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**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Reps. Robertson, Milosch, Voorhees, Shaffer, Wenke, Julian and Hune

ENROLLED HOUSE BILL No. 5931

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 834 and 4060 (MCL 500.834 and 500.4060), section 834 as amended by 2000 PA 378 and section 4060 as amended by 1993 PA 349, and by adding section 838.

The People of the State of Michigan enact:

Sec. 834. (1) Except as otherwise provided in sections 835, 836, and 837, the minimum standard for the valuation of policies and contracts described in subsection (8) shall be the commissioner's reserve valuation methods defined in

subsections (2), (3), and (6), 5% interest for group annuity and pure endowment contracts, provided that prior notice of any revaluation of reserves with respect to group annuity and pure endowment contracts is given to the commissioner in the same manner as is required before a revaluation of reserves under section 832(2), and 3-1/2% interest for all other of those policies and contracts; or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after October 21, 1974, 4% interest for those policies issued before October 1, 1980, and 4-1/2% interest for those policies issued on or after October 1, 1980, or in the case of life insurance contracts, other than annuity and pure endowment contracts, issued after December 31, 1994, 5-1/2% interest for single premium life insurance policies and 4-1/2% interest for all other policies, and the following tables:

(I) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in those policies: the commissioner's 1941 standard ordinary mortality table, for policies issued before the operative date of paragraph 5 of section 4060(5); and the commissioner's 1958 standard ordinary mortality table for policies issued on or after that operative date and before the operative date of paragraphs 9 to 19 of section 4060(5). For any category of those policies issued on female risks, all modified net premiums and present values referred to in this section may be calculated according to an age not more than 6 years younger than the actual age of the insured; and, for those policies issued on or after the operative date of paragraphs 9 to 19 of section 4060(5), the commissioner's 1980 standard ordinary mortality table or, at the election of the company for any 1 or more specified plans of life insurance, the commissioner's 1980 standard ordinary mortality table with 10-year select mortality factors or any ordinary mortality table adopted after 1980 by the national association of insurance commissioners that is approved by a rule promulgated by the commissioner for use in determining the minimum standard of valuation for those policies or the 2001 CSO mortality table under section 838.

(II) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in those policies: the 1941 standard industrial mortality table for those policies issued before the operative date of paragraph 7 of section 4060(5); and for those policies issued on or after that operative date, the commissioner's 1961 standard industrial mortality table or any industrial mortality table adopted after 1980 by the national association of insurance commissioners that is approved by a rule promulgated by the commissioner for use in determining the minimum standard of valuation for those policies.

(III) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in those policies: the 1937 standard annuity mortality table or, at the option of the company, the annuity mortality table for 1949, ultimate, or any modification of either of those tables approved by the commissioner.

(IV) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in those policies: the group annuity mortality table for 1951, any modification of that table approved by the commissioner, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(V) For total and permanent disability benefits in or supplementary to ordinary policies or contracts: for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates adopted after 1980 by the national association of insurance commissioners that are approved by a rule promulgated by the commissioner for use in determining the minimum standard of valuation for those policies; for policies or contracts issued on or after January 1, 1961, and before January 1, 1966, either those tables or, at the option of the company, the class (3) disability table, 1926; and for policies issued before January 1, 1961, the class (3) disability table, 1926. For active lives, a table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(VI) For accidental death benefits in or supplementary to policies: for policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table adopted after 1980 by the national association of insurance commissioners that is approved by a rule promulgated by the commissioner for use in determining the minimum standard of valuation for those policies; for policies issued on or after January 1, 1961, and before January 1, 1966, 1 of the above tables or at the option of the insurer the intercompany double indemnity mortality table. A table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(VII) For group life insurance, life insurance issued on the substandard basis, and other special benefits: any table approved by the commissioner.

(2) Except as otherwise provided in subsections (3) and (6), reserves according to the commissioner's 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 those policies over the then present value of any future modified net premiums for the policies. The modified net premiums for the policy shall be a uniform percentage of the respective contract premiums for the future guaranteed benefits so that the present value of all modified net premiums

equals, at the date of issue of the policy, the sum of the then present value of these benefits provided for by the policy and the excess of (g) over (h), as follows:

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

(h) A net 1-year term premium for the future guaranteed benefits provided for in the first policy year.

However, for any life insurance policy issued on or after January 1, 1986 for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for that excess and that provides an endowment benefit or a cash surrender value or a combination of endowment benefit and cash surrender value in an amount greater than the excess premium, the reserve according to the commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date, defined 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 be, except as otherwise provided in subsection (6), the greater of the reserve as of that policy anniversary calculated as described in paragraph 1 of this subsection and the reserve as of that policy anniversary calculated as described in that paragraph, but with the value defined in (g) being reduced by 15% of the amount of the excess first year premium; 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; the policy being assumed to mature on that date as an endowment; and the cash surrender value provided on that date being considered as an endowment benefit. In making the above comparison, the mortality and interest bases stated in subsection (1) and section 836 shall be used.

Reserves according to the commissioner's reserve valuation method for (I) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (II) 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 section 408 of the internal revenue code, 26 USC 408, (III) disability and accidental death benefits in all policies and contracts, and (IV) 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 this subsection.

(3) This subsection applies to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code, 26 USC 408. Without action by the Michigan Legislature to adopt actuarial guideline 35, reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in those contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by those contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of the contract, that become payable before the end of that respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate specified in those contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

(4) An insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, shall not be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (2), (3), (6), and (7), and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies. The aggregate reserves for all policies, contracts, and benefits shall not be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by section 830a.

(5) Reserves for all policies and contracts issued prior to June 27, 1994 may be calculated, at the option of the insurer, according to any standards that produce greater aggregate reserves for all those policies and contracts than the minimum reserves required by the laws in effect immediately before June 27, 1994. Reserves for a category of policies, contracts, or benefits as established by the commissioner, issued on or after June 27, 1994, may be calculated at the option of the insurer according to any standards that produce greater aggregate reserves than those calculated according to the minimum standard provided in this act. However, the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for in those policies and contracts. Any insurer that had previously adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in this section and section 835 may, with the commissioner's approval, adopt any

lower standard of valuation, but not lower than the minimum standard provided by this section and section 835. However, for the purposes of this section, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by section 830a shall not be considered to be the adoption of a higher standard of valuation.

(6) If in any contract year the gross premium charged by a life insurer on a 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 the policy or contract, the insurer may use the minimum valuation standards of mortality, either at the time of issue or the time of valuation of the policy or contract and the minimum valuation rate of interest at time of issue or the time of valuation of the policy or contract, so long as the minimum reserve required for the policy or contract is 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 using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subsection (1) and section 836. However, for any life insurance policy issued on or after January 1, 1986 for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for that excess and that provides an endowment benefit or a cash surrender value or a combination of endowment benefit and cash surrender value in an amount greater than the excess premium, the provisions of this subsection shall be applied as if the method actually used in calculating the reserve for that policy were the method described in subsection (2), ignoring paragraph 2 of that subsection. The minimum reserve at each policy anniversary of that policy shall be the greater of the minimum reserve calculated in accordance with subsection (2), including paragraph 2 of that subsection, and the minimum reserve calculated in accordance with this subsection.

(7) For any plan of life insurance that provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or, in the case of any plan of life insurance or annuity that is of such a nature that the minimum reserves cannot be determined by the methods described in subsections (2), (3), and (6), the reserves that are held under those plans must be appropriate in relation to the benefits and the pattern of premiums for that plan and computed by a method that is consistent with the principles of this standard valuation law, as determined by rules promulgated by the commissioner.

(8) This section applies to only life insurance policies and contracts issued on and after the operative date of section 4060, the standard nonforfeiture law, except as otherwise provided in sections 835 and 836 for group annuity and pure endowment contracts issued on or after the operative date of section 4060 and except as otherwise provided in section 837 for universal life contracts.

Sec. 838. (1) As used in this section:

(a) “2001 CSO mortality table” means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American academy of actuaries CSO task force from the valuation basic mortality table developed by the society of actuaries individual life insurance valuation mortality task force and adopted by the NAIC in December 2002. Unless the context indicates otherwise, the 2001 CSO mortality table includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

(b) “2001 CSO mortality table (F)” means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO mortality table.

(c) “2001 CSO mortality table (M)” means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO mortality table.

(d) “Composite mortality tables” means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

(e) “NAIC” means the national association of insurance commissioners.

(f) “Smoker and nonsmoker mortality tables” means mortality tables with separate rates of mortality for smokers and nonsmokers.

(2) In addition to the other requirements of this act, a life insurer shall use appendix A-830 of the NAIC accounting practices and procedures manual for the valuation of life insurance policies. Any supplements, replacements, or changes to appendix A-830 of the NAIC accounting practices and procedures manual that are adopted by the NAIC shall only take effect if adopted by the commissioner by rules promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. This section does not expand the applicability of appendix A-830 of the NAIC accounting practices and procedures manual to include life insurance policies otherwise exempt under appendix A-830 of the NAIC accounting practices and procedures manual.

(3) At the election of an insurer for each plan of insurance and subject to this section, the 2001 CSO mortality table may be used as the minimum standard for policies issued on or after July 1, 2004 and before January 1, 2009 to which sections 834(1)(I) and 4060(5)(f) are applicable. If an insurer elects to use the 2001 CSO mortality table, it shall do so for both valuation and nonforfeiture purposes. Subject to this section, the 2001 CSO mortality table shall be used in determining minimum standards for policies issued on or after January 1, 2009 to which sections 834(1)(I) and 4060(5)(f) are applicable.

(4) For plans of insurance without separate rates for smokers and nonsmokers, the composite mortality tables shall be used. For each plan of insurance with separate rates for smokers and nonsmokers, an insurer may use any of the following:

(a) Composite mortality tables to determine minimum reserve liabilities, minimum cash surrender values, and amounts of paid-up nonforfeiture benefits.

(b) Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by section 834 and composite mortality tables to determine the basic minimum reserve liabilities, minimum cash surrender values, and amounts of paid-up nonforfeiture benefits.

(c) Smoker and nonsmoker mortality tables to determine minimum reserve liabilities, minimum cash surrender values, and amounts of paid-up nonforfeiture benefits.

(5) An insurer may, at the option of the insurer for each plan of insurance, use the 2001 CSO mortality table in its ultimate or select and ultimate form for the purpose of determining minimum reserve liabilities, minimum cash surrender values, and amounts of paid-up nonforfeiture benefits for each plan of insurance.

(6) If the 2001 CSO mortality table is the minimum reserve standard for any plan for an insurer, the actuarial opinion in the annual statement filed with the commissioner shall be completed pursuant to section 830a. An insurer that does business in this state and in no other state may be exempted from this subsection by the commissioner.

(7) In valuing life insurance policies pursuant to appendix A-830 of the NAIC accounting practices and procedures manual, all of the following apply:

(a) In determining the applicability to any universal life policy, the net level reserve premium for the secondary guarantee period is based on the ultimate mortality rates in the 2001 CSO mortality table.

(b) All calculations under the contract segmentation method are made using the 2001 CSO mortality rate, and, if elected, the optional minimum mortality standard for deficiency reserves. The value of " $q_{x+k+t-1}$ " is the valuation mortality rate for deficiency reserves in policy year $k+t$, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

(c) For purposes of general calculation requirements for basic reserves and premium deficiency reserves, the 2001 CSO mortality table is the minimum standard for basic reserves.

(d) For purposes of general calculation requirements for basic reserves and premium deficiency reserves, the 2001 CSO mortality table is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions set forth in appendix A-830 of the NAIC accounting practices and procedures manual. In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO mortality table with those tests that utilize the 2001 CSO mortality table, unless the combination is explicitly required by regulation or is necessary to be in compliance with relevant actuarial standards of practice.

(e) When determining minimum value for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits, other than universal life policies, the valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO mortality table.

(f) When determining the optional exemption for yearly renewable term reinsurance for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits, other than universal life policies, the calculations shall use the maximum valuation interest rate and the ultimate mortality rates in the 2001 CSO mortality table.

(g) When determining the optional exemption for attained-age-based yearly renewable term life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits, other than universal life policies, the calculations shall use the maximum valuation interest rate and the ultimate mortality rates in the 2001 CSO mortality table.

(h) When determining the exemption from unitary reserves for certain n-year renewable term life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits, other than universal life policies, the calculations shall use the ultimate mortality rates in the 2001 CSO mortality table.

(i) For flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policyowner to keep a policy in force over a secondary guarantee period, the 1-year valuation premium for purposes of identifying policies with a secondary guarantee shall be calculated using the ultimate mortality rates in the 2001 CSO mortality table.

(8) For any ordinary life insurance policy delivered or issued for delivery in this state on or after July 1, 2004 that uses the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO mortality table (M) and the 2001 CSO mortality table (F) may, at the option of the insurer for each plan of insurance, be substituted for the 2001 CSO mortality table for use in determining minimum cash surrender value and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this subsection.

(9) In determining minimum reserve liabilities and nonforfeiture benefits, an insurer may choose from among the blended tables developed by the American academy of actuaries CSO task force and adopted by the NAIC in December 2002.

(10) It is not, by itself, a violation of chapter 20 for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

Sec. 4060. (1) This section shall be known as the standard nonforfeiture law for life insurance and shall apply to life insurance contracts except as otherwise provided in section 4061 for universal life insurance contracts.

(2) For policies issued on and after the operative date of this section, as defined in subsection (10), a policy of life insurance, except as stated in subsection (9), shall not be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions that in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements specified in this subsection and are essentially in compliance with subsection (8):

(a) That in the event of default in a premium payment, the company will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of that due date, of an amount as specified in this section. In lieu of the stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than 60 days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit that provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(b) That upon surrender of the policy within 60 days after the due date of a premium payment in default, after premiums have been paid for not less than 3 full years in the case of ordinary insurance or 5 full years in the case of industrial insurance, the company will pay, in place of any paid-up nonforfeiture benefit, a cash surrender value of an amount specified in this section.

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make the election elects another available option not later than 60 days after the due date of the premium in default.

(d) That if the policy has become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of an amount specified in this section.

(e) That for policies that cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or that provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy.

For all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter. The values and benefits shall be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated in the policy, a statement that the method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which the values and benefits are consecutively shown in the policy.

Subdivisions (a) to (f) or portions of those subdivisions not applicable by reason of the plan of insurance, to the extent inapplicable, may be omitted from the policy.

The company shall reserve the right to defer the payment of any cash surrender value for a period of 6 months after demand for the payment with surrender of the policy.

(3) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection (2), shall be an amount not less than the excess, if any, of the present value, on the anniversary, of the future guaranteed benefits that would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of the then present value of the adjusted premiums as defined in subsection (5), corresponding to premiums that would have fallen due on and after the anniversary, and the amount of any indebtedness to the company on the policy. However, for any policy issued on or after the operative date of paragraphs 9 to 19 of subsection (5) that provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value shall be an amount not less than the sum of the cash surrender value for an otherwise similar policy issued at the same age without the rider or supplemental policy provision and the cash surrender value for a policy that provides only the benefits otherwise provided by the rider or supplemental policy provision.

For any family policy issued on or after the operative date of paragraphs 9 to 19 of subsection (5) that defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age 71, the cash surrender value shall be an amount not less than the sum of the cash surrender value for an otherwise similar policy issued at the same age without the term insurance on the life of the spouse and the cash surrender value for a policy that provides only the benefits otherwise provided by the term insurance on the life of the spouse.

Any cash surrender value available within 30 days after a policy anniversary under a policy paid up by completion of all premium payments or a policy continued under a paid-up nonforfeiture benefit, whether or not required by subsection (2), shall be an amount not less than the present value, on the anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

(4) Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on a policy anniversary shall be such that its present value as of the anniversary shall at least equal the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value that would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

(5) Paragraphs 1 to 8 of this subsection shall not apply to policies issued on or after the operative date of paragraphs 9 to 19 as defined in paragraph 19. Except as provided in the third paragraph of this subsection, the adjusted premiums for a policy shall be calculated on an annual basis and shall be a uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, so that the present value, at the date of issue of the policy, of all the adjusted premiums equals the sum of (I) the then present value of the future guaranteed benefits provided for by the policy; (II) 2% of the amount of insurance, if the insurance is uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (III) 40% of the adjusted premium for the first policy year; (IV) 25% of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less. In applying the percentages specified in items (III) and (IV) above, an adjusted premium shall not be considered to exceed 4% of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount of the policy for the purpose of this subsection shall be considered to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy. However, in the case of a policy providing a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy before the attainment of age 10 were the amount provided by the policy at age 10.

The adjusted premiums for a policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without the term insurance benefits, increased, during the period for which premiums for the term insurance benefits are payable, by (b) the adjusted premiums for that term insurance. Items (a) and (b) shall be calculated separately and as specified in the first 2 paragraphs of this subsection. However, for the purposes of items (II), (III), and (IV) of the first paragraph of this subsection, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

Except as otherwise provided in paragraph 5 of this subsection, for all policies of ordinary insurance, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1941 standard ordinary mortality table. For a category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than 3 years younger than the actual age of the insured. Except as otherwise provided in paragraph 7 of this subsection, the calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding 3-1/2% per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. 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 130% of the rates of mortality according to the applicable table. For insurance issued on a substandard basis, the calculation of adjusted premiums and present values may be based on another table of mortality as specified by the company and approved by the commissioner.

For ordinary policies issued on or after the operative date of this paragraph, as defined in paragraph 6, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1958 standard ordinary mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. However, the rate of interest shall not exceed 3-1/2% per annum, except that a rate of interest not exceeding 4% per annum may be used for policies issued on or after October 21, 1974, and before October 1, 1980, and a rate of interest not exceeding 5-1/2% per annum may be used for policies issued on or after October 1, 1980. For a category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than 6 years younger than the actual age of the insured. In calculating the present value of a 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 1958 extended term insurance table. For insurance issued on a substandard basis, the calculation of adjusted premiums and present values may be based on another table of mortality as specified by the company and approved by the commissioner.

After May 23, 1960, any company may file with the commissioner a written notice of its election to invoke the provisions of paragraph 5 after a specified date before January 1, 1966. After the filing of the notice, then on the specified date, that shall be the operative date for the company, paragraph 5 shall become operative with respect to the ordinary policies issued by the company and bearing a date of issue that is the same as or later than the specified date. If a company does not make an election, the operative date of paragraph 5 for the company shall be January 1, 1966.

For industrial policies issued on or after the operative date of this paragraph, as defined in paragraph 8, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1961 standard industrial mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. However, the rate of interest shall not exceed 3-1/2% per annum, except that a rate of interest not exceeding 4% per annum may be used for policies issued on or after October 21, 1974, and before October 1, 1980, and a rate of interest not exceeding 5-1/2% per annum may be used for policies issued on or after October 1, 1980. In calculating the present value of 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 1961 industrial extended term insurance table. For insurance issued on a substandard basis, the calculation of adjusted premiums and present values may be based on another table of mortality as specified by the company and approved by the commissioner.

After May 23, 1969, a company may file with the commissioner a written notice of its election to invoke the provisions of paragraph 7 after a specified date before January 1, 1968. After the filing of the notice, then on the specified date, which shall be the operative date for the company, paragraph 7 shall become operative with respect to the industrial policies issued by the company and that bear a date of issue the same as or later than the specified date. If a company does not make an election, the operative date of paragraph 7 for the company shall be January 1, 1968.

Paragraphs 9 to 19 shall apply to all policies issued on or after the operative date of those paragraphs as defined in paragraph 19. Except as provided in paragraph 15, the adjusted premiums for any policy shall be calculated on an annual basis and shall be 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 (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) 1% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and (iii) 125% of the nonforfeiture net level premium as defined in this subsection. However, in applying the percentage specified in (iii), the nonforfeiture net level premium shall not be deemed to exceed 4% of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

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 1 per annum payable on the date of issue of the policy and on each anniversary of the policy on which a premium falls due.

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

Except as otherwise provided in paragraph 15 of this subsection, the recalculated future adjusted premiums shall be a uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards and 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 such future adjusted premiums shall be equal to the excess of the sum of the then present value of the then future guaranteed benefits provided for by the policy and the additional expense allowance, if any, over the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of 1% of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years after the change over the average amount of insurance before the change at the beginning of each of the first 10 policy years after the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and 125% of the increase, if positive, in the nonforfeiture net level premium.

The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (a) by (b) where (a) equals the sum of (i) the nonforfeiture net level premium applicable before the change times the present value of an annuity of 1 per annum payable on each anniversary of the policy on or after 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 (b) equals the present value of an annuity of 1 per annum payable on each anniversary of the policy on or after the date of change on which a premium falls due.

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

All adjusted premiums and present values referred to in this section for all policies of ordinary insurance shall be calculated on the basis of the commissioners 1980 standard ordinary mortality table or, at the election of the company for any 1 or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with 10-year select mortality factors. All adjusted premiums and present values referred to in this section for all policies of industrial insurance shall be calculated on the basis of the commissioners 1961 standard industrial mortality table. All adjusted premiums and present values referred to in this section for all policies issued in a particular calendar year shall be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection for policies issued in that calendar year. However:

(a) At the option of the 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 subsection, for policies issued in the immediately preceding calendar year.

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

(c) A 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.

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

(e) For insurance issued on a substandard basis, the calculation of adjusted premiums and present values may be based on appropriate modifications of the tables provided in subdivision (d).

(f) Any ordinary mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by a rule promulgated by the commissioner for use in determining the minimum nonforfeiture standard

or as provided under section 838 may be substituted for the commissioners 1980 standard ordinary mortality table with or without 10-year select mortality factors or for the commissioners 1980 extended term insurance table.

(g) Any industrial mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by a rule promulgated by the commissioner 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.

The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125% of the calendar year statutory valuation interest rate for such policy as defined in the standard valuation law, rounded to the nearest 0.25%.

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

After July 10, 1982, any company may file with the commissioner a written notice of its election to comply with paragraphs 9 to 19 of this subsection at a specified date before January 1, 1989, which shall be the operative date of those paragraphs for that company. If a company makes no election, the operative date of paragraphs 9 to 19 of this subsection for the company shall be January 1, 1989.

(6) For any plan of life insurance that provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or for any plan of life insurance that is of such a nature that minimum values cannot be determined by the methods described in subsections (2) to (5):

(a) The commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsections (2) to (5).

(b) The commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not misleading to prospective policyholders or insureds.

(c) The cash surrender values and paid-up nonforfeiture benefits provided by the plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this section, as determined by rules promulgated by the commissioner.

(7) Any cash surrender value and paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at a time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (3), (4), and (5) may be calculated on the assumption that a death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide the additions. Notwithstanding subsection (3), additional benefits payable in any of the following ways, and premiums for all these additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and the additional benefits shall not be required to be included in any paid-up nonforfeiture benefits:

(a) In the event of death or dismemberment by accident or accidental means.

(b) In the event of total and permanent disability.

(c) As reversionary annuity or deferred reversionary annuity benefits.

(d) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply.

(e) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if the term insurance expires before the child's age is 26, is uniform in amount after the child's age is 1, and has not become paid-up by reason of the death of a parent of the child.

(f) As other policy benefits additional to life insurance and endowment benefits.

(8) This subsection shall apply to all policies issued on or after January 1, 1986. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount that does not differ by more than 0.2% of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years from the sum of (a) the greater of zero and the basic cash value as specified in this subsection and (b) the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

The basic cash value shall be equal to the present value on such anniversary of the future guaranteed benefits that would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default less the then present value of the nonforfeiture factors, as defined in this subsection, corresponding to premiums that would have fallen due on and after such anniversary.

However, the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage shall be the same as are the effects specified in subsection (3) or (5), whichever is applicable, on the cash surrender values.

The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in paragraphs 1 to 4 of subsection (5) or paragraphs 9 to 19 of subsection (5), whichever is applicable. The nonforfeiture factor:

(a) Must be the same percentage for each policy year between the second policy anniversary and the later of the fifth policy anniversary and the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least 0.2% of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years.

(b) Must be such that no percentage after the later of the 2 policy anniversaries specified in subdivision (a) may apply to fewer than 5 consecutive policy years.

However, the basic cash value may not be less than the value that would be obtained if the adjusted premiums for the policy, as defined in paragraphs 1 to 4 or paragraphs 9 to 19 of subsection (5), whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

All adjusted premiums and present values referred to in this subsection shall be calculated for a particular policy on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other subsections of this section. The cash surrender values referred to in this subsection shall include any endowment benefits provided for by the policy.

Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subsections (2), (3), (4), and (7) and paragraphs 9 to 19 of subsection (5). The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed in subsection (7) shall conform with the principles of this subsection.

(9) This section does not apply to any of the following:

(a) Reinsurance.

(b) Group insurance.

(c) Pure endowment.

(d) Annuity or reversionary annuity contract.

(e) A term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy.

(f) A term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in subsection (5), is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy.

(g) A policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subsections (3) to (5), exceeds 2.5% of the amount of insurance at the beginning of the same policy year.

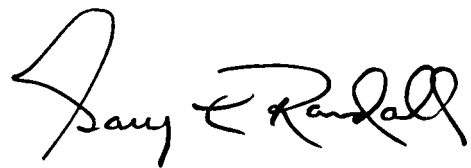
(h) A policy that shall be delivered outside this state through an agent or other representative of the company issuing the policy.

For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

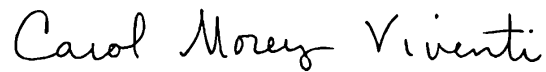
(10) After July 30, 1943, a company may file with the commissioner a written notice of its election to comply with this section after a specified date before January 1, 1948. After the filing of the notice, then on the specified date, which shall be the operative date for the company, this section shall become operative with respect to the policies thereafter issued by the company. If a company does not make an election, the operative date of this section for the company shall be January 1, 1948.

Enacting section 1. This amendatory act takes effect July 1, 2004.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor