

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5514

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending sections 240, 438, 834, 835, and 836b (MCL 500.240,  
500.438, 500.834, 500.835, and 500.836b), section 240 as amended by  
2000 PA 252, section 438 as amended by 1994 PA 227, section 834 as  
amended and section 836b as added by 2014 PA 571, and section 835  
as amended by 1982 PA 221, and by adding section 835a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 240. (1) The ~~commissioner~~**DIRECTOR** shall collect, and the  
2 person affected shall pay to the ~~commissioner~~**DIRECTOR**, the  
3 following fees:

4           (a) Filing fee for original authorization to  
5 transact insurance or health maintenance organization

|    |   |            |
|----|---|------------|
| 1  | business in this state, for each domestic, foreign,                                 |            |
| 2  | and alien insurer, and each health maintenance                                      |            |
| 3  | organization.....   | \$ 25.00.  |
| 4  | (b) <del>Filing</del> <b>UNTIL THE EFFECTIVE DATE OF THE 2016</b>                   |            |
| 5  | <b>AMENDATORY ACT THAT AMENDED THIS SUBDIVISION, FILING</b>                         |            |
| 6  | fee for annual statement of foreign and alien insurers,                             |            |
| 7  | each year, subject to section 476a.....   | \$ 25.00.  |
| 8  | (c) <del>Agent's</del> <b>PRODUCER'S</b> appointment fee, resident or               |            |
| 9  | nonresident, payable by insurer or health maintenance                               |            |
| 10 | organization so represented, for each <del>agent,</del> <b>PRODUCER,</b>            |            |
| 11 | each year.....  | \$ 5.00.   |
| 12 | (d) Application fee payable by each initial   |            |
| 13 | applicant for license as resident <del>agent,</del> <b>PRODUCER,</b>                |            |
| 14 | nonresident <del>agent,</del> <b>PRODUCER,</b> surplus lines <del>agent,</del>      |            |
| 15 | <b>PRODUCER,</b> solicitor, counselor, or adjuster, not                             |            |
| 16 | transferable or refundable.....   | \$ 10.00.  |
| 17 | (e) Solicitor's license, each year.....   | \$ 10.00.  |
| 18 | (f) Insurance counselor license, each year.....                                     | \$ 10.00.  |
| 19 | (g) Adjuster's license, each year.....  | \$ 5.00.   |
| 20 | (h) License examination fee, payable by applicant                                   |            |
| 21 | for all subjects covered in any 1 examination, or                                   |            |
| 22 | portion of an examination, for license as resident                                  |            |
| 23 | <del>agent,</del> <b>PRODUCER,</b> surplus lines <del>agent,</del> <b>PRODUCER,</b> |            |
| 24 | solicitor, counselor, or adjuster, each examination,                                |            |
| 25 | not transferable or refundable.....   | \$ 10.00.  |
| 26 | (i) Surplus lines <del>agent</del> <b>PRODUCER</b> license each                     |            |
| 27 | year.....   | \$ 100.00. |

1           (2) ~~Each~~ **AN** incorporated domestic insurer shall pay to the  
2 attorney general, for the examination of the insurer's articles of  
3 incorporation or any amendments to the articles of incorporation,  
4 ~~the sum of \$25.00.~~

5           (3) The fees and charges for official services performed by  
6 the ~~commissioner~~ **DIRECTOR** or the ~~commissioner's~~ **DIRECTOR'S** deputies  
7 or employees, when collected, ~~shall~~ **MUST** be turned over to the  
8 state treasurer and a receipt taken. The fees and charges provided  
9 for in this section ~~shall~~ **MUST** be deposited in the state treasury  
10 to the credit of the general fund.

11           (4) ~~The provisions of subsection (1)(h), insofar as they~~  
12 ~~provide for~~ **THE** examination fees **DESCRIBED IN SUBSECTION (1)(H)**  ~~-~~  
13 are applicable only if the examinations are administered by the  
14 ~~commissioner.~~ **DIRECTOR**. If the examinations are administered by  
15 ~~some~~ **A** designated authority other than the ~~commissioner,~~ **DIRECTOR**,  
16 appropriate examination fees ~~shall be~~ **ARE** payable directly to the  
17 designated authority.

18           Sec. 438. (1) ~~Each~~ **AN** insurer, foreign, alien, U.S. branch, or  
19 domestic, transacting business within this state, shall annually,  
20 on or before March 1, prepare under oath and deposit with the  
21 ~~commissioner~~ **DIRECTOR** a statement concerning its affairs in a form  
22 and manner as prescribed by the ~~commissioner.~~ **DIRECTOR**. The annual  
23 statement ~~shall~~ **MUST** be filed on or before March 1 of the year  
24 following that covered by the statement. ~~Upon~~ **ON** request and for  
25 good cause shown, the ~~commissioner~~ **DIRECTOR** may grant to ~~any~~ **A**  
26 company reasonable extensions of the March 1 filing date for  
27 periods not to exceed 30 days. ~~The insurer shall pay the filing fee~~

1 ~~prescribed in section 240(1)(b).~~

2 (2) The ~~commissioner~~**DIRECTOR** shall prescribe the format and  
3 content of statements that are suitable and adaptable to each kind  
4 of insurer authorized by this act. The ~~commissioner~~**DIRECTOR** shall  
5 include requests for information ~~upon any and all~~**ON** important  
6 elements of an insurer's business, including any matter, condition,  
7 or requirement regulated by this act. An annual statement filed by  
8 an insurer under this section ~~shall~~**MUST** be prepared in accordance  
9 with instructions provided by, and accounting practices and  
10 procedures designated by, the ~~commissioner~~**DIRECTOR**.

11 (3) The ~~commissioner~~**DIRECTOR** may address inquiries to ~~any~~**AN**  
12 insurer, in relation to the insurer's activities or conditions, or  
13 any matter connected with the insurer's transactions. ~~An~~**THE**  
14 insurer ~~so addressed~~ shall promptly reply in writing to each  
15 inquiry ~~by the commissioner~~**DESCRIBED IN THIS SUBSECTION**.

16 (4) ~~Each~~**A** report filed with the ~~commissioner~~ pursuant to  
17 **DIRECTOR UNDER** this section ~~shall~~**MUST** be made available to the  
18 public in compliance with the freedom of information act, ~~Act No.~~  
19 ~~442 of the Public Acts of 1976, being sections 15.231 to 15.246 of~~  
20 ~~the Michigan Compiled Laws.1976 PA 442, MCL 15.231 TO 15.246.~~

21 (5) ~~Each~~**AN** authorized insurer that ~~fails to~~**DOES NOT** make or  
22 deposit the annual statement required by this section, or ~~fails to~~  
23 **DOES NOT** reply within 30 days to an inquiry of the ~~commissioner,~~  
24 **DIRECTOR**, is subject to a civil penalty of not less than \$1,000.00  
25 or more than \$5,000.00, and an additional \$50.00 for every day that  
26 the insurer ~~fails to~~**DOES NOT** make and deposit the annual statement  
27 or reply to the inquiry. In addition, ~~each~~**AN** insurer that ~~fails to~~

1 **DOES NOT** make and deposit an annual statement, or ~~fails to~~ **DOES NOT**  
2 make a satisfactory reply to an inquiry of the ~~commissioner,~~  
3 **DIRECTOR**, concerning the insurer's affairs ~~shall be~~ **IS** subject to  
4 proceedings under section 436.

5 (6) The annual statement of an alien insurer ~~shall~~ **MUST** relate  
6 only to the insurer's assets, transactions, and affairs in the  
7 United States unless the ~~commissioner~~ **DIRECTOR** requires otherwise.

8 (7) As used in this section, "U.S. branch" means that term as  
9 defined in section 431.

10 Sec. 834. (1) Except as otherwise provided in sections 835,  
11 **835A**, 836, and 837, the minimum standard for the valuation of  
12 policies and contracts described in subsection (8) is the  
13 commissioner's reserve valuation methods defined in subsections  
14 (2), (3), and (6), 5% interest for group annuity and pure endowment  
15 contracts if prior notice of any revaluation of reserves with  
16 respect to group annuity and pure endowment contracts is given to  
17 the director in the same manner as is required before a revaluation  
18 of reserves under section 832(2), and 3-1/2% interest for all other  
19 of those policies and contracts; or for policies and contracts,  
20 other than annuity and pure endowment contracts, issued after  
21 October 20, 1974, 4% interest for those policies issued before  
22 October 1, 1980, and 4-1/2% interest for those policies issued  
23 after September 30, 1980, or for life insurance contracts, other  
24 than annuity and pure endowment contracts, issued after December  
25 31, 1994, 5-1/2% interest for single premium life insurance  
26 policies and 4-1/2% interest for all other policies, and the  
27 following tables:

1 (a) For all ordinary policies of life insurance issued on the  
2 standard basis, excluding any disability and accidental death  
3 benefits in those policies: the ~~commissioner's~~ **COMMISSIONER'S** 1941  
4 ~~standard ordinary mortality table,~~ **STANDARD ORDINARY MORTALITY**  
5 **TABLE**, for policies issued before the operative date of paragraph 5  
6 of section 4060(5); and the ~~commissioner's~~ **COMMISSIONER'S** 1958  
7 ~~standard ordinary mortality table~~ **STANDARD ORDINARY MORTALITY TABLE**  
8 for policies issued on or after that operative date and before the  
9 operative date of paragraphs 9 to 18 of section 4060(5). For any  
10 category of those policies issued on female risks, all modified net  
11 premiums and present values referred to in this section may be  
12 calculated according to an age not more than 6 years younger than  
13 the actual age of the insured; and, for those policies issued on or  
14 after the operative date of paragraphs 9 to 18 of section 4060(5),  
15 the ~~commissioner's~~ **COMMISSIONER'S** 1980 ~~standard ordinary mortality~~  
16 ~~table~~ **STANDARD ORDINARY MORTALITY TABLE** or, at the election of the  
17 company for any 1 or more specified plans of life insurance, the  
18 ~~commissioner's~~ **COMMISSIONER'S** 1980 ~~standard ordinary mortality~~  
19 ~~table~~ **STANDARD ORDINARY MORTALITY TABLE** with 10-year select  
20 mortality factors or any ordinary mortality table adopted after  
21 1980 by the ~~national association~~ **NATIONAL ASSOCIATION** of insurance  
22 ~~commissioners~~ **INSURANCE COMMISSIONERS** that is approved by a rule  
23 promulgated by the director for use in determining the minimum  
24 standard of valuation for those policies or the 2001 CSO mortality  
25 table under section 838.

26 (b) For all industrial life insurance policies issued on the  
27 standard basis, excluding any disability and accidental death

1 benefits in those policies: the 1941 ~~standard industrial mortality~~  
2 ~~table~~ **STANDARD INDUSTRIAL MORTALITY TABLE** for those policies issued  
3 before the operative date of paragraph 7 of section 4060(5); and  
4 for those policies issued on or after that operative date, the  
5 ~~commissioner's~~ **COMMISSIONER'S** 1961 ~~standard industrial mortality~~  
6 ~~table~~ **STANDARD INDUSTRIAL MORTALITY TABLE** or any industrial  
7 mortality table adopted after 1980 by the ~~national association~~  
8 **NATIONAL ASSOCIATION** of ~~insurance commissioners~~ **INSURANCE**  
9 **COMMISSIONERS** that is approved by a rule promulgated by the  
10 director for use in determining the minimum standard of valuation  
11 for those policies.

12 (c) For individual annuity and pure endowment contracts,  
13 excluding any disability and accidental death benefits in those  
14 policies: the 1937 ~~standard annuity mortality table~~ **STANDARD**  
15 **ANNUITY MORTALITY TABLE** or, at the option of the company, the  
16 annuity mortality table for 1949, ultimate, or any modification of  
17 either of those tables approved by the director.

18 (d) For group annuity and pure endowment contracts, excluding  
19 any disability and accidental death benefits in those policies: the  
20 ~~group annuity mortality table~~ **GROUP ANNUITY MORTALITY TABLE** for  
21 1951, any modification of that table approved by the director, or,  
22 at the option of the company, any of the tables or modifications of  
23 tables specified for individual annuity and pure endowment  
24 contracts.

25 (e) For total and permanent disability benefits in or  
26 supplementary to ordinary policies or contracts: for policies or  
27 contracts issued after December 31, 1965, the tables of period 2

1 disablement rates and the 1930 to 1950 termination rates of the  
2 1952 ~~disability study~~ **DISABILITY STUDY** of the ~~society~~ **SOCIETY** of  
3 actuaries, ~~ACTUARIES~~, with due regard to the type of benefit or any  
4 tables of disablement rates and termination rates adopted after  
5 1980 by the ~~national association~~ **NATIONAL ASSOCIATION** of ~~insurance~~  
6 ~~commissioners~~ **INSURANCE COMMISSIONERS** that are approved by a rule  
7 promulgated by the director for use in determining the minimum  
8 standard of valuation for those policies; for policies or contracts  
9 issued after December 31, 1960, and before January 1, 1966, either  
10 those tables or, at the option of the company, the class (3)  
11 disability table, 1926; and for policies issued before January 1,  
12 1961, the class (3) disability table, 1926. For active lives, a  
13 table must be combined with a mortality table permitted for  
14 calculating the reserves for life insurance policies.

15 (f) For accidental death benefits in or supplementary to  
16 policies: for policies issued after December 31, 1965, the 1959  
17 ~~accidental death benefits table~~ **ACCIDENTAL DEATH BENEFITS TABLE** or  
18 any accidental death benefits table adopted after 1980 by the  
19 ~~national association~~ **NATIONAL ASSOCIATION** of ~~insurance~~  
20 ~~commissioners~~ **INSURANCE COMMISSIONERS** that is approved by a rule  
21 promulgated by the director for use in determining the minimum  
22 standard of valuation for those policies; for policies issued after  
23 December 31, 1960, and before January 1, 1966, 1 of the above  
24 tables or at the option of the insurer the intercompany double  
25 indemnity mortality table. A table must be combined with a  
26 mortality table permitted for calculating the reserves for life  
27 insurance policies.

1 (g) For group life insurance, life insurance issued on the  
2 substandard basis, and other special benefits: any table approved  
3 by the director.

4 (2) Except as otherwise provided in subsections (3) and (6),  
5 reserves according to the ~~commissioner's reserve valuation method,~~  
6 **COMMISSIONER'S RESERVE VALUATION METHOD**, for the life insurance and  
7 endowment benefits of policies providing for a uniform amount of  
8 insurance and requiring the payment of uniform premiums, is the  
9 excess, if any, of the present value, at the date of valuation, of  
10 the future guaranteed benefits provided for by those policies over  
11 the then present value of any future modified net premiums for the  
12 policies. The modified net premiums for the policy is a uniform  
13 percentage of the respective contract premiums for the future  
14 guaranteed benefits so that the present value of all modified net  
15 premiums equals, at the date of issue of the policy, the sum of the  
16 then present value of these benefits provided for by the policy and  
17 the excess of subdivision (a) over subdivision (b), as follows:

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

27 (b) A net 1-year term premium for the future guaranteed

1 benefits provided for in the first policy year.

2           However, for any life insurance policy issued after December  
3 31, 1985 for which the contract premium in the first policy year  
4 exceeds that of the second year and for which no comparable  
5 additional benefit is provided in the first year for that excess  
6 and that provides an endowment benefit or a cash surrender value or  
7 a combination of endowment benefit and cash surrender value in an  
8 amount greater than the excess premium, the reserve according to  
9 the ~~commissioner's reserve valuation method~~ **COMMISSIONER'S RESERVE**  
10 **VALUATION METHOD** as of any policy anniversary occurring on or  
11 before the assumed ending date, defined as the first policy  
12 anniversary on which the sum of any endowment benefit and any cash  
13 surrender value then available is greater than the excess premium,  
14 is, except as otherwise provided in subsection (6), the greater of  
15 the reserve as of that policy anniversary calculated as described  
16 in paragraph 1 of this subsection and the reserve as of that policy  
17 anniversary calculated as described in that paragraph, but with the  
18 value defined in subdivision (a) being reduced by 15% of the amount  
19 of the excess first year premium; all present values of benefits  
20 and premiums being determined without reference to premiums or  
21 benefits provided for by the policy after the assumed ending date;  
22 the policy being assumed to mature on that date as an endowment;  
23 and the cash surrender value provided on that date being considered  
24 as an endowment benefit. In making the above comparison, the  
25 mortality and interest bases stated in subsection (1) and section  
26 836 must be used.

27           Reserves according to the ~~commissioner's reserve valuation~~

1 ~~method~~ **COMMISSIONER'S RESERVE VALUATION METHOD** for life insurance  
2 policies providing for a varying amount of insurance or requiring  
3 the payment of varying premiums; group annuity and pure endowment  
4 contracts purchased under a retirement plan or plan of deferred  
5 compensation, established or maintained by an employer, including a  
6 partnership or sole proprietorship, or by an employee organization,  
7 or by both, other than a plan providing individual retirement  
8 accounts or individual retirement annuities under section 408 of  
9 the internal revenue code of 1986, 26 USC 408; disability and  
10 accidental death benefits in all policies and contracts; and all  
11 other benefits, except life insurance and endowment benefits in  
12 life insurance policies and benefits provided by all other annuity  
13 and pure endowment contracts, must be calculated by a method  
14 consistent with the principles of this subsection.

15 (3) This subsection applies to all annuity and pure endowment  
16 contracts other than group annuity and pure endowment contracts  
17 purchased under a retirement plan or plan of deferred compensation,  
18 established or maintained by an employer, including a partnership  
19 or sole proprietorship, or by an employee organization, or by both,  
20 other than a plan providing individual retirement accounts or  
21 individual retirement annuities under section 408 of the internal  
22 revenue code of 1986, 26 USC 408. Without action by the Michigan  
23 Legislature to adopt ~~actuarial guideline~~ **ACTUARIAL GUIDELINE** 35,  
24 reserves according to the ~~commissioner's annuity reserve method~~  
25 **COMMISSIONER'S ANNUITY RESERVE METHOD** for benefits under annuity or  
26 pure endowment contracts, excluding any disability and accidental  
27 death benefits in those contracts, must be the greatest of the

1 respective excesses of the present values, at the date of  
2 valuation, of the future guaranteed benefits, including guaranteed  
3 nonforfeiture benefits, provided for by those contracts at the end  
4 of each respective contract year, over the present value, at the  
5 date of valuation, of any future valuation considerations derived  
6 from future gross considerations, required by the terms of the  
7 contract, that become payable before the end of that respective  
8 contract year. The future guaranteed benefits must be determined by  
9 using the mortality table, if any, and the interest rate specified  
10 in those contracts for determining guaranteed benefits. The  
11 valuation considerations are the portions of the respective gross  
12 considerations applied under the terms of the contracts to  
13 determine nonforfeiture values.

14 (4) An insurer's aggregate reserves for all life insurance  
15 policies, excluding disability and accidental death benefits, ~~shall~~  
16 **MUST** not be less than the aggregate reserves calculated in  
17 accordance with the methods described in subsections (2), (3), (6),  
18 and (7), and the mortality table or tables and rate or rates of  
19 interest used in calculating nonforfeiture benefits for the  
20 policies. The aggregate reserves for all policies, contracts, and  
21 benefits ~~shall~~**MUST** not be less than the aggregate reserves  
22 determined by the appointed actuary to be necessary to render the  
23 opinion required by section 830a.

24 (5) Reserves for all policies and contracts issued before June  
25 27, 1994 may be calculated, at the option of the insurer, according  
26 to any standards that produce greater aggregate reserves for all  
27 those policies and contracts than the minimum reserves required by

1 the laws in effect immediately before June 27, 1994. Reserves for a  
2 category of policies, contracts, or benefits as established by the  
3 director, issued after June 26, 1994, may be calculated at the  
4 option of the insurer according to any standards that produce  
5 greater aggregate reserves than those calculated according to the  
6 minimum standard provided in this act. However, the rate or rates  
7 of interest used for policies and contracts, other than annuity and  
8 pure endowment contracts, must not be greater than the  
9 corresponding rate or rates of interest used in calculating any  
10 nonforfeiture benefits provided for in those policies and  
11 contracts. An insurer that had previously adopted any standard of  
12 valuation producing greater aggregate reserves than those  
13 calculated according to the minimum standard provided in this  
14 section and ~~section~~**SECTIONS 835 AND 835A** may, with the director's  
15 approval, adopt any lower standard of valuation, but not lower than  
16 the minimum standard provided by this section and ~~section~~**SECTIONS**  
17 **835 AND 835A**. However, for the purposes of this section, the  
18 holding of additional reserves previously determined by an  
19 appointed actuary to be necessary to render the opinion required by  
20 section 830a is not considered to be the adoption of a higher  
21 standard of valuation.

22 (6) If in any contract year the gross premium charged by an  
23 insurer on a policy or contract is less than the valuation net  
24 premium for the policy or contract calculated by the method used in  
25 calculating the reserve on the policy or contract, the insurer may  
26 use the minimum valuation standards of mortality, either at the  
27 time of issue or the time of valuation of the policy or contract

1 and the minimum valuation rate of interest at time of issue or the  
2 time of valuation of the policy or contract, if the minimum reserve  
3 required for the policy or contract is the greater of either the  
4 reserve calculated according to the mortality table, rate of  
5 interest, and method actually used for the policy or contract, or  
6 the reserve calculated by the method actually used for the policy  
7 or contract using the minimum valuation standards of mortality and  
8 rate of interest and replacing the valuation net premium by the  
9 actual gross premium in each contract year for which the valuation  
10 net premium exceeds the actual gross premium. The minimum valuation  
11 standards of mortality and rate of interest referred to in this  
12 subsection are those standards stated in subsection (1) and section  
13 836. However, for any life insurance policy issued after December  
14 31, 1985 for which the gross premium in the first policy year  
15 exceeds that of the second year and for which no comparable  
16 additional benefit is provided in the first year for that excess  
17 and that provides an endowment benefit or a cash surrender value or  
18 a combination of endowment benefit and cash surrender value in an  
19 amount greater than the excess premium, this subsection applies as  
20 if the method actually used in calculating the reserve for that  
21 policy were the method described in subsection (2), ignoring  
22 paragraph 2 of that subsection. The minimum reserve at each policy  
23 anniversary of that policy must be the greater of the minimum  
24 reserve calculated in accordance with subsection (2), including  
25 paragraph 2 of that subsection, and the minimum reserve calculated  
26 in accordance with this subsection.

27 (7) For any plan of life insurance that provides for future

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

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

16 (9) As used in this section:

17 (a) "Appointed actuary" means a qualified actuary who is  
18 appointed in accordance with the valuation manual to prepare the  
19 actuarial opinion required in section 830a(9).

20 (b) "NAIC" means the ~~national association~~ **NATIONAL ASSOCIATION**  
21 of ~~insurance commissioners~~ **INSURANCE COMMISSIONERS**.

22 (c) "Qualified actuary" means an individual who is qualified  
23 to sign the applicable statement of actuarial opinion in accordance  
24 with the American ~~academy~~ **ACADEMY** of ~~actuaries~~ **ACTUARIES**  
25 qualification standards for actuaries signing statements of  
26 actuarial opinions and who meets the requirements specified in the  
27 valuation manual.

1 (d) "Valuation manual" means the manual of valuation  
 2 instructions adopted by the NAIC as specified in section 836b.

3 Sec. 835. (1) Except as provided in ~~section~~**SECTIONS 835A AND**  
 4 836, the minimum standard for the valuation of all individual  
 5 annuity and pure endowment contracts issued on or after the  
 6 operative date of this section, as ~~defined~~**DESCRIBED** in subsection  
 7 (2), and for all annuities and pure endowments purchased on or  
 8 after that operative date under group annuity and pure endowment  
 9 contracts, ~~shall~~**MUST** be the ~~commissioners reserve valuation method~~  
 10 ~~defined~~**COMMISSIONERS RESERVE VALUATION METHOD DESCRIBED** in section  
 11 834(2) and (3), and the following tables and interest rates:

12 (a) For individual annuity and pure endowment contracts issued  
 13 before October 1, 1980, excluding any disability and accidental  
 14 death benefits in these contracts, the standard ~~shall~~**MUST** be the  
 15 1971 ~~individual annuity mortality table,~~**INDIVIDUAL ANNUITY**  
 16 **MORTALITY TABLE**, or a modification of this table approved by the  
 17 ~~commissioner,~~**DIRECTOR**, and 6% interest for single premium  
 18 immediate annuity contracts, and 4% interest for all other  
 19 individual annuity and pure endowment contracts.

20 (b) ~~For~~**EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, FOR**  
 21 individual single premium immediate annuity contracts issued ~~on or~~  
 22 after ~~October 1,~~**SEPTEMBER 30**, 1980, excluding any disability and  
 23 accidental death benefits in these contracts, the standard ~~shall~~  
 24 **MUST** be the 1971 ~~individual annuity mortality table~~**INDIVIDUAL**  
 25 **ANNUITY MORTALITY TABLE** or any individual annuity mortality table  
 26 adopted after 1980 by the ~~national association of insurance~~  
 27 ~~commissioners~~**NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS** that

1 is approved by a rule promulgated by the ~~commissioner~~**DIRECTOR** for  
 2 use in determining the minimum standard of valuation for ~~such~~**THE**  
 3 contracts, or a modification of these tables approved by the  
 4 ~~commissioner~~**,DIRECTOR**, and 7-1/2% interest. **AT THE ELECTION OF THE**  
 5 **INSURER, THE FOLLOWING TABLES MAY BE USED AS THE STANDARD FOR**  
 6 **INDIVIDUAL SINGLE PREMIUM IMMEDIATE ANNUITY CONTRACTS, AS**  
 7 **APPLICABLE:**

8 (i) FOR CONTRACTS ISSUED AFTER DECEMBER 31, 1985, THE 1983  
 9 TABLE A.

10 (ii) FOR CONTRACTS ISSUED AFTER DECEMBER 31, 1998, THE ANNUITY  
 11 2000 TABLE.

12 (iii) FOR CONTRACTS ISSUED AFTER DECEMBER 31, 2014, THE 2012  
 13 IAR TABLE.

14 (c) ~~For~~**EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, FOR**  
 15 individual annuity and pure endowment contracts issued ~~on or~~after  
 16 ~~October 1,~~**SEPTEMBER 30, 1980 AND BEFORE JANUARY 1, 2015**, other  
 17 than single premium immediate annuity contracts, excluding any  
 18 disability and accidental death benefits in the contracts, the  
 19 standard ~~shall~~**MUST** be the 1971 ~~individual annuity mortality table~~  
 20 **INDIVIDUAL ANNUITY MORTALITY TABLE** or any individual annuity  
 21 mortality table adopted after 1980 by the ~~national association~~  
 22 **NATIONAL ASSOCIATION** of ~~insurance commissioners~~**INSURANCE**  
 23 **COMMISSIONERS** that is approved by a rule promulgated by the  
 24 ~~commissioner~~**DIRECTOR** for use in determining the minimum standard  
 25 of valuation for such contracts, or a modification of these tables  
 26 approved by the ~~commissioner~~**,DIRECTOR**, and 5-1/2% interest for  
 27 single premium deferred annuity and pure endowment contracts, and

1 4-1/2% interest for all other such individual annuity and pure  
 2 endowment contracts. **AT THE ELECTION OF THE INSURER, THE FOLLOWING**  
 3 **TABLES MAY BE USED AS THE STANDARD FOR INDIVIDUAL ANNUITY AND PURE**  
 4 **ENDOWMENT CONTRACTS, OTHER THAN SINGLE PREMIUM IMMEDIATE ANNUITIES,**  
 5 **AS APPLICABLE:**

6 (i) FOR CONTRACTS ISSUED AFTER DECEMBER 31, 1985, THE 1983  
 7 TABLE A.

8 (ii) FOR CONTRACTS ISSUED AFTER DECEMBER 31, 1998, THE ANNUITY  
 9 2000 TABLE.

10 (iii) FOR CONTRACTS ISSUED AFTER DECEMBER 31, 2014, THE 2012  
 11 IAR TABLE.

12 (d) For all annuities and pure endowments purchased before  
 13 October 1, 1980, under group annuity and pure endowment contracts,  
 14 excluding any disability and accidental death benefits purchased  
 15 under these contracts, the standard ~~shall~~**MUST** be the 1971 ~~group~~  
 16 ~~annuity mortality table,~~**GROUP ANNUITY MORTALITY TABLE,** or a  
 17 modification of these tables approved by the ~~commissioner,~~  
 18 **DIRECTOR,** and 6% interest.

19 (e) ~~For~~**EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, FOR**  
 20 all annuities and pure endowments purchased ~~on or after October 1,~~  
 21 **SEPTEMBER 30, 1980 AND BEFORE JANUARY 1, 2015,** under group annuity  
 22 and pure endowment contracts, excluding any disability and  
 23 accidental death benefits purchased under these contracts, the  
 24 standard ~~shall~~**MUST** be the 1971 ~~group annuity mortality table~~**GROUP**  
 25 **ANNUITY MORTALITY TABLE** or any group annuity mortality table  
 26 adopted after 1980 by the ~~national association~~**NATIONAL ASSOCIATION**  
 27 of ~~insurance commissioners~~**INSURANCE COMMISSIONERS** that is approved

1 by a rule promulgated by the ~~commissioner~~DIRECTOR for use in  
2 determining the minimum standard of valuation for such annuities  
3 and pure endowments, or a modification of these tables approved by  
4 the ~~commissioner~~,DIRECTOR, and 7-1/2% interest. **AT THE ELECTION OF**  
5 **THE INSURER, THE FOLLOWING TABLES MAY BE USED AS THE STANDARD FOR**  
6 **ALL ANNUITIES AND PURE ENDOWMENTS UNDER GROUP ANNUITY AND PURE**  
7 **ENDOWMENT CONTRACTS, AS APPLICABLE:**

8 (i) FOR ANNUITIES AND PURE ENDOWMENTS PURCHASED AFTER DECEMBER  
9 31, 1985, THE 1983 GAM TABLE.

10 (ii) FOR ANNUITIES AND PURE ENDOWMENTS PURCHASED AFTER  
11 DECEMBER 31, 1998, THE 1994 GAR TABLE.

12 (2) After October 21, 1974, a company may file with the  
13 ~~commissioner~~DIRECTOR a written notice of its election to invoke  
14 this section after a specified date before January 1, 1981, which  
15 shall ~~MUST~~ be the operative date of this section for ~~that~~THE  
16 company. A company may elect a different operative date of this  
17 section for individual annuity and pure endowment contracts from  
18 that elected for group annuity and pure endowment contracts. If a  
19 company does not make an election, the operative date of this  
20 section for ~~that~~THE company shall ~~MUST~~ be January 1, 1981.

21 (3) AS USED IN THIS SECTION:

22 (A) "ANNUITY 2000 TABLE" MEANS THAT TERM AS DEFINED IN SECTION  
23 835A.

24 (B) "1983 GAM TABLE" MEANS THAT TERM AS DEFINED IN SECTION  
25 835A.

26 (C) "1983 TABLE A" MEANS THAT TERM AS DEFINED IN SECTION 835A.

27 (D) "1994 GAR TABLE" MEANS THAT TERM AS DEFINED IN SECTION

1 835A.

2 (E) "2012 IAR TABLE" MEANS THAT TERM AS DEFINED IN SECTION  
3 835A.

4 SEC. 835A. (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 836,  
5 THE MINIMUM STANDARD FOR THE VALUATION OF ALL INDIVIDUAL ANNUITY  
6 AND PURE ENDOWMENT CONTRACTS ISSUED AFTER DECEMBER 31, 2014 AND FOR  
7 ALL ANNUITIES AND PURE ENDOWMENTS PURCHASED AFTER DECEMBER 31, 2014  
8 UNDER GROUP ANNUITY AND PURE ENDOWMENT CONTRACTS MUST BE THE  
9 COMMISSIONER'S RESERVE VALUATION METHOD DESCRIBED IN SECTION 834(2)  
10 AND (3), AND THE FOLLOWING TABLES AND INTEREST RATES:

11 (A) FOR INDIVIDUAL SINGLE PREMIUM IMMEDIATE ANNUITY CONTRACTS,  
12 EXCLUDING ANY DISABILITY AND ACCIDENTAL DEATH BENEFITS IN THESE  
13 CONTRACTS, THE STANDARD MUST BE THE 2012 IAR TABLE OR ANY  
14 INDIVIDUAL ANNUITY MORTALITY TABLE ADOPTED AFTER 2015 BY THE  
15 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS THAT IS APPROVED BY  
16 A RULE PROMULGATED BY THE DIRECTOR FOR USE IN DETERMINING THE  
17 MINIMUM STANDARD OF VALUATION FOR SUCH CONTRACTS, OR A MODIFICATION  
18 OF THESE TABLES APPROVED BY THE DIRECTOR, AND AN INTEREST RATE AS  
19 DETERMINED BY THE METHODOLOGY DESCRIBED IN SECTION 836.

20 (B) FOR INDIVIDUAL ANNUITY AND PURE ENDOWMENT CONTRACTS, OTHER  
21 THAN SINGLE PREMIUM IMMEDIATE ANNUITY CONTRACTS, EXCLUDING ANY  
22 DISABILITY AND ACCIDENTAL DEATH BENEFITS IN THE CONTRACTS, THE  
23 STANDARD MUST BE THE 2012 INDIVIDUAL ANNUITY MORTALITY TABLE OR ANY  
24 INDIVIDUAL ANNUITY MORTALITY TABLE ADOPTED AFTER 2017 BY THE  
25 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS THAT IS APPROVED BY  
26 A RULE PROMULGATED BY THE DIRECTOR FOR USE IN DETERMINING THE  
27 MINIMUM STANDARD OF VALUATION FOR SUCH CONTRACTS, OR A MODIFICATION

1 OF THESE TABLES APPROVED BY THE DIRECTOR, AND AN INTEREST RATE AS  
2 DETERMINED BY THE METHODOLOGY DESCRIBED IN SECTION 836 FOR SINGLE  
3 PREMIUM DEFERRED ANNUITY AND PURE ENDOWMENT CONTRACTS, AND AN  
4 INTEREST RATE AS DETERMINED BY THE METHODOLOGY DESCRIBED IN SECTION  
5 836 FOR ALL OTHER SUCH INDIVIDUAL ANNUITY AND PURE ENDOWMENT  
6 CONTRACTS.

7 (C) FOR ALL ANNUITIES AND PURE ENDOWMENTS PURCHASED UNDER  
8 GROUP ANNUITY AND PURE ENDOWMENT CONTRACTS, EXCLUDING ANY  
9 DISABILITY AND ACCIDENTAL DEATH BENEFITS PURCHASED UNDER THESE  
10 CONTRACTS, THE STANDARD MUST BE THE 1994 GAR TABLE, OR ANY GROUP  
11 ANNUITY MORTALITY TABLE ADOPTED AFTER 2017 BY THE NATIONAL  
12 ASSOCIATION OF INSURANCE COMMISSIONERS THAT IS APPROVED BY A RULE  
13 PROMULGATED BY THE DIRECTOR FOR USE IN DETERMINING THE MINIMUM  
14 STANDARD OF VALUATION FOR SUCH ANNUITIES AND PURE ENDOWMENTS, OR A  
15 MODIFICATION OF THESE TABLES APPROVED BY THE DIRECTOR, AND AN  
16 INTEREST RATE AS DETERMINED BY THE METHODOLOGY DESCRIBED IN SECTION  
17 836.

18 (2) AS USED IN THIS SECTION:

19 (A) "ANNUITY 2000 TABLE" MEANS THE MORTALITY TABLE DEVELOPED  
20 BY THE SOCIETY OF ACTUARIES COMMITTEE ON LIFE INSURANCE RESEARCH  
21 AND SHOWN ON PAGE 240 OF VOLUME XLVII OF THE TRANSACTIONS OF THE  
22 SOCIETY OF ACTUARIES.

23 (B) "GENERATIONAL MORTALITY TABLE" MEANS A MORTALITY TABLE  
24 CONTAINING A SET OF MORTALITY RATES THAT DECREASE FOR A GIVEN AGE  
25 FROM 1 YEAR TO THE NEXT BASED ON A COMBINATION OF A PERIOD TABLE  
26 AND A PROJECTION SCALE CONTAINING RATES OF MORTALITY IMPROVEMENT.

27 (C) "PERIOD TABLE" MEANS A TABLE OF MORTALITY RATES APPLICABLE

1 TO A GIVEN CALENDAR YEAR.

2 (D) "PROJECTION SCALE G2" MEANS THE TABLE OF ANNUAL RATES,  
3 G2X, OF MORTALITY IMPROVEMENT BY AGE FOR PROJECTING FUTURE  
4 MORTALITY RATES BEYOND CALENDAR YEAR 2012 DEVELOPED BY THE SOCIETY  
5 OF ACTUARIES COMMITTEE ON LIFE INSURANCE RESEARCH.

6 (E) "1983 GAM TABLE" MEANS THAT MORTALITY TABLE DEVELOPED BY  
7 THE SOCIETY OF ACTUARIES COMMITTEE ON ANNUITIES AND ADOPTED AS A  
8 RECOGNIZED MORTALITY TABLE FOR ANNUITIES IN DECEMBER 1983 BY THE  
9 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

10 (F) "1983 TABLE A" MEANS THE MORTALITY TABLE DEVELOPED BY THE  
11 SOCIETY OF ACTUARIES COMMITTEE TO RECOMMEND A NEW MORTALITY BASIS  
12 FOR INDIVIDUAL ANNUITY VALUATION AND ADOPTED AS A RECOGNIZED  
13 MORTALITY TABLE FOR ANNUITIES IN JUNE 1982 BY THE NATIONAL  
14 ASSOCIATION OF INSURANCE COMMISSIONERS.

15 (G) "1994 GAR TABLE" MEANS THE MORTALITY TABLE DEVELOPED BY  
16 THE SOCIETY OF ACTUARIES GROUP ANNUITY VALUATION TABLE TASK FORCE  
17 AND PUBLISHED ON PAGES 866-867 OF VOLUME XLVII OF THE TRANSACTIONS  
18 OF THE SOCIETY OF ACTUARIES, WHERE THE MORTALITY RATE FOR AN  
19 INDIVIDUAL OF AGE X IN YEAR 1994+N,  $Q_x^{1994+N}$ , IS DETERMINED AS  
20 FOLLOWS:

$$21 \quad Q_x^{1994+N} = Q_x^{1994} (1 - AA_x)^N$$

22 WHERE  $Q_x^{1994}$  IS AS SPECIFIED IN THE 1994 GAR TABLE, N IS THE NUMBER  
23 OF YEARS THAT HAVE ELAPSED SINCE 1994, AND  $AA_x$  IS AS SPECIFIED IN  
24 THE 1994 GAR TABLE.

25 (H) "2012 IAM PERIOD TABLE" MEANS THE PERIOD TABLE DEVELOPED

1 BY THE SOCIETY OF ACTUARIES COMMITTEE ON LIFE INSURANCE RESEARCH  
2 THAT CONTAINS LOADED MORTALITY RATES FOR CALENDAR YEAR 2012.

3 (I) "2012 IAR TABLE" MEANS THE GENERATIONAL MORTALITY TABLE  
4 DEVELOPED BY THE SOCIETY OF ACTUARIES COMMITTEE ON LIFE INSURANCE  
5 RESEARCH THAT CONTAINS RATES DERIVED FROM A COMBINATION OF THE 2012  
6 IAM PERIOD TABLE AND PROJECTION SCALE G2, WHERE MORTALITY RATES FOR  
7 AN INDIVIDUAL OF AGE X IN YEAR 2012+N,  $Q_x^{2012+N}$ , ARE DETERMINED AS  
8 FOLLOWS, AND THE RESULTS ROUNDED TO THE NEAREST ONE-THOUSANDTH:

$$9 \quad Q_x^{2012+N} = Q_x^{2012} (1-G2_x)^N$$

10 WHERE  $Q_x^{2012}$  IS AS SPECIFIED IN THE 2012 IAM PERIOD TABLE, N IS THE  
11 NUMBER OF YEARS THAT HAVE ELAPSED SINCE 2012, AND  $G2_x$  IS AS  
12 SPECIFIED IN PROJECTION SCALE G2.

13 Sec. 836b. (1) All of the following apply to the valuation  
14 manual:

15 (a) Except as otherwise provided under subdivision (e) or (g),  
16 for policies issued on or after the operative date of the valuation  
17 manual and, at a company's option for policies or individual blocks  
18 of policies acquired by the company through a business acquisition  
19 or reinsurance transaction after ~~the effective date of the~~  
20 ~~amendatory act that added this section,~~ **MARCH 31, 2015**, regardless  
21 of when the policies were issued, the standard prescribed in the  
22 valuation manual is the minimum standard of valuation required  
23 under section 830(2).

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

1 of the following have occurred:

2 (i) The NAIC has adopted the valuation manual by a vote of at  
3 least 42 members, or 3/4 of the members voting, whichever is  
4 greater.

5 (ii) The standard valuation law, as amended by the NAIC in  
6 2009, or legislation including substantially similar terms and  
7 provisions, has been enacted by states representing greater than  
8 75% of the direct premiums written as reported in the following  
9 annual statements submitted for 2008: life, accident, and health  
10 annual statements; health annual statements; or fraternal annual  
11 statements.

12 (iii) The standard valuation law, as amended by the NAIC in  
13 2009, or legislation including substantially similar terms and  
14 provisions, has been enacted by at least 42 of the following 55  
15 jurisdictions: the 50 states of the United States, American Samoa,  
16 the American Virgin Islands, the District of Columbia, Guam, and  
17 Puerto Rico.

18 (c) Unless a change in the valuation manual specifies a later  
19 effective date, a change to the valuation manual is effective on  
20 January 1 after the date the NAIC adopts the change to the  
21 valuation manual by a vote representing both of the following:

22 (i) At least 3/4 of the members of the NAIC, but not less than  
23 a majority of the total membership.

24 (ii) Members of the NAIC representing jurisdictions that  
25 amount to greater than 75% of the direct premiums written as  
26 reported in the following annual statements most recently available  
27 before the vote in subparagraph (i): life, accident, and health

1 annual statements; health annual statements; or fraternal annual  
2 statements.

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

4 (i) Minimum valuation standards for and definitions of the  
5 policies or contracts subject to section 830(2). The minimum  
6 valuation standards are all of the following:

7 (A) The director's reserve valuation method for life insurance  
8 contracts, other than annuity contracts, subject to section 830(2).

9 (B) The director's annuity reserve valuation method for  
10 annuity contracts subject to section 830(2).

11 (C) Minimum reserves for all other policies or contracts  
12 subject to section 830(2).

13 (ii) The policies or contracts or types of policies or  
14 contracts that are subject to the requirements of a principle-based  
15 valuation ~~in~~**UNDER** subsection (2) and the minimum valuation  
16 standards consistent with those requirements.

17 (iii) For policies and contracts subject to a principle-based  
18 valuation under subsection (2), all of the following apply:

19 (A) Requirements for the format of reports to the director  
20 under subsection (3)(c) and that must include information necessary  
21 to determine if the valuation is appropriate and in compliance with  
22 this section.

23 (B) Assumptions must be prescribed for risks over which the  
24 company does not have significant control or influence.

25 (C) Procedures for corporate governance and oversight of the  
26 actuarial function, and a process for appropriate waiver or  
27 modification of the procedures.

1           (iv) For policies that are not subject to a principle-based  
2 valuation under subsections (2), (3), and (4), the minimum  
3 valuation standard is 1 of the following:

4           (A) The standard is consistent with the minimum standard of  
5 valuation before the operative date of the valuation manual.

6           (B) The standard develops reserves that quantify the benefits  
7 and guarantees, and the funding, associated with the contracts and  
8 their risks at a level of conservatism that reflects conditions  
9 that include unfavorable events that have a reasonable probability  
10 of occurring.

11          (v) Other requirements, including, but not limited to, those  
12 relating to reserve methods, models for measuring risk, generation  
13 of economic scenarios, assumptions, margins, use of company  
14 experience, risk measurement, disclosure, certifications, reports,  
15 actuarial opinions and memorandums, transition rules, and internal  
16 controls.

17          (vi) The data and form of the data required under subsection  
18 (5), to whom the data must be submitted, and may specify other  
19 requirements including data analyses and reporting of analyses.

20          (e) If there is not a specific valuation requirement or if the  
21 director determines that a specific valuation requirement in the  
22 valuation manual does not comply with this section, the company  
23 shall, with respect to the requirement, comply with minimum  
24 valuation standards prescribed by the director by rule.

25          (f) The director may engage a qualified actuary, at the  
26 expense of the company, to perform an actuarial examination of the  
27 company and opine on the appropriateness of any reserve assumption

1 or method used by the company, or to review and opine on a  
2 company's compliance with any requirement of this section. The  
3 director may rely ~~upon~~**ON** the opinion, regarding this section, of a  
4 qualified actuary engaged by the commissioner of another state,  
5 district, or territory of the United States. As used in this  
6 subdivision, "engage" includes employment and contracting.

7 (g) The director may require a company to change any  
8 assumption or method that the director considers necessary to  
9 comply with the requirements of the valuation manual or this  
10 section, and the company shall adjust the reserves as required by  
11 the director.

12 (2) A company shall establish reserves using a principle-based  
13 valuation that meets all of the following conditions for policies  
14 or contracts as specified in the valuation manual:

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

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

1 (c) Incorporate assumptions that are derived in 1 of the  
2 following manners:

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

4 (ii) For assumptions that are not prescribed in the valuation  
5 manual, the assumptions must do the following, as applicable:

6 (A) Use the company's available experience, to the extent it  
7 is relevant and statistically credible.

8 (B) To the extent that company data are not available,  
9 relevant, or statistically credible, use other relevant and  
10 statistically credible experience.

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

14 (3) A company that uses principle-based valuation for 1 or  
15 more policies or contracts subject to this section as specified in  
16 the valuation manual shall do all of the following:

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

20 (b) Provide to the director and the board of directors an  
21 annual certification of the effectiveness of the internal controls  
22 with respect to the principle-based valuation. The internal  
23 controls must be designed to assure that all material risks  
24 inherent in the liabilities and associated assets subject to the  
25 valuation are included in the valuation, and that valuations are  
26 made in accordance with the valuation manual. The certification  
27 must be based on the controls in place at the end of the preceding

1 calendar year.

2 (c) Develop, and file with the director on request, a  
3 principle-based valuation report that complies with standards  
4 prescribed in the valuation manual.

5 (4) A principle-based valuation may include a prescribed  
6 formulaic reserve component.

7 (5) A company shall submit mortality, morbidity, policyholder  
8 behavior, or expense experience and other data as prescribed in the  
9 valuation manual.

10 (6) Except as otherwise provided in this section, confidential  
11 information is confidential and privileged, is not subject to  
12 disclosure under the freedom of information act, 1976 PA 442, MCL  
13 15.231 to 15.246, is not subject to subpoena, and is not subject to  
14 discovery or admissible in evidence in a private civil action.  
15 However, the director may use the confidential information in the  
16 furtherance of any regulatory or legal action brought as a part of  
17 the director's official duties.

18 (7) The director or any person who received confidential  
19 information while acting under the authority of the director shall  
20 not testify in a private civil action concerning confidential  
21 information.

22 (8) The director may do all of the following:

23 (a) Except as otherwise provided in this subdivision, share  
24 confidential information with other state, federal, and  
25 international regulatory agencies and with the NAIC and its  
26 affiliates and subsidiaries. The director may also share  
27 confidential information described in subsection (18)(c)(i) and

1 (iv) only with the actuarial board for counseling and discipline or  
2 its successor on request for the purpose of professional  
3 disciplinary proceedings and with state, federal, and international  
4 law enforcement officials. The director shall not share  
5 confidential information unless the recipient agrees in writing to  
6 maintain the confidentiality and privileged status of the  
7 confidential information and has verified in writing the legal  
8 authority to maintain confidentiality.

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

18 (9) The director may enter into written agreements governing  
19 sharing and use of information provided under this section.

20 (10) The disclosure or sharing of confidential information to  
21 the director under this section is not a waiver of an applicable  
22 privilege or claim of confidentiality.

23 (11) A privilege established under the law of any state or  
24 jurisdiction that is substantially similar to the privilege  
25 established under this section applies in any proceeding in, and in  
26 any court of, this state.

27 (12) As used in subsections (6) to (10), "regulatory agency",

1 "law enforcement agency", and "NAIC" include, but are not limited  
2 to, their employees, agents, consultants, and contractors.

3 (13) Notwithstanding anything in this section to the contrary,  
4 any confidential information described in subsection (18)(c)(i) and  
5 (iv) is subject to all of the following:

6 (a) The confidential information is subject to subpoena for  
7 the purpose of defending an action seeking damages from the  
8 appointed actuary submitting the related memorandum in support of  
9 an opinion submitted under section 830a or principle-based  
10 valuation report developed under subsection (3)(c) by reason of an  
11 action required by section 830a or subsection (3)(c) or by rules  
12 promulgated under this section.

13 (b) The director may release the confidential information with  
14 the written consent of the company.

15 (c) If any portion of a memorandum in support of an opinion  
16 submitted under section 830a or a principle-based valuation report  
17 developed under subsection (3)(c) is cited by the company in its  
18 marketing, is cited before a governmental agency other than a state  
19 insurance department, or is released by the company to the news  
20 media, the memorandum or report is not confidential.

21 (14) Except as provided in subsection (15), a domestic company  
22 is exempt from the requirements under subsections (1) to (5) if the  
23 domestic company meets both of the following requirements:

24 (a) The domestic company has less than \$500,000,000.00 of  
25 ordinary life premiums and, if the domestic company is a member of  
26 a group of life insurers, the group has combined ordinary life  
27 premiums of less than \$1,000,000,000.00.

1 (b) The domestic company reported total adjusted capital of at  
2 least 450% of the authorized control level risk-based capital in  
3 the most recent risk-based capital report and the appointed actuary  
4 has provided an unqualified opinion on the reserves.

5 (15) A domestic company that meets the requirements under  
6 subsection (14)(a) and (b) may elect to be bound by the  
7 requirements of subsections (1) to (5) for a calendar year. The  
8 election must be in writing and filed with the director by February  
9 1 of the year following the calendar year in which the company  
10 makes the election.

11 (16) For purposes of subsection (14), ordinary life premiums  
12 are measured as direct plus reinsurance assumed from an  
13 unaffiliated company from the prior calendar year annual statement.

14 (17) Except for a domestic company that makes an election  
15 under subsection (15), for a domestic company that is exempt from  
16 the requirements of subsections (1) to (5) under subsection (14),  
17 sections 830a, 832, 834, 835, **835A**, 836, and 836a are applicable,  
18 and a reference to this section in sections 830a, 834, and 836a is  
19 not applicable.

20 (18) As used in this section:

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

25 (b) "Company" means an entity that has written, issued, or  
26 reinsured life insurance contracts, accident and health insurance  
27 contracts, or deposit-type contracts in this state and has at least

1 1 policy in force or on claim or that has written, issued, or  
2 reinsured life insurance contracts, accident and health insurance  
3 contracts, or deposit-type contracts in any state and is required  
4 to hold a certificate of authority to write life insurance,  
5 accident and health insurance, or deposit-type contracts in this  
6 state.

7 (c) "Confidential information" means all of the following:

8 (i) A memorandum in support of an opinion submitted under  
9 section 830a and any other documents, materials, and other  
10 information, including, but not limited to, all working papers, and  
11 copies of working papers, created, produced, or obtained by or  
12 disclosed to the director or any other person in connection with  
13 the memorandum.

14 (ii) All documents, materials, and other information,  
15 including, but not limited to, all working papers, and copies of  
16 working papers, created, produced, or obtained by or disclosed to  
17 the director or any other person in the course of an examination  
18 made under subsection (1)(f) if an examination report or other  
19 material prepared in connection with an examination made under  
20 section 222 is not held as private and confidential information  
21 under section 222, an examination report or other material prepared  
22 in connection with an examination made under subsection (1)(f) is  
23 not "confidential information" to the same extent as if the  
24 examination report or other material had been prepared under  
25 section 222.

26 (iii) Any reports, documents, materials, and other information  
27 developed by a company in support of, or in connection with, an

1 annual certification by the company under subsection (3)(b)  
2 evaluating the effectiveness of the company's internal controls  
3 with respect to a principle-based valuation and any other  
4 documents, materials, and other information, including, but not  
5 limited to, all working papers, and copies of working papers,  
6 created, produced, or obtained by or disclosed to the director or  
7 any other person in connection with such reports, documents,  
8 materials, and other information.

9 (iv) Any principle-based valuation report developed under  
10 subsection (3)(c) and any other documents, materials, and other  
11 information, including, but not limited to, all working papers, and  
12 copies of working papers, created, produced, or obtained by or  
13 disclosed to the director or any other person in connection with  
14 the report.

15 (v) Any documents, materials, data, and other information  
16 submitted by a company under subsection (5), collectively,  
17 experience data, and any other documents, materials, data, and  
18 other information, including, but not limited to, all working  
19 papers, and copies of working papers, created or produced in  
20 connection with the experience data, in each case that include any  
21 potentially company-identifying or personally identifiable  
22 information, that is provided to or obtained by the director,  
23 together with any experience data, the experience materials and any  
24 other documents, materials, data, and other information, including,  
25 but not limited to, all working papers, and copies of working  
26 papers, created, produced, or obtained by or disclosed to the  
27 director or any other person in connection with the experience

1 materials.

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

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

8 (f) "NAIC" means the ~~national association of insurance~~  
9 ~~commissioners.~~ **NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.**

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

19 (h) "Principle-based valuation" means a reserve valuation that  
20 uses 1 or more methods or 1 or more assumptions determined by the  
21 insurer and is required to comply with this section as specified in  
22 the valuation manual.

23 (i) "Qualified actuary" means an individual who is qualified  
24 to sign the applicable statement of actuarial opinion in accordance  
25 with the American ~~academy of actuaries~~ **ACADEMY OF ACTUARIES**  
26 qualification standards for actuaries signing such statements and  
27 who meets the requirements specified in the valuation manual.

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

5           (k) "Valuation manual" means the manual of valuation  
6 instructions adopted by the NAIC as specified in this section.

7           Enacting section 1. This amendatory act takes effect 90 days  
8 after the date it is enacted into law.