

Act No. 558  
Public Acts of 2016  
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**STATE OF MICHIGAN  
98TH LEGISLATURE  
REGULAR SESSION OF 2016**

Introduced by Rep. Theis

# **ENROLLED HOUSE BILL No. 5514**

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

Sec. 240. (1) The director shall collect, and the person affected shall pay to the director, the following fees:

(a) Filing fee for original authorization to transact insurance or health maintenance organization business in this state, for each domestic, foreign, and alien insurer, and each health maintenance organization ..... \$ 25.00.

(b) Until the effective date of the 2016 amendatory act that amended this subdivision, filing fee for annual statement of foreign and alien insurers, each year, subject to section 476a.....	\$ 25.00.
(c) Producer's appointment fee, resident or nonresident, payable by insurer or health maintenance organization so represented, for each producer, each year .....	\$ 5.00.
(d) Application fee payable by each initial applicant for license as resident producer, nonresident producer, surplus lines producer, solicitor, counselor, or adjuster, not transferable or refundable .....	\$ 10.00.
(e) Solicitor's license, each year .....	\$ 10.00.
(f) Insurance counselor license, each year .....	\$ 10.00.
(g) Adjuster's license, each year .....	\$ 5.00.
(h) License examination fee, payable by applicant for all subjects covered in any 1 examination, or portion of an examination, for license as resident producer, surplus lines producer, solicitor, counselor, or adjuster, each examination, not transferable or refundable .....	\$ 10.00.
(i) Surplus lines producer license each year .....	\$100.00.

(2) An incorporated domestic insurer shall pay to the attorney general, for the examination of the insurer's articles of incorporation or any amendments to the articles of incorporation, \$25.00.

(3) The fees and charges for official services performed by the director or the director's deputies or employees, when collected, must be turned over to the state treasurer and a receipt taken. The fees and charges provided for in this section must be deposited in the state treasury to the credit of the general fund.

(4) The examination fees described in subsection (1)(h) are applicable only if the examinations are administered by the director. If the examinations are administered by a designated authority other than the director, appropriate examination fees are payable directly to the designated authority.

Sec. 438. (1) An insurer, foreign, alien, U.S. branch, or domestic, transacting business within this state, shall annually, on or before March 1, prepare under oath and deposit with the director a statement concerning its affairs in a form and manner as prescribed by the director. The annual statement must be filed on or before March 1 of the year following that covered by the statement. On request and for good cause shown, the director may grant to a company reasonable extensions of the March 1 filing date for periods not to exceed 30 days.

(2) The director shall prescribe the format and content of statements that are suitable and adaptable to each kind of insurer authorized by this act. The director shall include requests for information on important elements of an insurer's business, including any matter, condition, or requirement regulated by this act. An annual statement filed by an insurer under this section must be prepared in accordance with instructions provided by, and accounting practices and procedures designated by, the director.

(3) The director may address inquiries to an insurer, in relation to the insurer's activities or conditions, or any matter connected with the insurer's transactions. The insurer shall promptly reply in writing to each inquiry described in this subsection.

(4) A report filed with the director under this section must be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) An authorized insurer that does not make or deposit the annual statement required by this section, or does not reply within 30 days to an inquiry of the director, is subject to a civil penalty of not less than \$1,000.00 or more than \$5,000.00, and an additional \$50.00 for every day that the insurer does not make and deposit the annual statement or reply to the inquiry. In addition, an insurer that does not make and deposit an annual statement, or does not make a satisfactory reply to an inquiry of the director, concerning the insurer's affairs is subject to proceedings under section 436.

(6) The annual statement of an alien insurer must relate only to the insurer's assets, transactions, and affairs in the United States unless the director requires otherwise.

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

Sec. 834. (1) Except as otherwise provided in sections 835, 835a, 836, and 837, the minimum standard for the valuation of policies and contracts described in subsection (8) is the commissioner's reserve valuation methods defined in subsections (2), (3), and (6), 5% interest for group annuity and pure endowment contracts if prior notice of any revaluation of reserves with respect to group annuity and pure endowment contracts is given to the 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 for policies and contracts, other than annuity and pure endowment contracts, issued after October 20, 1974, 4% interest for those policies issued before October 1, 1980, and 4-1/2% interest for those policies issued after September 30, 1980, or 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) 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 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 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 director for use in determining the minimum standard of valuation for those policies or the 2001 CSO mortality table under section 838.

(b) 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 director for use in determining the minimum standard of valuation for those policies.

(c) 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 director.

(d) 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 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) For total and permanent disability benefits in or supplementary to ordinary policies or contracts: for policies or contracts issued after 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 director for use in determining the minimum standard of valuation for those policies; for policies or contracts issued after 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 must be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies: for policies issued after 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 director for use in determining the minimum standard of valuation for those policies; for policies issued after 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 must be combined with a mortality table permitted for calculating the reserves for life insurance policies.

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

(2) Except as otherwise provided in subsections (3) and (6), reserves according to the Commissioner's Reserve Valuation Method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, 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 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 subdivision (a) over subdivision (b), as follows:

(a) 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 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) 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 after 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 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, 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 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 must be used.

Reserves according to the Commissioner's Reserve Valuation Method for life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums; 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; disability and accidental death benefits in all policies and contracts; and all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, 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 Annuity Reserve Method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in those contracts, 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 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, must not be less than the aggregate reserves calculated in accordance with the methods 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 must not be less than the aggregate reserves determined by the appointed actuary to be necessary to render the opinion required by section 830a.

(5) Reserves for all policies and contracts issued 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 director, issued after June 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, must not be greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for in those policies and contracts. 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 sections 835 and 835a may, with the director's approval, adopt any lower standard of valuation, but not lower than the minimum standard provided by this section and sections 835 and 835a. However, for the purposes of this section, the holding of additional reserves previously determined by an appointed actuary to be necessary to render the opinion required by section 830a is not considered to be the adoption of a higher standard of valuation.

(6) If in any contract year the gross premium charged by 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, 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 after 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, this subsection 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 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, for any plan of life insurance or annuity 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 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. 835. (1) Except as provided in sections 835a and 836, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this section, as described in subsection (2), and for all annuities and pure endowments purchased on or after that operative date under group annuity and pure endowment contracts, must be the Commissioner's Reserve Valuation Method described in section 834(2) and (3), and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued before October 1, 1980, excluding any disability and accidental death benefits in these contracts, the standard must be the 1971 Individual Annuity Mortality Table, or a modification of this table approved by the director, and 6% interest for single premium immediate annuity contracts, and 4% interest for all other individual annuity and pure endowment contracts.

(b) Except as otherwise provided in this subdivision, for individual single premium immediate annuity contracts issued after September 30, 1980, excluding any disability and accidental death benefits in these contracts, the standard must be the 1971 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by a rule promulgated by the director for use in determining the minimum standard of valuation for the contracts, or a modification of these tables approved by the director, and 7-1/2% interest. At the election of the insurer, the following tables may be used as the standard for individual single premium immediate annuity contracts, as applicable:

(i) For contracts issued after December 31, 1985, the 1983 Table a.

(ii) For contracts issued after December 31, 1998, the Annuity 2000 Table.

(iii) For contracts issued after December 31, 2014, the 2012 IAR Table.

(c) Except as otherwise provided in this subdivision, for individual annuity and pure endowment contracts issued after September 30, 1980 and before January 1, 2015, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in the contracts, the standard must be the 1971 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by a rule promulgated by the director for use in determining the minimum standard of valuation for such contracts, or a modification of these tables approved by the director, and 5-1/2% interest for single premium deferred annuity and pure endowment contracts, and 4-1/2% interest for all other such individual annuity and pure endowment contracts. At the election of the insurer, the following tables may be used as the standard for individual annuity and pure endowment contracts, other than single premium immediate annuities, as applicable:

(i) For contracts issued after December 31, 1985, the 1983 Table a.

(ii) For contracts issued after December 31, 1998, the Annuity 2000 Table.

(iii) For contracts issued after December 31, 2014, the 2012 IAR Table.

(d) For all annuities and pure endowments purchased before October 1, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under these contracts, the standard must be the 1971 Group Annuity Mortality Table, or a modification of these tables approved by the director, and 6% interest.

(e) Except as otherwise provided in this subdivision, For all annuities and pure endowments purchased after September 30, 1980 and before January 1, 2015, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under these contracts, the standard must be the 1971 Group Annuity Mortality Table or any group annuity mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by a rule promulgated by the director for use in determining the minimum standard of valuation for such annuities and pure endowments, or a modification of these tables approved by the director, and 7-1/2% interest. At the election of the insurer, the following tables may be used as the standard for all annuities and pure endowments under group annuity and pure endowment contracts, as applicable:

(i) For annuities and pure endowments purchased after December 31, 1985, the 1983 GAM Table.

(ii) For annuities and pure endowments purchased after December 31, 1998, the 1994 GAR Table.

(2) After October 21, 1974, a company may file with the director a written notice of its election to invoke this section after a specified date before January 1, 1981, which must be the operative date of this section for the company. A company may elect a different operative date of this section for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company does not make an election, the operative date of this section for the company must be January 1, 1981.

(3) As used in this section:

(a) "Annuity 2000 Table" means that term as defined in section 835a.

(b) "1983 GAM Table" means that term as defined in section 835a.

(c) "1983 Table a" means that term as defined in section 835a.

(d) "1994 GAR Table" means that term as defined in section 835a.

(e) "2012 IAR Table" means that term as defined in section 835a.

Sec. 835a. (1) Except as otherwise provided in section 836, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued after December 31, 2014 and for all annuities and pure endowments purchased after December 31, 2014 under group annuity and pure endowment contracts must be the Commissioner's Reserve Valuation Method described in section 834(2) and (3), and the following tables and interest rates:

(a) For individual single premium immediate annuity contracts, excluding any disability and accidental death benefits in these contracts, the standard must be the 2012 IAR Table or any individual annuity mortality table adopted after 2015 by the National Association of Insurance Commissioners that is approved by a rule promulgated by the director for use in determining the minimum standard of valuation for such contracts, or a modification of these tables approved by the director, and an interest rate as determined by the methodology described in section 836.

(b) For individual annuity and pure endowment contracts, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in the contracts, the standard must be the 2012 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 2017 by the National Association of Insurance Commissioners that is approved by a rule promulgated by the director for use in determining the minimum standard of valuation for such contracts, or a modification of these tables approved by the director, and an interest rate as determined by the methodology described in section 836 for single premium deferred annuity and pure endowment contracts, and an interest rate as determined by the methodology described in section 836 for all other such individual annuity and pure endowment contracts.

(c) For all annuities and pure endowments purchased under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under these contracts, the standard must be the 1994 GAR Table, or any group annuity mortality table adopted after 2017 by the National Association of Insurance Commissioners that is approved by a rule promulgated by the director for use in determining the minimum standard of valuation for such annuities and pure endowments, or a modification of these tables approved by the director, and an interest rate as determined by the methodology described in section 836.

(2) As used in this section:

(a) "Annuity 2000 Table" means the mortality table developed by the Society of Actuaries Committee on Life Insurance Research and shown on page 240 of volume XLVII of the Transactions of the Society of Actuaries.

(b) "Generational Mortality Table" means a mortality table containing a set of mortality rates that decrease for a given age from 1 year to the next based on a combination of a period table and a projection scale containing rates of mortality improvement.

(c) "Period table" means a table of mortality rates applicable to a given calendar year.

(d) “Projection Scale G2” means the table of annual rates, G2x, of mortality improvement by age for projecting future mortality rates beyond calendar year 2012 developed by the Society of Actuaries Committee on Life Insurance Research.

(e) “1983 GAM Table” means that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners.

(f) “1983 Table a” means the mortality table developed by the Society of Actuaries committee to recommend a new mortality basis for individual annuity valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners.

(g) “1994 GAR Table” means the mortality table developed by the Society of Actuaries group annuity valuation table task force and published on pages 866-867 of volume XLVII of the Transactions of the Society of Actuaries, where the mortality rate for an individual of age x in year 1994+n,  $Q_x^{1994+N}$ , is determined as follows:

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

where  $Q_x^{1994}$  is as specified in the 1994 GAR Table, n is the number of years that have elapsed since 1994, and  $AA_x$  is as specified in the 1994 GAR Table.

(h) “2012 IAM Period Table” means the period table developed by the Society of Actuaries Committee on Life Insurance Research that contains loaded mortality rates for calendar year 2012.

(i) “2012 IAR Table” means the generational mortality table developed by the Society of Actuaries Committee on Life Insurance Research that contains rates derived from a combination of the 2012 IAM Period Table and Projection Scale G2, where mortality rates for an individual of age x in year 2012+n,  $Q_x^{2012+N}$ , are determined as follows, and the results rounded to the nearest one-thousandth:

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

where  $Q_x^{2012}$  is as specified in the 2012 IAM Period Table, n is the number of years that have elapsed since 2012, and  $G2_x$  is as specified in Projection Scale G2.

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 policies or individual blocks of policies acquired by the company through a business acquisition or reinsurance transaction after March 31, 2015, regardless of when the policies were issued, 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 under 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 on 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 policies 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 makes the election.

(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, 835a, 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.

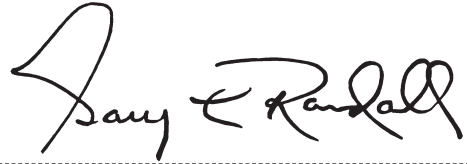
(i) “Qualified actuary” means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(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.

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

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor