HOUSE BILL No. 5932

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November 6, 2014, Introduced by Rep. Lund and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled

"The insurance code of 1956,"

by amending sections 102, 830, 830a, 834, 836, 838, 3930, 4060, and 4061 (MCL 500.102, 500.830, 500.830a, 500.834, 500.836, 500.838, 500.3930, 500.4060, and 500.4061), section 102 as amended by 2000 PA 252, section 830 as amended by 1994 PA 228, section 830a as added by 1994 PA 226, sections 834 and 4060 as amended and section 838 as added by 2004 PA 236, section 836 as amended by 1986 PA 12, section 3930 as added by 1992 PA 84, and section 4061 as added by 1993 PA 349, and by adding sections 836a and 836b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 102. ~~(1) "Commissioner" as~~ **AS** used in this act:

(A) "COMMISSIONER" means the ~~commissioner of the office of~~

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~~financial and insurance services.~~**DIRECTOR.**

(B) ~~(2)~~ "Department" ~~as used in this act~~ means the ~~office of financial and insurance services.~~**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES.**

(C) "DIRECTOR" MEANS, UNLESS THE CONTEXT CLEARLY IMPLIES A DIFFERENT MEANING, THE DIRECTOR OF THE DEPARTMENT.

(D) "OFFICE OF FINANCIAL AND INSURANCE REGULATION" AND "OFFICE OF FINANCIAL AND INSURANCE SERVICES" MEAN THE DEPARTMENT.

Sec. 830. (1) The ~~commissioner~~ **DIRECTOR** shall annually value ~~, or cause to be valued,~~ the reserve liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state **ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL**, except that for an alien insurer, the valuation ~~shall be~~ **IS** limited to its United States' business. ~~, and may certify the amount of the reserves, specifying the mortality table or tables, rate or rates of interest, and methods, net level premium method or other, used in the calculation of the reserves.~~ In calculating the reserves, the ~~commissioner~~ **DIRECTOR** may use group methods and approximate averages for fractions of a year or otherwise. ~~In lieu~~ **INSTEAD** of the valuation of the reserves required in this section of any foreign or alien insurer, the ~~commissioner~~ **DIRECTOR** may accept any valuation made ~~, or caused to be made,~~ by the insurance supervisory official of any state or other jurisdiction, if the valuation complies with the minimum standard provided in this section. ~~, and if the official of that state or jurisdiction accepts as sufficient and~~

~~valid for all legal purposes the certificate of valuation of the commissioner, which 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 DIRECTOR SHALL ANNUALLY VALUE 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. INSTEAD OF THE VALUATION OF THE RESERVES REQUIRED OF A FOREIGN OR ALIEN COMPANY, THE DIRECTOR MAY ACCEPT A VALUATION MADE BY THE INSURANCE SUPERVISORY OFFICIAL OF ANY STATE OR OTHER JURISDICTION IF THE VALUATION COMPLIES WITH THE MINIMUM STANDARD PROVIDED IN THIS SECTION.

(3) ~~(2)~~ Except as otherwise provided in this subsection, the insurer shall pay to the ~~commissioner,~~ **DIRECTOR,** as compensation for the valuation, 1 cent for each thousand dollars insured, under policies insuring residents of ~~these~~ **THE** United States, or issued by an insurer organized under the laws of this state. For annual valuations ~~on or~~ after ~~January 1, 1988,~~ **DECEMBER 31, 1987,** the valuation fee imposed under this section ~~shall~~ **DOES** not apply to contracts of reinsurance. A valuation fee under this subsection ~~shall~~ **DOES** not apply to an annual valuation of a domestic insurer ~~on or~~ after ~~January 1, 1988.~~ **DECEMBER 31, 1987.** For annual valuations for the 1994 calendar year, the valuation fee imposed under this subsection for alien insurers ~~shall be~~ **IS** .67 cent for each thousand dollars insured. ~~On and after January 1, 1995,~~ **AFTER DECEMBER 31, 1994,** the valuation fee imposed under this subsection ~~shall~~ **DOES** not apply to alien insurers.

(4) ~~(3)~~ An insurer that ~~at any time shall have~~ **HAS** adopted ~~any~~ **A** standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in this section may, with the approval of the ~~commissioner,~~ **DIRECTOR,** adopt ~~any~~ **A** lower standard of valuation, but not lower than the minimum provided in this section.

(5) ~~(4) Every~~ **A** foreign cooperative or assessment insurer shall ~~have~~ **VALUE** its business ~~valued~~ and shall maintain reserves ~~in accordance with~~ **UNDER** the standards ~~currently~~ required of domestic insurers transacting similar insurance ~~by~~ **UNDER** this ~~act.~~**SECTION.**

(6) AS USED IN THIS SECTION:

(A) "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.

(B) "COMPANY" MEANS AN ENTITY THAT HAS WRITTEN, ISSUED, OR REINSURED LIFE INSURANCE CONTRACTS, ACCIDENT AND HEALTH INSURANCE CONTRACTS, OR DEPOSIT-TYPE CONTRACTS IN THIS STATE AND HAS AT LEAST 1 LIFE INSURANCE, ACCIDENT AND HEALTH INSURANCE, OR DEPOSIT-TYPE POLICY IN FORCE OR ON CLAIM, OR THAT 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.

(C) "DEPOSIT-TYPE CONTRACT" MEANS A CONTRACT THAT DOES NOT INCORPORATE MORTALITY OR MORBIDITY RISKS AND AS MAY BE SPECIFIED IN THE VALUATION MANUAL.

(D) "LIFE INSURANCE" MEANS A CONTRACT THAT INCORPORATES MORTALITY RISK, INCLUDING ANNUITY AND PURE ENDOWMENT CONTRACTS, AND AS MAY BE SPECIFIED IN THE VALUATION MANUAL.

(E) "NAIC" MEANS THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

(F) "VALUATION MANUAL" MEANS THE MANUAL OF VALUATION INSTRUCTIONS ADOPTED BY THE NAIC AS DESCRIBED IN SECTION 836B.

Sec. 830a. (1) ~~Every~~ **A** life insurance company doing business in this state shall annually submit to the ~~commissioner~~ **DIRECTOR** 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~~ **DIRECTOR** by rule 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 actuarial opinion required by this section ~~shall~~ **MUST** be submitted in a form prescribed by the ~~commissioner~~ **DIRECTOR** and may include any other items that the ~~commissioner~~ **DIRECTOR** considers necessary.

(2) ~~Every~~ **A** life insurance company, except as exempted by or ~~pursuant to~~ **UNDER** rule, shall also annually include in the

opinion required by subsection (1) 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~~ **DIRECTOR** by rule, 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. By order, the ~~commissioner~~ **DIRECTOR** may provide for a transition period for establishing any higher reserves that the qualified actuary may consider necessary ~~in order~~ to render the opinion required by this subsection.

(3) ~~Each~~ **ALL OF THE FOLLOWING APPLY TO AN** opinion required by subsection (2)**:** ~~shall be governed by the following:~~

(a) A memorandum ~~shall~~ **MUST** be prepared to support each actuarial opinion that ~~shall be~~ **IS** in form and substance acceptable to the ~~commissioner.~~**DIRECTOR.**

(b) If the insurance company ~~fails to~~ **DOES NOT** provide a supporting memorandum within the period of time requested by the ~~commissioner~~ **DIRECTOR** or the ~~commissioner~~ **DIRECTOR** determines that the supporting memorandum provided by the insurer ~~fails to~~ **DOES NOT** meet the standards prescribed by applicable laws or rules or is otherwise unacceptable to the ~~commissioner,~~ **DIRECTOR,** the ~~commissioner~~ **DIRECTOR** may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare a supporting memorandum as is required by the ~~commissioner.~~**DIRECTOR.**

(4) ~~Each~~ **ALL OF THE FOLLOWING APPLY TO AN** opinion required by this section: ~~shall be governed by the following:~~

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

(b) The opinion ~~shall apply~~ **APPLIES** to all business in force including individual and group disability insurance plans in form and substance acceptable to the ~~commissioner.~~**DIRECTOR.**

(c) The opinion ~~shall~~ **MUST** be based on standards as the ~~commissioner~~ **DIRECTOR** may prescribe by rule.

(d) For an opinion required to be submitted by a foreign or alien insurer, the ~~commissioner~~ **DIRECTOR** may accept the opinion filed by ~~that~~ **THE FOREIGN OR ALIEN** insurer with the insurance supervisory official of another state if the ~~commissioner~~ **DIRECTOR** determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(e) ~~Any~~ **A** memorandum in support of the opinion, and any other material provided by the insurer to the ~~commissioner~~ **DIRECTOR** in connection with it, shall be kept confidential by the ~~commissioner,~~ **DIRECTOR,** shall not be made public, and ~~shall~~ **IS** not ~~be~~ subject to subpoena, other than for the purpose of defending an action seeking damages from ~~any~~ **A** person by reason of ~~any~~ **AN** action required by this section or by rules promulgated under this section. However, the **DIRECTOR MAY RELEASE THE** memorandum or other material ~~may be released by the commissioner~~ in any of the following instances:

(*i*) With the written consent of the insurer.

(*ii*) To the american academy of actuaries if the memorandum or other material is required for the purpose of professional disciplinary proceedings and the request ~~sets forth~~ **DESCRIBES** procedures satisfactory to the ~~commissioner~~ **DIRECTOR** for preserving the confidentiality of the memorandum or other material.

(*iii*) If any portion of the confidential memorandum is cited by the insurer in its marketing or is cited before any governmental agency other than a state insurance regulatory agency or is released by the insurer to the news media. ~~In this event, all portions of the~~ **A** confidential memorandum ~~shall no longer be~~ **CITED AS DESCRIBED UNDER THIS SUBPARAGRAPH IS NOT** confidential.

(5) Except ~~in cases of~~ **FOR** fraud or willful misconduct, the qualified actuary ~~shall~~ **IS** not ~~be~~ liable for damages to ~~any~~ **A** person other than the insurance company and the ~~commissioner~~ **DIRECTOR** for ~~any~~ **AN** act, error, omission, decision, or conduct with respect to the actuary's opinion. Disciplinary action by the ~~commissioner~~ **DIRECTOR** against the insurer or the qualified actuary shall be defined in rules by the ~~commissioner.~~**DIRECTOR.**

(6) For purposes of this section, "qualified actuary" means a member of either the american academy of actuaries or the society of actuaries who also meets any other criteria established by the ~~commissioner~~ **DIRECTOR** by rule.

(7) The ~~commissioner~~ **DIRECTOR** shall not accept as a qualified actuary or accept an actuarial opinion prepared in whole or in part by an individual who has done any of the following:

(a) Been convicted of fraud, bribery, a violation of ~~chapter 96 of title 18 of the United States Code, 18 U.S.C.~~ **18 USC** 1961 to 1968, or any dishonest conduct or practices under federal or state law.

(b) ~~Been found to have violated~~ **VIOLATED** the insurance laws of this state with respect to any previous reports submitted under this section.

(c) ~~Has failed to~~ **DID NOT** detect or disclose material information in 1 or more previous reports filed under this section.

(8) The ~~commissioner~~ **DIRECTOR** may hold a public hearing ~~pursuant to~~ **UNDER** the administrative procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~ **1969 PA 306, MCL** 24.201 to 24.328**,** ~~of the Michigan Compiled Laws,~~ to determine ~~whether~~ **IF** an actuary is qualified. After considering the evidence presented, the ~~commissioner~~ **DIRECTOR** may find that the actuary is not qualified for purposes of expressing his or her opinion on reserves and related actuarial items as required by this section, and may require the insurer to replace the actuary with another actuary.

~~(9) This section shall take effect December 31, 1994.~~

(9) 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 DIRECTOR 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 MUST PROVIDE THE SPECIFICS OF THIS OPINION, INCLUDING ANY ITEMS CONSIDERED NECESSARY TO ITS SCOPE.

(10) 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 DIRECTOR, EXCEPT AS EXEMPTED IN THE VALUATION MANUAL, SHALL ALSO ANNUALLY INCLUDE IN THE OPINION REQUIRED BY SUBSECTION (9) 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 PROVISIONS 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.

(11) BOTH OF THE FOLLOWING APPLY TO AN OPINION REQUIRED UNDER SUBSECTION (10):

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

(B) IF AN INSURANCE COMPANY DOES NOT PROVIDE A SUPPORTING MEMORANDUM AT THE REQUEST OF THE DIRECTOR WITHIN A PERIOD SPECIFIED IN THE VALUATION MANUAL OR THE DIRECTOR DETERMINES THAT THE SUPPORTING MEMORANDUM PROVIDED BY THE INSURANCE COMPANY DOES NOT MEET THE STANDARDS PRESCRIBED BY THE VALUATION MANUAL OR IS OTHERWISE UNACCEPTABLE TO THE DIRECTOR, THE DIRECTOR 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 DIRECTOR.

(12) ALL OF THE FOLLOWING APPLY TO AN OPINION REQUIRED UNDER SUBSECTION (9) OR (10):

(A) THE OPINION MUST BE IN FORM AND SUBSTANCE AS SPECIFIED IN THE VALUATION MANUAL AND ACCEPTABLE TO THE DIRECTOR.

(B) THE OPINION MUST BE SUBMITTED WITH THE ANNUAL STATEMENT REFLECTING THE VALUATION OF THE RESERVE LIABILITIES FOR EACH YEAR ENDING ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL.

(C) THE OPINION APPLIES TO ALL POLICIES AND CONTRACTS DESCRIBED IN SUBSECTION (10), AND TO OTHER ACTUARIAL LIABILITIES AS MAY BE SPECIFIED IN THE VALUATION MANUAL.

(D) THE OPINION MUST 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.

(E) FOR AN OPINION REQUIRED TO BE SUBMITTED BY A FOREIGN OR

ALIEN COMPANY, THE DIRECTOR MAY ACCEPT THE OPINION FILED BY THE FOREIGN OR ALIEN COMPANY WITH THE INSURANCE SUPERVISORY OFFICIAL OF ANOTHER STATE IF THE DIRECTOR DETERMINES THAT THE OPINION REASONABLY MEETS THE REQUIREMENTS APPLICABLE TO A COMPANY DOMICILED IN THIS STATE.

(F) EXCEPT FOR FRAUD OR WILLFUL MISCONDUCT, THE APPOINTED ACTUARY IS NOT LIABLE FOR DAMAGES TO A PERSON OTHER THAN THE INSURANCE COMPANY AND THE DIRECTOR FOR AN ACT, ERROR, OMISSION, OR DECISION, OR CONDUCT, WITH RESPECT TO THE APPOINTED ACTUARY'S OPINION.

(G) THE DIRECTOR SHALL DETERMINE BY REGULATION DISCIPLINARY ACTION AGAINST THE COMPANY OR THE APPOINTED ACTUARY.

(13) AS USED IN THIS SECTION:

(A) "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.

(B) "APPOINTED ACTUARY" MEANS A QUALIFIED ACTUARY WHO IS APPOINTED IN ACCORDANCE WITH THE VALUATION MANUAL TO PREPARE THE ACTUARIAL OPINION REQUIRED UNDER SUBSECTION (9) OR (10).

(C) "COMPANY" MEANS AN ENTITY THAT HAS WRITTEN, ISSUED, OR REINSURED LIFE INSURANCE CONTRACTS, ACCIDENT AND HEALTH INSURANCE CONTRACTS, OR DEPOSIT-TYPE CONTRACTS IN THIS STATE AND HAS AT LEAST 1 POLICY IN FORCE OR ON CLAIM OR THAT 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.

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

(E) "LIFE INSURANCE" MEANS CONTRACTS THAT INCORPORATE MORTALITY RISK, INCLUDING ANNUITY AND PURE ENDOWMENT CONTRACTS, AND AS MAY BE SPECIFIED IN THE VALUATION MANUAL.

(F) "NAIC" MEANS THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

(G) "QUALIFIED ACTUARY" MEANS AN INDIVIDUAL WHO IS QUALIFIED TO SIGN AN APPLICABLE STATEMENT OF ACTUARIAL OPINION IN ACCORDANCE WITH THE AMERICAN ACADEMY OF ACTUARIES QUALIFICATION STANDARDS FOR ACTUARIES SIGNING STATEMENTS OF ACTUARIAL OPINION AND WHO MEETS THE REQUIREMENTS SPECIFIED IN THE VALUATION MANUAL.

(H) "VALUATION MANUAL" MEANS THE MANUAL OF VALUATION INSTRUCTIONS ADOPTED BY THE NAIC AS SPECIFIED IN SECTION 836B.

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~~ **IS** the ~~commissioner's~~ **DIRECTOR'S** reserve valuation methods defined in subsections (2), (3), and (6), 5% interest for group annuity and pure endowment contracts ~~, provided that~~ **IF** prior notice of any revaluation of reserves with respect to group annuity and pure endowment contracts is given to the ~~commissioner~~ **DIRECTOR** 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~~ **FOR** policies and contracts, other than annuity and pure endowment contracts, issued ~~on or~~ after October ~~21,~~ **20,** 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,~~ **SEPTEMBER 30,** 1980, or ~~in the case of~~ **FOR** 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:

(A) ~~(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~~ **18** 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~~ **18** 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~~ **DIRECTOR** for use in determining the minimum standard of valuation for those policies or the 2001 CSO mortality table under section 838.

(B) ~~(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~~ **DIRECTOR** for use in determining the minimum standard of valuation for those policies.

(C) ~~(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.~~**DIRECTOR.**

(D) ~~(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,~~

DIRECTOR, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(E) ~~(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,~~ **DECEMBER 31, 1965,** 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~~ **DIRECTOR** for use in determining the minimum standard of valuation for those policies; for policies or contracts issued ~~on or~~ after ~~January 1, 1961,~~ **DECEMBER 31, 1960,** 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~~ **MUST** be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(F) ~~(VI)~~ For accidental death benefits in or supplementary to policies: for policies issued ~~on or~~ after ~~January 1, 1966,~~ **DECEMBER 31, 1965,** 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~~ **DIRECTOR** for use in determining the minimum standard of valuation for those policies;

for policies issued ~~on or~~ after ~~January 1, 1961,~~ **DECEMBER 31, 1960,** 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~~ **MUST** be combined with a mortality table permitted for calculating the reserves for life insurance policies.

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

(2) Except as otherwise provided in subsections (3) and (6), reserves according to the ~~commissioner's~~ **DIRECTOR'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~~ **IS** 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~~ **IS** 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)~~ **SUBDIVISION (A)** over ~~(h),~~ **SUBDIVISION (B),** as follows:

(A) ~~(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~~ **MUST** 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.

(B) ~~(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~~ **DECEMBER 31, 1985** 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~~ **DIRECTOR'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,~~ **IS,** 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)~~ **SUBDIVISION (A)** 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~~ **MUST** be used.

Reserves according to the ~~commissioner's~~ **DIRECTOR'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 **OF 1986**, 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~~ **MUST** 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 **OF 1986**, 26 USC 408. Without action by the Michigan Legislature to adopt actuarial guideline 35, reserves according to the ~~commissioner's~~ **DIRECTOR'S** annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in those contracts, ~~shall~~ **MUST** 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~~ **MUST** 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~~ **DESCRIBED** 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~~ **APPOINTED** actuary to be necessary to render the opinion required by section 830a.

(5) Reserves for all policies and contracts issued ~~prior to~~ **BEFORE** 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,~~ **DIRECTOR,** issued ~~on or~~ after June ~~27,~~ **26,** 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~~ **MUST** not be ~~higher~~ **GREATER** than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for in those policies and contracts. ~~Any~~ **AN** 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~~ **DIRECTOR'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~~ **AN APPOINTED** actuary to be necessary to render the opinion required by section 830a ~~shall~~ **IS** 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~~ **AN** 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~~ **IF** 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~~ **DECEMBER 31, 1985** 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~~ **APPLIES** 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~~ **MUST** 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~~ **FOR** 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.~~**DIRECTOR.**

(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.

(9) AS USED IN THIS SECTION:

(A) "APPOINTED ACTUARY" MEANS A QUALIFIED ACTUARY WHO IS APPOINTED IN ACCORDANCE WITH THE VALUATION MANUAL TO PREPARE THE ACTUARIAL OPINION REQUIRED IN SECTION 830A(9).

(B) "NAIC" MEANS THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

(C) "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 STATEMENTS OF ACTUARIAL OPINIONS AND WHO MEETS THE REQUIREMENTS SPECIFIED IN THE VALUATION MANUAL.

(D) "VALUATION MANUAL" MEANS THE MANUAL OF VALUATION INSTRUCTIONS ADOPTED BY THE NAIC AS SPECIFIED IN SECTION 836B.

Sec. 836. (1) The calendar year statutory valuation interest rates as defined in this section ~~shall be~~ **ARE** the interest rates used in determining the minimum standard for the valuation of the following:

(a) All life insurance policies issued in a particular calendar year on or after the operative date of paragraphs 9 to ~~19~~ **18** of section 4060(5).

(b) All individual annuity and pure endowment contracts issued in a calendar year ~~on or~~ after ~~January 1, 1983.~~**DECEMBER 31, 1982.**

(c) All annuities and pure endowments purchased in a calendar year ~~on or~~ after ~~January 1, 1983~~ **DECEMBER 31, 1982** under group annuity and pure endowment contracts.

(d) The net increase, if any, in a calendar year after January 1, 1983 in amounts held under guaranteed interest contracts.

(2) The calendar year statutory valuation interest rates, I, shall be determined as follows, and the results rounded to the nearer 0.25%:

(a) For life insurance,

$$I = .03 + W\ (R_1 - .03) + \frac{W}{2}\ (R_2 - .09).$$

where R is the reference interest rate defined in this section, R_1 is the lesser of R and .09, R_2 is the greater of R and .09, and W is the weighting factor defined in this section.

(b) 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,

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

where R is the reference interest rate defined in this section, R_1 is the lesser of R and .09, R_2 is the greater of R and .09, and W is the weighting factor defined in this section.

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subdivision (b), the formula for life insurance stated in subdivision (a) ~~shall apply~~ **APPLIES** to annuities and guaranteed interest contracts with guaranteed durations in excess of 10 years and the formula for single premium immediate annuities stated in subdivision (b) ~~shall apply~~ **APPLIES** to annuities and guaranteed interest contracts with guaranteed duration of 10 years or less.

(d) 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 (b) ~~shall apply.~~**APPLIES.**

(e) 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 (b) shall ~~apply.~~**APPLIES.**

(3) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than 0.5%, the calendar year statutory valuation interest rate for ~~such~~ **THE** life insurance policies ~~shall~~ **MUST** 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~~ **MUST** be determined for 1980 using the reference interest rate defined for

1979 and ~~shall~~ **MUST** be determined for each subsequent calendar year regardless of when paragraphs 9 to ~~19~~ **18** of section 4060(5) become operative.

(4) The weighting factors referred to in the formulas in subsection (2) are given in the following tables:

(a) The weighting factors for life insurance are:

Guaranteed 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 guaranteed 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~~ **THAT** are guaranteed in the original policy.

(b) The 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.

(c) The weighting factors for other annuities and for guaranteed interest contracts, except as stated in subdivision (b), are specified in subparagraphs (*i*), (*ii*), and (*iii*), according to the rules and definitions in subparagraphs (*iv*), (*v*), and (*vi*) as follows:

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

Guaranteed 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

	Plan Type A	B	C
(*ii*) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in subparagraph (*i*) increased by:	.15	.25	.05

	Plan Type A	B	C
(*iii*) For annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, ~~which~~ **THAT** do not guarantee interest on considerations received more than 1 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 considerations received more than 12 months			

beyond the valuation date, the factors shown in subparagraph (*i*) or derived in subparagraph (*ii*) increased by: .05 .05 .05

(*iv*) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guaranteed 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 guaranteed duration in excess of 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*) As used in subparagraphs (*i*) to (*iii*):

(A) "Plan Type A" means at any time **THE** policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; without ~~such~~ **THE** adjustment but in installments over 5 years or more; as an immediate life annuity; or no withdrawal permitted.

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

(C) "Plan Type C" means **THE** policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than 5 years either without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(*vi*) 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, an 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 the 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.

(5) As used in subsections (2) and (3), "the reference interest rate" means:

(a) For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 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.

(b) 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 12 months, ending on June 30 of the calendar year of issue or year of purchase or December 31 of the calendar year preceding the year of issue or year of purchase, of Moody's corporate bond yield average - monthly average corporates, as published by Moody's investors service, inc. An insurer shall use the same method of computing the reference interest rate under this subdivision in all of its contracts. An insurer shall not change its method of computing the reference interest rate under this subdivision unless the insurer has notified and received approval from the ~~commissioner.~~**DIRECTOR.**

(c) 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 (b), with guaranteed duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase or December 31 of the calendar year preceding the year of issue or year of purchase, of Moody's corporate bond yield average - monthly average corporates, as published by Moody's investors service, inc. An insurer shall use the same method of computing the reference interest rate under this subdivision in all of its contracts. An insurer shall not change its method of computing the reference interest rate under this subdivision unless the insurer has notified and received approval from the ~~commissioner.~~**DIRECTOR.**

(d) 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 (b), with guaranteed duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase or December 31 of the calendar year preceding the year of issue or year of purchase, of Moody's corporate bond yield average - monthly average corporates, as published by Moody's investors service, inc. An insurer shall use the same method of computing the reference interest rate under this subdivision in all of its contracts. An insurer shall not change its method of computing the reference interest rate under this subdivision unless the insurer has notified and received approval from the ~~commissioner.~~**DIRECTOR.**

(e) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase or December 31 of the calendar year preceding the year of issue or year of purchase, of Moody's corporate bond yield average - monthly average corporates, as published by Moody's investors service, inc. An insurer shall use the same method of computing the reference interest rate under this subdivision in all of its contracts. An insurer shall not change its method of computing the reference interest rate under this subdivision unless the insurer has notified and received approval from the ~~commissioner.~~**DIRECTOR.**

(f) 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 (b), the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund or December 31 of the calendar year preceding the year of the change in the fund, of Moody's corporate bond yield average - monthly average corporates, as published by Moody's investors service, inc. An insurer shall use the same method of computing the reference interest rate under this subdivision in all of its contracts. An insurer shall not change its method of computing the reference interest rate under this subdivision unless the insurer has notified and received approval from the ~~commissioner.~~**DIRECTOR.**

(6) ~~In the event that~~ **IF** Moody's corporate bond yield average - monthly average corporates is no longer published by Moody's investors service, inc. or ~~in the event that~~ **IF** the national association of insurance commissioners determines that 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 reference interest rate, which is adopted by the national association of insurance commissioners and approved by a rule promulgated by the ~~commissioner,~~ **DIRECTOR,** may be substituted.

(7) Any changes to policy or contract forms that are needed because of changes in valuation rates ~~shall~~ **DO** not require refiling with, or approval by, the ~~commissioner.~~**DIRECTOR.**

(8) An insurer may use December 31, 1985 for purposes of computing the reference interest rate for the calendar year 1986 only.

SEC. 836A. (1) THE DIRECTOR SHALL PROMULGATE REGULATIONS CONTAINING THE MINIMUM STANDARDS APPLICABLE TO THE VALUATION OF DISABILITY PLANS AND CONTRACTS ISSUED BEFORE THE DATE OF THE VALUATION MANUAL. 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 SECTION 830(2).

(2) AS USED IN THIS SECTION, THE FOLLOWING DEFINITIONS APPLY ON AND AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL:

(A) "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.

(B) "NAIC" MEANS THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

(C) "VALUATION MANUAL" MEANS THE MANUAL OF VALUATION INSTRUCTIONS ADOPTED BY THE NAIC AS SPECIFIED IN SECTION 836B.

SEC. 836B. (1) ALL OF THE FOLLOWING APPLY TO THE VALUATION MANUAL:

(A) EXCEPT AS OTHERWISE PROVIDED UNDER SUBDIVISION (E) OR (G), FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL AND, AT A COMPANY'S OPTION FOR INDIVIDUAL BLOCKS OF BUSINESS, FOR POLICIES ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL, THE STANDARD PRESCRIBED IN THE VALUATION MANUAL IS THE MINIMUM STANDARD OF VALUATION REQUIRED UNDER SECTION 830(2).

(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:

(*i*) THE NAIC HAS ADOPTED THE VALUATION MANUAL BY A VOTE OF AT LEAST 42 MEMBERS, OR 3/4 OF THE MEMBERS VOTING, WHICHEVER IS GREATER.

(*ii*) 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 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.

(*iii*) 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 42 OF THE FOLLOWING 55

JURISDICTIONS: THE 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, A CHANGE TO THE VALUATION MANUAL IS EFFECTIVE ON JANUARY 1 AFTER THE DATE THE NAIC ADOPTS THE CHANGE TO THE VALUATION MANUAL BY A VOTE REPRESENTING BOTH OF THE FOLLOWING:

(*i*) AT LEAST 3/4 OF THE MEMBERS OF THE NAIC, BUT NOT LESS THAN A MAJORITY OF THE TOTAL MEMBERSHIP.

(*ii*) MEMBERS OF THE NAIC REPRESENTING JURISDICTIONS THAT AMOUNT TO GREATER THAN 75% OF THE DIRECT PREMIUMS WRITTEN AS REPORTED IN THE FOLLOWING ANNUAL STATEMENTS MOST RECENTLY AVAILABLE BEFORE THE VOTE IN SUBPARAGRAPH (*i*): LIFE, ACCIDENT, AND HEALTH ANNUAL STATEMENTS; HEALTH ANNUAL STATEMENTS; OR FRATERNAL ANNUAL STATEMENTS.

(D) THE VALUATION MANUAL MUST SPECIFY ALL OF THE FOLLOWING:

(*i*) MINIMUM VALUATION STANDARDS FOR AND DEFINITIONS OF THE POLICIES OR CONTRACTS SUBJECT TO SECTION 830(2). THE MINIMUM VALUATION STANDARDS ARE ALL OF THE FOLLOWING:

(A) THE DIRECTOR'S RESERVE VALUATION METHOD FOR LIFE INSURANCE CONTRACTS, OTHER THAN ANNUITY CONTRACTS, SUBJECT TO SECTION 830(2).

(B) THE DIRECTOR'S ANNUITY RESERVE VALUATION METHOD FOR ANNUITY CONTRACTS SUBJECT TO SECTION 830(2).

(C) MINIMUM RESERVES FOR ALL OTHER POLICIES OR CONTRACTS SUBJECT TO SECTION 830(2).

(*ii*) THE POLICIES OR CONTRACTS OR TYPES OF POLICIES OR CONTRACTS THAT ARE SUBJECT TO THE REQUIREMENTS OF A PRINCIPLE-BASED VALUATION IN SUBSECTION (2) AND THE MINIMUM VALUATION STANDARDS CONSISTENT WITH THOSE REQUIREMENTS.

(*iii*) FOR POLICIES AND CONTRACTS SUBJECT TO A PRINCIPLE-BASED VALUATION UNDER SUBSECTION (2), ALL OF THE FOLLOWING APPLY:

(A) REQUIREMENTS FOR THE FORMAT OF REPORTS TO THE DIRECTOR UNDER SUBSECTION (3)(C) AND THAT MUST INCLUDE INFORMATION NECESSARY TO DETERMINE IF THE VALUATION IS APPROPRIATE AND IN COMPLIANCE WITH THIS SECTION.

(B) ASSUMPTIONS MUST BE PRESCRIBED FOR RISKS OVER WHICH THE COMPANY DOES NOT HAVE SIGNIFICANT CONTROL OR INFLUENCE.

(C) PROCEDURES FOR CORPORATE GOVERNANCE AND OVERSIGHT OF THE ACTUARIAL FUNCTION, AND A PROCESS FOR APPROPRIATE WAIVER OR MODIFICATION OF THE PROCEDURES.

(*iv*) FOR POLICIES THAT ARE NOT SUBJECT TO A PRINCIPLE-BASED VALUATION UNDER SUBSECTIONS (2), (3), AND (4), THE MINIMUM VALUATION STANDARD IS 1 OF THE FOLLOWING:

(A) THE STANDARD IS CONSISTENT WITH THE MINIMUM STANDARD OF VALUATION BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL.

(B) THE STANDARD DEVELOPS 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.

(*v*) 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.

(*vi*) THE DATA AND FORM OF THE DATA REQUIRED UNDER SUBSECTION (5), TO WHOM THE DATA MUST BE SUBMITTED, AND MAY SPECIFY OTHER REQUIREMENTS INCLUDING DATA ANALYSES AND REPORTING OF ANALYSES.

(E) IF THERE IS NOT A SPECIFIC VALUATION REQUIREMENT OR IF THE DIRECTOR DETERMINES THAT A SPECIFIC VALUATION REQUIREMENT IN THE VALUATION MANUAL DOES NOT COMPLY WITH THIS SECTION, THE COMPANY SHALL, WITH RESPECT TO THE REQUIREMENT, COMPLY WITH MINIMUM VALUATION STANDARDS PRESCRIBED BY THE DIRECTOR BY RULE.

(F) THE DIRECTOR 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 OF THIS SECTION. THE DIRECTOR MAY RELY UPON THE OPINION, REGARDING THIS SECTION, OF A QUALIFIED ACTUARY ENGAGED BY THE COMMISSIONER OF ANOTHER STATE, DISTRICT, OR TERRITORY OF THE UNITED STATES. AS USED IN THIS SUBDIVISION, "ENGAGE" INCLUDES EMPLOYMENT AND CONTRACTING.

(G) THE DIRECTOR MAY REQUIRE A COMPANY TO CHANGE ANY ASSUMPTION OR METHOD THAT THE DIRECTOR CONSIDERS NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THE VALUATION MANUAL OR THIS SECTION, AND THE COMPANY SHALL ADJUST THE RESERVES AS REQUIRED BY THE DIRECTOR.

(2) A COMPANY SHALL ESTABLISH RESERVES USING A PRINCIPLE-

BASED VALUATION THAT MEETS ALL OF THE FOLLOWING CONDITIONS FOR POLICIES OR CONTRACTS AS SPECIFIED IN THE VALUATION MANUAL:

(A) 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 POLICES OR CONTRACTS WITH SIGNIFICANT TAIL RISK, REFLECTS CONDITIONS APPROPRIATELY ADVERSE TO QUANTIFY THE TAIL RISK.

(B) INCORPORATE ASSUMPTIONS, RISK ANALYSIS METHODS, FINANCIAL MODELS, AND MANAGEMENT TECHNIQUES THAT ARE CONSISTENT WITH, BUT NOT NECESSARILY IDENTICAL TO, THOSE USED WITHIN THE COMPANY'S OVERALL RISK ASSESSMENT PROCESS, WHILE RECOGNIZING POTENTIAL DIFFERENCES IN FINANCIAL REPORTING STRUCTURES AND ANY PRESCRIBED ASSUMPTIONS OR METHODS.

(C) INCORPORATE ASSUMPTIONS THAT ARE DERIVED IN 1 OF THE FOLLOWING MANNERS:

(*i*) THE ASSUMPTION IS PRESCRIBED IN THE VALUATION MANUAL.

(*ii*) FOR ASSUMPTIONS THAT ARE NOT PRESCRIBED IN THE VALUATION MANUAL, THE ASSUMPTIONS MUST DO THE FOLLOWING, AS APPLICABLE:

(A) USE THE COMPANY'S AVAILABLE EXPERIENCE, TO THE EXTENT IT IS RELEVANT AND STATISTICALLY CREDIBLE.

(B) TO THE EXTENT THAT COMPANY DATA ARE NOT AVAILABLE, RELEVANT, OR STATISTICALLY CREDIBLE, USE OTHER RELEVANT AND STATISTICALLY CREDIBLE EXPERIENCE.

(D) PROVIDE MARGINS FOR UNCERTAINTY, INCLUDING ADVERSE DEVIATION AND ESTIMATION ERROR, SUCH THAT THE GREATER THE

UNCERTAINTY, THE LARGER THE MARGIN AND RESULTING RESERVE.

(3) A COMPANY THAT USES PRINCIPLE-BASED VALUATION FOR 1 OR MORE POLICIES OR CONTRACTS SUBJECT TO THIS SECTION AS SPECIFIED IN THE VALUATION MANUAL SHALL DO ALL OF THE FOLLOWING:

(A) ESTABLISH PROCEDURES FOR CORPORATE GOVERNANCE AND OVERSIGHT OF THE ACTUARIAL VALUATION FUNCTION CONSISTENT WITH THOSE DESCRIBED IN THE VALUATION MANUAL.

(B) PROVIDE TO THE DIRECTOR AND THE BOARD OF DIRECTORS AN ANNUAL CERTIFICATION OF THE EFFECTIVENESS OF THE INTERNAL CONTROLS WITH RESPECT TO THE PRINCIPLE-BASED VALUATION. THE INTERNAL CONTROLS MUST BE DESIGNED TO ASSURE THAT ALL MATERIAL RISKS INHERENT IN THE LIABILITIES AND ASSOCIATED ASSETS SUBJECT TO THE VALUATION ARE INCLUDED IN THE VALUATION, AND THAT VALUATIONS ARE MADE IN ACCORDANCE WITH THE VALUATION MANUAL. THE CERTIFICATION MUST BE BASED ON THE CONTROLS IN PLACE AT THE END OF THE PRECEDING CALENDAR YEAR.

(C) DEVELOP, AND FILE WITH THE DIRECTOR ON REQUEST, A PRINCIPLE-BASED VALUATION REPORT THAT COMPLIES WITH STANDARDS PRESCRIBED IN THE VALUATION MANUAL.

(4) A PRINCIPLE-BASED VALUATION MAY INCLUDE A PRESCRIBED FORMULAIC RESERVE COMPONENT.

(5) A COMPANY SHALL SUBMIT MORTALITY, MORBIDITY, POLICYHOLDER BEHAVIOR, OR EXPENSE EXPERIENCE AND OTHER DATA AS PRESCRIBED IN THE VALUATION MANUAL.

(6) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, CONFIDENTIAL INFORMATION IS CONFIDENTIAL AND PRIVILEGED, IS NOT SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976

PA 442, MCL 15.231 TO 15.246, IS NOT SUBJECT TO SUBPOENA, AND IS NOT SUBJECT TO DISCOVERY OR ADMISSIBLE IN EVIDENCE IN A PRIVATE CIVIL ACTION. HOWEVER, THE DIRECTOR MAY USE THE CONFIDENTIAL INFORMATION IN THE FURTHERANCE OF ANY REGULATORY OR LEGAL ACTION BROUGHT AS A PART OF THE DIRECTOR'S OFFICIAL DUTIES.

(7) THE DIRECTOR OR ANY PERSON WHO RECEIVED CONFIDENTIAL INFORMATION WHILE ACTING UNDER THE AUTHORITY OF THE DIRECTOR SHALL NOT TESTIFY IN A PRIVATE CIVIL ACTION CONCERNING CONFIDENTIAL INFORMATION.

(8) THE DIRECTOR MAY DO ALL OF THE FOLLOWING:

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, SHARE CONFIDENTIAL INFORMATION WITH OTHER STATE, FEDERAL, AND INTERNATIONAL REGULATORY AGENCIES AND WITH THE NAIC AND ITS AFFILIATES AND SUBSIDIARIES. THE DIRECTOR MAY ALSO SHARE CONFIDENTIAL INFORMATION DESCRIBED IN SUBSECTION (18)(C)(*i*) AND (*iv*) ONLY WITH THE ACTUARIAL BOARD FOR COUNSELING AND DISCIPLINE OR ITS SUCCESSOR ON REQUEST FOR THE PURPOSE OF PROFESSIONAL DISCIPLINARY PROCEEDINGS AND WITH STATE, FEDERAL, AND INTERNATIONAL LAW ENFORCEMENT OFFICIALS. THE DIRECTOR SHALL NOT SHARE CONFIDENTIAL INFORMATION UNLESS THE RECIPIENT AGREES IN WRITING TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE CONFIDENTIAL INFORMATION AND HAS VERIFIED IN WRITING THE LEGAL AUTHORITY TO MAINTAIN CONFIDENTIALITY.

(B) SUBJECT TO THIS SUBDIVISION, RECEIVE DOCUMENTS, MATERIALS, DATA, OR INFORMATION FROM REGULATORY OR LAW ENFORCEMENT OFFICIALS OF OTHER FOREIGN OR DOMESTIC JURISDICTIONS, THE ACTUARIAL BOARD FOR COUNSELING AND DISCIPLINE OR ITS

SUCCESSOR, AND THE NAIC AND ITS AFFILIATES AND SUBSIDIARIES. THE DIRECTOR SHALL MAINTAIN AS CONFIDENTIAL OR PRIVILEGED ANY DOCUMENTS, MATERIALS, 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.

(9) THE DIRECTOR MAY ENTER INTO WRITTEN AGREEMENTS GOVERNING SHARING AND USE OF INFORMATION PROVIDED UNDER THIS SECTION.

(10) THE DISCLOSURE OR SHARING OF CONFIDENTIAL INFORMATION TO THE DIRECTOR UNDER THIS SECTION IS NOT A WAIVER OF AN APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY.

(11) A PRIVILEGE ESTABLISHED UNDER THE LAW OF ANY STATE OR JURISDICTION THAT IS SUBSTANTIALLY SIMILAR TO THE PRIVILEGE ESTABLISHED UNDER THIS SECTION APPLIES IN ANY PROCEEDING IN, AND IN ANY COURT OF, THIS STATE.

(12) AS USED IN SUBSECTIONS (6) TO (10), "REGULATORY AGENCY", "LAW ENFORCEMENT AGENCY", AND "NAIC" INCLUDE, BUT ARE NOT LIMITED TO, THEIR EMPLOYEES, AGENTS, CONSULTANTS, AND CONTRACTORS.

(13) NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY, ANY CONFIDENTIAL INFORMATION DESCRIBED IN SUBSECTION (18)(C)(*i*) AND (*iv*) IS SUBJECT TO ALL OF THE FOLLOWING:

(A) THE CONFIDENTIAL INFORMATION IS 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 830A OR PRINCIPLE-BASED VALUATION REPORT DEVELOPED UNDER SUBSECTION (3)(C) BY REASON OF

AN ACTION REQUIRED BY SECTION 830A OR SUBSECTION (3)(C) OR BY RULES PROMULGATED UNDER THIS SECTION.

(B) THE DIRECTOR MAY RELEASE THE CONFIDENTIAL INFORMATION WITH THE WRITTEN CONSENT OF THE COMPANY.

(C) IF ANY PORTION OF A MEMORANDUM IN SUPPORT OF AN OPINION SUBMITTED UNDER SECTION 830A OR A PRINCIPLE-BASED VALUATION REPORT DEVELOPED UNDER SUBSECTION (3)(C) IS CITED BY THE COMPANY IN ITS MARKETING, IS CITED BEFORE A GOVERNMENTAL AGENCY OTHER THAN A STATE INSURANCE DEPARTMENT, OR IS RELEASED BY THE COMPANY TO THE NEWS MEDIA, THE MEMORANDUM OR REPORT IS NOT CONFIDENTIAL.

(14) EXCEPT AS PROVIDED IN SUBSECTION (15), A DOMESTIC COMPANY IS EXEMPT FROM THE REQUIREMENTS UNDER SUBSECTIONS (1) TO (5) IF THE DOMESTIC COMPANY MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

(A) THE DOMESTIC COMPANY HAS LESS THAN $500,000,000.00 OF ORDINARY LIFE PREMIUMS AND, IF THE DOMESTIC COMPANY IS A MEMBER OF A GROUP OF LIFE INSURERS, THE GROUP HAS COMBINED ORDINARY LIFE PREMIUMS OF LESS THAN $1,000,000,000.00.

(B) THE DOMESTIC COMPANY REPORTED TOTAL ADJUSTED CAPITAL OF AT LEAST 450% OF THE AUTHORIZED CONTROL LEVEL RISK-BASED CAPITAL IN THE MOST RECENT RISK-BASED CAPITAL REPORT AND THE APPOINTED ACTUARY HAS PROVIDED AN UNQUALIFIED OPINION ON THE RESERVES.

(15) A DOMESTIC COMPANY THAT MEETS THE REQUIREMENTS UNDER SUBSECTION (14)(A) AND (B) MAY ELECT TO BE BOUND BY THE REQUIREMENTS OF SUBSECTIONS (1) TO (5) FOR A CALENDAR YEAR. THE ELECTION MUST BE IN WRITING AND FILED WITH THE DIRECTOR BY FEBRUARY 1 OF THE YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE

COMPANY SEEKS AN EXEMPTION.

(16) FOR PURPOSES OF SUBSECTION (14), ORDINARY LIFE PREMIUMS ARE MEASURED AS DIRECT PLUS REINSURANCE ASSUMED FROM AN UNAFFILIATED COMPANY FROM THE PRIOR CALENDAR YEAR ANNUAL STATEMENT.

(17) EXCEPT FOR A DOMESTIC COMPANY THAT MAKES AN ELECTION UNDER SUBSECTION (15), FOR A DOMESTIC COMPANY THAT IS EXEMPT FROM THE REQUIREMENTS OF SUBSECTIONS (1) TO (5) UNDER SUBSECTION (14), SECTIONS 830A, 832, 834, 835, 836, AND 836A ARE APPLICABLE, AND A REFERENCE TO THIS SECTION IN SECTIONS 830A, 834, AND 836A IS NOT APPLICABLE.

(18) AS USED IN THIS SECTION:

(A) "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.

(B) "COMPANY" MEANS AN ENTITY THAT HAS WRITTEN, ISSUED, OR REINSURED LIFE INSURANCE CONTRACTS, ACCIDENT AND HEALTH INSURANCE CONTRACTS, OR DEPOSIT-TYPE CONTRACTS IN THIS STATE AND HAS AT LEAST 1 POLICY IN FORCE OR ON CLAIM OR THAT 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.

(C) "CONFIDENTIAL INFORMATION" MEANS ALL OF THE FOLLOWING:

(*i*) A MEMORANDUM IN SUPPORT OF AN OPINION SUBMITTED UNDER

SECTION 830A AND ANY OTHER DOCUMENTS, MATERIALS, AND OTHER INFORMATION, INCLUDING, BUT NOT LIMITED TO, ALL WORKING PAPERS, AND COPIES OF WORKING PAPERS, CREATED, PRODUCED, OR OBTAINED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON IN CONNECTION WITH THE MEMORANDUM.

(*ii*) ALL DOCUMENTS, MATERIALS, AND OTHER INFORMATION, INCLUDING, BUT NOT LIMITED TO, ALL WORKING PAPERS, AND COPIES OF WORKING PAPERS, CREATED, PRODUCED, OR OBTAINED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON IN THE COURSE OF AN EXAMINATION MADE UNDER SUBSECTION (1)(F) IF AN EXAMINATION REPORT OR OTHER MATERIAL PREPARED IN CONNECTION WITH AN EXAMINATION MADE UNDER SECTION 222 IS NOT HELD AS PRIVATE AND CONFIDENTIAL INFORMATION UNDER SECTION 222, AN EXAMINATION REPORT OR OTHER MATERIAL PREPARED IN CONNECTION WITH AN EXAMINATION MADE UNDER SUBSECTION (1)(F) IS NOT "CONFIDENTIAL INFORMATION" TO THE SAME EXTENT AS IF THE EXAMINATION REPORT OR OTHER MATERIAL HAD BEEN PREPARED UNDER SECTION 222.

(*iii*) 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 SUBSECTION (3)(B) 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 OF WORKING PAPERS, CREATED, PRODUCED, OR OBTAINED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON IN CONNECTION WITH SUCH REPORTS, DOCUMENTS, MATERIALS, AND OTHER INFORMATION.

(*iv*) ANY PRINCIPLE-BASED VALUATION REPORT DEVELOPED UNDER SUBSECTION (3)(C) AND ANY OTHER DOCUMENTS, MATERIALS, AND OTHER INFORMATION, INCLUDING, BUT NOT LIMITED TO, ALL WORKING PAPERS, AND COPIES OF WORKING PAPERS, CREATED, PRODUCED, OR OBTAINED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON IN CONNECTION WITH THE REPORT.

(*v*) ANY DOCUMENTS, MATERIALS, DATA, AND OTHER INFORMATION SUBMITTED BY A COMPANY UNDER SUBSECTION (5), COLLECTIVELY, EXPERIENCE DATA, AND ANY OTHER DOCUMENTS, MATERIALS, DATA, AND OTHER INFORMATION, INCLUDING, BUT NOT LIMITED TO, ALL WORKING PAPERS, AND COPIES OF WORKING PAPERS, CREATED OR PRODUCED IN CONNECTION WITH THE EXPERIENCE DATA, IN EACH CASE THAT INCLUDE ANY POTENTIALLY COMPANY-IDENTIFYING OR PERSONALLY IDENTIFIABLE INFORMATION, THAT IS PROVIDED TO OR OBTAINED BY THE DIRECTOR, 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 OF WORKING PAPERS, CREATED, PRODUCED, OR OBTAINED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON IN CONNECTION WITH THE EXPERIENCE MATERIALS.

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

(E) "LIFE INSURANCE" MEANS CONTRACTS THAT INCORPORATE MORTALITY RISK, INCLUDING ANNUITY AND PURE ENDOWMENT CONTRACTS, AND AS MAY BE SPECIFIED IN THE VALUATION MANUAL.

(F) "NAIC" MEANS THE NATIONAL ASSOCIATION OF INSURANCE

COMMISSIONERS.

(G) "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 SECTION, 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.

(H) "PRINCIPLE-BASED VALUATION" MEANS A RESERVE VALUATION THAT USES 1 OR MORE METHODS OR 1 OR MORE ASSUMPTIONS DETERMINED BY THE INSURER AND IS REQUIRED TO COMPLY WITH THIS SECTION AS SPECIFIED IN THE VALUATION MANUAL.

(I) "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.

(J) "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.

(K) "VALUATION MANUAL" MEANS THE MANUAL OF VALUATION INSTRUCTIONS ADOPTED BY THE NAIC AS SPECIFIED IN THIS SECTION.

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~~ **DIRECTOR** by rules promulgated ~~pursuant to~~ **UNDER** 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)~~ **834(1)(A)** and 4060(5)(f) **AND (G)** 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~~ **MUST** be used in determining minimum standards for policies issued on or after January 1, 2009 to which sections ~~834(1)(I)~~ **834(1)(A)** and 4060(5)(f) **AND (G)** are applicable.

(4) For plans of insurance without separate rates for smokers and nonsmokers, the composite mortality tables ~~shall~~ **MUST** 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~~ **DIRECTOR MUST** be completed ~~pursuant to~~ **UNDER** section 830a. ~~An~~ **THE DIRECTOR MAY EXEMPT 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~~ **IS** 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~~ **MUST** 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~~ **MUST** 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~~ **MUST** 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~~ **IS** 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. 3930. (1) If long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to those policies, policy reserves for the benefits ~~shall~~ **MUST** be determined in accordance with section ~~834(1)(*vii*).~~ **834(1)(G).** Claim reserves ~~shall~~ **MUST** also be established if the policy or rider is in claim status.

(2) Reserves for policies and riders subject to subsection (1) ~~shall~~ **MUST** be based on the multiple decrement model utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations may be used if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The calculations may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. However, ~~in no event shall~~ the reserves for the long-term care benefit and the life insurance benefit **MUST NOT** be less than the reserves for the life insurance benefit assuming no long-term care benefit.

(3) In the development and calculation of reserves for policies and riders subject to subsection (1), due regard ~~shall~~ **MUST** be given to the applicable policy provisions, marketing methods, administrative procedures, and all other considerations that have an impact on projected claim costs, including, but not limited to, all of the following:

(a) Definition of insured events.

(b) Covered long-term care facilities.

(c) Existence of home convalescence care coverage.

(d) Definition of facilities.

(e) Existence or absence of barriers to eligibility.

(f) Premium waiver provision.

(g) Renewability.

(h) Ability to raise premiums.

(i) Marketing method.

(j) underwriting procedures.

(k) Claims adjustment procedures.

(*l*) Waiting period.

(m) Maximum benefit.

(n) Availability of eligible facilities.

(o) Margins in claim costs.

(p) Optional nature of benefit.

(q) Delay in eligibility for benefit.

(r) Inflation protection provisions.

(s) Guaranteed insurability option.

(4) Any applicable valuation morbidity table ~~shall~~ **MUST** be certified as appropriate as a statutory valuation table by a member of the American academy of actuaries.

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

(2) ~~For~~ **SUBJECT TO SUBDIVISIONS (G) AND (H), 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~~ **PROVIDED** in subsection (9), ~~shall~~ **MAY** not be delivered or issued for delivery in this state unless it contains in substance **ALL OF** the following provisions, or corresponding provisions that in the opinion of the ~~commissioner~~ **DIRECTOR** 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~~ **IF THERE IS A** default in a premium payment, the company will grant, ~~upon~~ **ON** 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~~ **INSTEAD** of the stipulated paid-up nonforfeiture benefit, the company may substitute, ~~upon~~ **ON** 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~~ **ON** 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~~ **FOR** ordinary insurance or 5 full years ~~in the case of~~ **FOR** 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~~ **THE** specified paid-up nonforfeiture benefit ~~shall~~ **WILL** 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~~ **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~~ **THAT** became effective on or after the third policy anniversary ~~in the case of~~ **FOR** ordinary insurance or the fifth policy anniversary ~~in the case of~~ **FOR** 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~~ **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~~ **MUST** be calculated ~~upon~~ **ON** 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~~ **UNDER** 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~~ **CALCULATE** 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.

(G) 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.

(H) 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~~ **A** cash surrender value available under ~~the~~ **A** policy ~~in the event of~~ **IF THERE IS A** default in a premium payment due on any policy anniversary, whether or not required by subsection (2), ~~shall~~ **MUST** 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~~ **A** policy issued on or after the operative date of paragraphs 9 to ~~19~~ **18** 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~~ **MUST** 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~~ **A** family policy issued on or after the operative date of paragraphs 9 to ~~19~~ **18** 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~~ **MUST** 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~~ **A** 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~~ **MUST** 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~~ **A** paid-up nonforfeiture benefit available under ~~the~~ **A** policy ~~in the event of~~ **IF THERE IS A** default in a premium payment due on a policy anniversary ~~shall~~ **MUST** be such that its present value as of the anniversary ~~shall~~ **MUST** at least equal the cash surrender value then provided for by the policy or, if ~~none is provided for,~~ **THE POLICY DOES NOT PROVIDE FOR A CASH SURRENDER VALUE,** that cash surrender value that would have been required by this section in the absence of the condition that premiums ~~shall~~ **MUST** have been paid for at least a specified period.

(5) Paragraphs 1 to 8 of this subsection ~~shall~~ **DO** not apply to policies issued on or after the operative date of paragraphs 9 to ~~19~~ **18** as defined in paragraph ~~19.~~ **18.** Except as provided in ~~the third~~ paragraph **3** of this subsection, the adjusted premiums for a policy ~~shall~~ **MUST** be calculated on an annual basis and ~~shall~~ **MUST** 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)~~ ***(i)*** the then present value of the future guaranteed benefits provided for by the policy; ~~(II)~~ ***(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)~~ ***(iii)*** 40% of the adjusted premium for the first policy year; ~~(IV)~~ ***(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)~~ ***(iii)*** and ~~(IV)~~ ***(iv)*** above, an adjusted premium ~~shall~~ **MUST** not be considered to exceed 4% of the amount of insurance or uniform amount equivalent ~~thereto.~~ **TO THE AMOUNT OF INSURANCE.** The date of issue of a policy for the purpose of this subsection ~~shall be~~ **IS** the date ~~as of which~~ **THAT** the rated age of the insured is determined.

~~In the case of~~ **FOR** 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~~ **IS** 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~~ **FOR** 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~~ **MUST** 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~~ **MUST** be calculated separately and as specified in the first 2 paragraphs of this subsection. However, for the purposes of items ~~(II), (III), and (IV)~~ **(*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~~ **MUST** 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~~ **MUST** 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~~ **MUST** be made on the basis of the 1941 standard industrial mortality table. All calculations ~~shall~~ **MUST** 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.~~**DIRECTOR.**

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~~ **MUST** 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~~ **MAY** 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.~~**DIRECTOR.**

After May 23, 1960, ~~any~~ **A** company may file with the ~~commissioner~~ **DIRECTOR** 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~~ **IS** the operative date for the company, paragraph 5 ~~shall become~~ **IS** 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~~ **IS** 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~~ **MUST** 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~~ **MAY** 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,~~ **20,** 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.~~ **SEPTEMBER 30, 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.~~**DIRECTOR.**

After May 23, 1969, a company may file with the ~~commissioner~~ **DIRECTOR** 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~~ **IS** the operative date for the company, paragraph 7 ~~shall become~~ **IS** 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~~ **IS** January 1, 1968.

Paragraphs 9 to ~~19 shall~~ **18** apply to all policies issued on or after the operative date of those paragraphs as defined in paragraph ~~19.~~ **18.** Except as provided in paragraph 15, the adjusted premiums for any policy ~~shall~~ **MUST** be calculated on an annual basis and ~~shall~~ **MUST** 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~~ **THAT IS USED TO CALCULATE** 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~~ **IS** 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~~ **IS** 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~~ **CONSIDERED** 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~~ **IS** the date ~~as of~~ **ON** which the rated age of the insured is determined.

The nonforfeiture net level premium ~~shall~~ **MUST** 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~~ **MUST** 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~~ **MUST** 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~~ **IS** 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~~ **TO CALCULATE** 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~~ **THE** future adjusted premiums ~~shall be~~ **IS** 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~~ **IS** 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~~ **IS** 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~~ **MUST** 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~~ **MUST** 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~~ **MUST** 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~~ **MUST** 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~~ **FOR A POLICY ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL, ANY COMMISSIONERS STANDARD** ordinary mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by a rule promulgated by the ~~commissioner~~ **DIRECTOR** 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) FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE VALUATION MANUAL MUST 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 10-YEAR SELECT MORTALITY FACTORS OR FOR THE COMMISSIONERS 1980 EXTENDED TERM INSURANCE TABLE. IF THE DIRECTOR APPROVES BY REGULATION ANY COMMISSIONERS STANDARD ORDINARY MORTALITY TABLE ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS FOR USE IN DETERMINING THE MINIMUM NONFORFEITURE STANDARD FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE MINIMUM NONFORFEITURE STANDARD SUPERSEDES THE MINIMUM NONFORFEITURE STANDARD PROVIDED BY THE VALUATION MANUAL.

(H) ~~(g) Any~~ **FOR A POLICY ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL, ANY COMMISSIONERS STANDARD** industrial mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by a rule promulgated by the ~~commissioner~~ **DIRECTOR** 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.

(I) FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE VALUATION MANUAL MUST 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 DIRECTOR APPROVES BY REGULATION ANY COMMISSIONERS STANDARD INDUSTRIAL MORTALITY TABLE ADOPTED BY THE NATIONAL ASSOCIATION OF

INSURANCE COMMISSIONERS FOR USE IN DETERMINING THE MINIMUM NONFORFEITURE STANDARD FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE MINIMUM NONFORFEITURE STANDARD SUPERSEDES THE MINIMUM NONFORFEITURE STANDARD PROVIDED BY THE VALUATION MANUAL. The **FOLLOWING APPLIES TO THE NONFORFEITURE INTEREST RATE:**

(*i*) SUBJECT TO THIS SUBPARAGRAPH, FOR A POLICY ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL, THE nonforfeiture interest rate per annum for ~~any~~ **A** policy issued in a particular calendar year ~~shall be~~ **IS** equal to 125% of the calendar year statutory valuation interest rate for ~~such~~ **THE** policy as defined in the standard valuation law, rounded to the nearest 0.25%. **THE NONFORFEITURE INTEREST RATE UNDER THIS SUBPARAGRAPH MAY NOT BE LESS THAN 4%.**

(*ii*) 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 IS PROVIDED BY THE VALUATION MANUAL.

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~~ **MAY** not require refiling of any other provisions of that policy form.

After July 10, 1982, ~~any~~ **A** company may file with the ~~commissioner~~ **DIRECTOR** a written notice of its election to comply with paragraphs 9 to ~~19~~ **18** of this subsection at a specified date before January 1, 1989, ~~which shall be~~ **THAT IS** the operative date of those paragraphs for that company. If a company ~~makes no~~ **DOES NOT MAKE AN** election, the operative date of paragraphs 9 to ~~19~~ **18** of this subsection for the company ~~shall be~~ **IS** January 1, 1989.

(6) For ~~any~~ **A** 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~~ **A** plan of life insurance ~~that is of such a nature that~~ **AS TO WHICH THE** minimum values cannot be determined by the methods described in subsections (2) to (5)**, ALL OF THE FOLLOWING APPLY**:

(a) The ~~commissioner~~ **DIRECTOR** 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~~ **DIRECTOR** 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.~~**DIRECTOR.**

(7) ~~Any~~ **A** cash surrender value and paid-up nonforfeiture benefit, available under the policy ~~in the event of~~ **IF THERE IS A** default in a premium payment due at a time other than on the policy anniversary, ~~shall~~ **MUST** 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~~ **MUST** 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~~ **MUST** be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and the additional benefits ~~shall~~ **ARE** 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~~ **APPLIES** to all policies issued ~~on or~~ after ~~January 1, 1986.~~ **DECEMBER 31, 1985.** Any cash surrender value available under the policy ~~in the event of~~ **IF THERE IS A** default in a premium payment due on any policy anniversary ~~shall~~ **MUST** 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~~ **MUST** be equal to the present value on ~~such~~ **THE** 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~~ **THE** anniversary. However, the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage ~~shall~~ **MUST** 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~~ **MUST** 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~~ **18** 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~~ **18** 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~~ **MUST** 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~~ **MUST** include any endowment benefits provided for by the policy.

Any cash surrender value available other than ~~in the event~~

~~of~~ **IF THERE IS A** 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~~ **IF THERE IS A** default in a premium payment ~~shall~~ **MUST** 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~~ **18** 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~~ **MUST** 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~~ **THAT DOES NOT PROVIDE** guaranteed nonforfeiture or endowment benefits, or renewal ~~thereof,~~ **OF GUARANTEED NONFORFEITURE OR ENDOWMENT BENEFITS,** 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~~ **THAT DOES NOT PROVIDE** guaranteed nonforfeiture or endowment benefits ~~,~~ **AND** on which each adjusted premium, calculated as specified in subsection (5), is less than the adjusted premium ~~so calculated,~~ **CALCULATED UNDER SUBSECTION (5),** on a term policy of uniform amount, or **THE** renewal ~~thereof, which provides no~~ **OF A TERM POLICY THAT DOES NOT PROVIDE** 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~~ **THAT DOES NOT PROVIDE** 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~~ **IS** 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~~ **IS** the age at expiry of the oldest life.

(10) After July 30, 1943, a company may file with the ~~commissioner~~ **DIRECTOR** 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~~ **THAT IS** the operative date for the company, this section ~~shall become~~ **IS** 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~~ **IS**

January 1, 1948.

(11) AS USED IN THIS SECTION, "OPERATIVE DATE OF THE VALUATION MANUAL" MEANS JANUARY 1 OF THE FIRST CALENDAR YEAR THAT THE VALUATION MANUAL AS THAT TERM IS DEFINED IN SECTION 836B IS EFFECTIVE.

Sec. 4061. (1) All of the following apply to the minimum cash surrender values for flexible premium universal life insurance policies:

(a) Minimum cash surrender values for flexible premium universal life insurance policies ~~shall~~ **MUST** be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. For a basic policy and any benefits and riders for which premiums are not paid separately, all of the following requirements apply:

(*i*) All accumulations ~~shall~~ **MUST** be at the actual rate or rates of interest at which interest credits have been made unconditionally to the policy, or have been made conditionally, but for which the conditions have since been met. The minimum cash surrender value, before adjustment for indebtedness and dividend credits, available on a date as of which interest is credited to the policy ~~shall~~ **MUST** be equal to the accumulation to that date of the premiums paid minus the accumulations to that date of all of the following minus any unamortized unused initial and additional expense allowances:

(A) The benefits charges.

(B) The averaged administrative expense charges for the first policy year and any insurance-increase years.

(C) Actual administrative expense charges for other years.

(D) Initial and additional acquisition expense charges not exceeding the initial or additional expense allowances, respectively.

(E) Any service charges actually made.

(F) Any deductions made for partial withdrawals.

(*ii*) Interest on the premiums and on all charges referred to in subparagraph (*i*) (A) through (F) ~~shall~~ **MUST** be accumulated from and to such dates as are consistent with the manner in which interest is credited in determining the policy value.

(*iii*) Service charges ~~shall~~ **MUST** exclude charges for cash surrender or election of a paid-up nonforfeiture benefit and include charges permitted by the policy to be imposed as the result of a policyowner's request for a service by the insurer, such as the furnishing of future benefit illustrations or of special transactions.

(*iv*) Benefit charges ~~shall~~ **MUST** include the charges made for mortality and any charges made for riders or supplementary benefits for which premiums are not paid separately. If benefit charges are substantially level by duration and develop low or no cash values, ~~then~~ the ~~commissioner shall have the right to~~ **DIRECTOR MAY** require higher cash values unless the insurer provides adequate justification that the cash values are appropriate in relation to the policy's other characteristics.

(*v*) If the amount of insurance is subsequently increased ~~upon~~ **ON** request of the policyowner or by the terms of the policy, an additional expense allowance and an unused additional expense allowance ~~shall~~ **MUST** be determined on a basis consistent with this subsection and with section 4060(5) paragraph 13 using the face amount and the latest maturity date permitted at that time under the policy.

(*vi*) The unamortized unused initial expense allowance during the policy year beginning on the policy anniversary at age x+t, where "x" is the same issue age, ~~shall~~ **MUST** be the unused initial expense allowance multiplied by

$$\frac{a_{x+t}}{a_x}$$

where a_{x+t} and a_x are present values of an annuity of 1 per year payable on policy anniversaries beginning at ages x+t and x, respectively, and continuing until the highest attained age at which a premium may be paid under the policy, both on the mortality and interest bases guaranteed in the policy. An unamortized unused additional expense allowance ~~shall~~ **MUST** be the unused additional expense allowance multiplied by a similar ratio of annuities, with a_x replaced by an annuity beginning on the date as of which the additional expense allowance was determined.

(b) As used in this subsection:

(*i*) "Additional acquisition expense charges" means the excess of the expense charges, other than service charges, actually made in an insurance-increase year over the averaged administrative expense charges for that year.

(*ii*) "Administrative expense charges" means charges per premium payment, charges per dollar of premium paid, periodic charges per thousand dollars of insurance, periodic per policy charges, and any other charges permitted by the policy to be imposed without regard to the policyowner's request for services.

(*iii*) "Averaged administrative expense charges" means those charges that would have been imposed in a year if the charge rate or rates for each transaction or period within that year had been equal to the arithmetic average of the corresponding charge rates that the policy states will be imposed in policy years 2 through 20 in determining the policy value.

(*iv*) "Initial acquisition expense charges" means the excess of the expense charges, other than service charges, actually made in the first policy year over the averaged administrative expense charges for that year.

(*v*) "Initial expense allowance" means the allowance provided by items (*ii*), (*iii*), and (*iv*) of section 4060(5) paragraph 1 or by items (*ii*) and (*iii*) of section 4060(5) paragraph 9, as applicable, for a fixed premium, fixed benefit endowment policy with a face amount equal to the initial face amount of the flexible premium universal life insurance policy, with level premiums paid annually until the highest attained age at which a premium may be paid under the flexible premium universal life insurance policy, and maturing on the latest maturity date permitted under the policy, if any, otherwise at the highest age in the valuation mortality table.

(*vi*) "Insurance-increase year" means the year beginning on the date of increase in the amount of insurance by policyowner request or by the terms of the policy.

(*vii*) "Unused initial expense allowance" means the excess, if any, of the initial expense allowance over the initial acquisition expense charges.

(2) All of the following provisions apply to the minimum cash surrender values for fixed premium universal life insurance policies:

(a) The minimum cash surrender values ~~shall~~ **MUST** be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. All of the following requirements ~~pertain~~ **APPLY** to a basic policy and any benefits and riders for which premiums are not paid separately:

(*i*) The minimum cash surrender value before adjustment for indebtedness and dividend credits that is available on a date as of which interest is credited to the policy is equal to (A - B - C - D).

(*ii*) Future guaranteed benefits are determined by both of the following:

(A) Projecting the policy value, taking into account future premiums, if any, and using all guarantees of interest, mortality, expense deductions, and other guarantees, that depend upon the policy value, contained in the policy or declared by the insurer.

(B) Taking into account any benefits guaranteed in the policy or by declaration that do not depend on the policy value.

(*iii*) All present values ~~shall~~ **MUST** be determined using an interest rate or rates specified by section 4060 for policies issued in the same year and the mortality rates specified by section 4060 for policies issued in the same year or contained in ~~such~~ **ANY** other table as approved by the ~~commissioner~~ **DIRECTOR** for this purpose.

(b) As used in this subsection:

(*i*) "A" means the present value of all future guaranteed benefits.

(*ii*) "B" means the present value of future adjusted premiums. The adjusted premiums are calculated as described in section 4060(5) paragraphs 1 to 6 and 9, as applicable. If section 4060(5) paragraph 9 is applicable, the nonforfeiture net level premium is equal to the quantity

$$\frac{PVFB}{a_x}.$$

(*iii*) "C" means the present value of any quantities analogous to the nonforfeiture net level premium that arise because of guarantees declared by the insurer after the issue date of the policy. **ALSO,** a_x ~~shall~~ **MUST** be replaced by an annuity beginning on the date as of which the declaration became effective and payable until the end of the period covered by the declaration. The types of quantities included in "C" are increased current interest rate credits guaranteed for a future period, decreased current mortality rate charges guaranteed for a future period, or decreased current expense charges guaranteed for a future period.

(*iv*) "D" means the sum of any quantities analogous to "B" which arise because of structural changes in the policy.

(*v*) "PVFB" equals the present value of all benefits guaranteed at issue assuming future premiums are paid by the policyowner and all guarantees contained in the policy or declared by the insurer.

(*vi*) "Structural changes" means those changes that are separate from the automatic workings of the policy. Structural changes usually would be initiated by the policy owner and include changes in the guaranteed benefits, changes in latest maturity date, or changes in allowable premium payment period.

(*vii*) "a_x" equals the present value of an annuity of 1 per year payable on policy anniversaries beginning at age x and continuing until the highest attained age at which a premium may be paid under the policy.

(3) All of the following apply to minimum paid-up nonforfeiture benefits:

(a) If a universal life insurance policy provides for the optional election of a paid-up nonforfeiture benefit, ~~it shall be such that its~~ **THE** present value ~~shall~~ **OF THE PAID-UP NONFORFEITURE BENEFIT MUST** be at least equal to the cash surrender value provided for by the policy on the effective date of the election. The present value ~~shall~~ **MUST** be based on mortality and interest standards at least as favorable to the policyowner as 1 of the following:

(*i*) For a flexible premium universal life insurance policy, the mortality and interest ~~basis~~ **BASES** guaranteed in the policy for determining the policy value.

(*ii*) For a fixed premium policy, the mortality and interest standards permitted for paid-up nonforfeiture benefits in section

4060.

(b) Instead of the paid-up nonforfeiture benefit, the insurer may substitute, ~~upon~~ **ON** 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.

(c) Any secondary guarantees should be taken into consideration when computing minimum paid-up nonforfeiture benefits.

(d) A charge may be made at the surrender of the policy ~~provided that~~ **IF** the result after the deduction of the charge is not less than the minimum cash surrender value required by this section.

(e) To preserve equity between policies on a premium paying basis and on a paid-up basis, present values ~~shall~~ **MUST** comply with subsection (1) for flexible premium universal life insurance policies and with subsection (2) for fixed premium universal life insurance policies.