, shall be the calendar year statutory valuation interest rates as defined in this section. (c) (1) The calendar year statutory valuation interest rates shall be determined as follows and the results rounded to the nearer one-quarter of one percent (.25%): For life insurance: = I = .03 + W (R1 -.03) + W/2 (R1 -.09); where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate defined in this section, and W is the weighting factor defined in this section; (2) If the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to subdivision (c)(1) differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent (.5%), the calendar year statutory valuation interest rate for these life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For the purposes of applying the provisions in this subdivision, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 using the reference interest rate defined for 1979 and shall be determined for each subsequent calendar year. (3) The weighting factors referred to in the formula stated in subdivision (c)(1) are given in the following table:~~

~~Weighting Factors for Life Insurance: Guarantee Duration Weighting (Years) Factors 10 or less .50 More than 10, but not more than 20 .45 More than 20 .35 For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or non-forfeiture values or both which are guaranteed in the original policy.~~

~~(4) The reference interest rate referred to in subdivision (c)(1) shall be defined as follows: (i) For all life insurance, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc., or any successor; or (ii) In the event~~

~~that the Moody's corporate bond yield average -- monthly average corporates is no longer published by Moody's Investors Service, Inc., or in the event that the National Association of Insurance Commissioners determines that the Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the references interest rate, which is adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the commissioner, may be substituted. (d) The mortality table used in determining the minimum standard for the valuation of ordinary life insurance policies issued on or after May 15, 1981, shall be: (1) The commissioners 1980 standard ordinary mortality table; (2) At the election of the company for any one or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten (10) year select mortality factors; or (3) Any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for these policies. (e) Reserves for any category of policies or contracts may be calculated, at the option of the insurer, according to any standard or standards which produce greater aggregate reserves for all policies or contracts than the legal minimum standard or standards.~~

~~**27-4-18. Variance from valuation standards. --** The director of business regulation may vary the standards of interest and mortality in the case of corporations from foreign countries as to contracts issued by these corporations in countries other than the United States, and in particular cases of invalid lives and other extra hazards, and value policies seriatim or in groups, use approximate averages for fractions of a year and otherwise, and accept the valuation of the department of insurance of any other state or country if made upon the basis of, and according to, standards not lower than required or authorized by sections 27-4-17 -- 27-4-20, in place of the valuation required by sections 27-4-17 -- 27-4-20.~~

~~**27-4-19. Valuation of bonds and fixed obligation investments. --** All bonds or other evidences of debt having a fixed term and rate held by any life insurance company, assessment life association, or fraternal beneficiary association authorized to do business in this state, may, if amply secured and not in default as to principal or interest, be valued as follows: if purchased at par, at the par value; and if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made; provided, that the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase; and provided, that~~

~~the director of business regulation shall have full discretion in determining the method of calculating values according to this rule.~~

~~**27-4-20. Employment of actuary to make valuation -- Acceptance of valuation by company. --** For the purpose of making a valuation, the director of business regulation may employ a competent actuary to do the valuation, who shall be paid by the company for which the services are rendered, but nothing in this chapter shall prevent any company from making the valuation contemplated in this section, which may be received by the director upon the proof that he or she may determine. The expense of procuring that proof shall be paid by the company.~~

~~**27-4-21. Certificate of compliance with reserve requirements. --** Upon the valuation being made as provided in sections 27-4-17 -- 27-4-20, the director of business regulation shall issue a certificate setting forth the corporate name of the company, its principal office, that it has fully complied with the provisions of this chapter, stating the amount of the net reserve value of outstanding policies and the table upon which that value is computed, and that it is authorized to transact the business of life insurance in this state.~~

SECTION 6. This act shall take effect upon passage.

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LC01413/SUB A
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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N   A C T

RELATING TO INSURANCE -- THE STANDARD NONFORFEITURE LAW FOR LIFE INSURANCE

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This act would bring the Standard Valuation and Standard Nonforfeiture for Life Insurance laws into compliance with the current version of the National Association of Insurance Commissioners Model Act by amending and adding a number of provisions to chapters 27-4.3 and 27-4.5, and repealing the provisions of chapter 27-4 that are addressed in the amended version of chapter 27-4.5.

This act would take effect upon passage.

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