*DRAFTING NOTE:*
*This Valuation Manual Statement contains the current exposed NAIC Model Standard Valuation Law for convenience in referencing sections of the law for Valuation Manual.*

*Note that it is presumed a state adopting its version of the Standard Valuation Law will include the changes to the NAIC Model Standard Valuation Law which enable principles-based reserves and enable the state to follow the requirements in the Valuation Manual. It is also presumed that states adopting these Standard Valuation Law changes will find it acceptable to apply NAIC model reserve requirements for products issued after the operative date of the Valuation Manual which are not subject to principles-based requirements. States who wish to deviate from these assumptions can modify their adoption of the Standard Valuation Law as appropriate.*

 

Draft: 7/19/07
*Revisions to Model 820*

The NAIC solicits comments on this draft. Underlining and overstrikes show changes from the existing model. Comments should be sent to Randall Stevenson, NAIC, at rstevens@naic.org. The working draft of the Valuation Manual is available on the Life and Health Actuarial Task Force committee page at http://www.naic.org/committees_lhatf.htm.

## STANDARD VALUATION LAW

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**Section 1. Title**

This Act shall be known as the Standard Valuation Law.

**Section 2. Reserve Valuation**

The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life contracts, accident and health deposit-type contracts of every entity transacting business in this state, and may certify the amount of reserves. The commissioner may specify assumptions or methods used in the calculation of the reserves. In lieu of the valuation of the reserves required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided here.

**Drafting Note:** The terms life contract, accident and health contract and deposit-type contract have the meaning given in the Statement of Statutory Accounting Principles No. 50 (SSAP 50) in the NAIC *Accounting Practices and Procedures Manual*. To the extent that state law defines these terms differently the state will need to add, delete or modify terms accordingly so that all products that meet the definition of a life contract, accident and health contract and deposit-type contract in SSAP 50 are included in this Section and the applicable sections of this Act.

**Section 3. Actuarial Opinion of Reserves**

This section shall become operative at the end of the first full calendar year following the year of enactment.

A. General

Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent

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with prior reported amounts and comply with applicable laws of this state. The commissioner shall define in the valuation manual under Section 11 the specifics of this opinion and add any other items deemed to be necessary to its scope.

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B. Actuarial Analysis of Reserves and Assets Supporting Reserves

(1) Every life insurance company, except as exempted in the valuation manual under Section 11, shall also annually include in the opinion required by Subsection A of this section, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual under Section 11, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

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

C. Requirement for Opinion Under B

Each opinion required by Subsection B shall be governed by the following provisions:

(1) A memorandum, in form and substance acceptable to the commissioner as specified in the valuation manual under Section 11, shall be prepared to support each actuarial opinion.

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(2) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual under Section 11 or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the regulations or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.

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D. Requirement for All Opinions

Every opinion shall be governed by the following provisions:

(1) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 19[ ].

(2) The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified in the valuation manual under Section 11.

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(3) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards prescribed in the valuation manual under Section 11.

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

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

 

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

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

(8) Except as provided in Paragraphs (12), (13) and (14), documents, materials or other information in the possession or control of the Department of Insurance that are a memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, shall be confidential by law and privileged, shall not be subject to [insert open records, freedom of information, sunshine or other appropriate phrase], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

(9) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to Paragraph (8).

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

(a) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Paragraph (8) with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, with the Actuarial Board for Counseling and Discipline, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;

(b) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, from the Actuarial Board for Counseling and Discipline and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(c) [Optional provision] May enter into agreements governing sharing and use of information consistent with Paragraphs (8) to (10).

**Drafting Note**: The language in Paragraph (10)(a) assumes the recipient has the authority to protect the applicable confidentiality or privilege, but does not address the verification of that authority, which would presumably occur in the context of a broader information sharing agreement.

(11) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Paragraph (10).

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

 

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

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

**Section 4. Computation of Minimum Standard**

The minimum standard for the valuation of all policies and contracts in force or issued on or after the operative date of the valuation manual shall be as specified in the valuation manual pursuant to Section 11 of the Act. Prior to the operative date of the valuation manual under Section 11 of this Act or if specified in the valuation manual, the minimum standard of valuation allowed under Section 11 shall be the commissioners reserve valuation methods defined in Sections 5, 5a, 8 and 10, except as provided in 4b, three and one-half percent (3 1/2%) interest, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after [insert effective date of 1972 NAIC amendments to the Standard Valuation Law], four percent (4%) interest for policies issued prior to [insert effective date of 1976 NAIC amendments to the Standard Valuation Law], five and one-half percent (5 1/2%) interest for single premium life insurance policies and four and one-half percent (4 1/2%) interest for all other policies issued on and after [insert effective date of 1976 NAIC amendments to the Standard Valuation Law], and the following tables:

**Deleted:** Except as otherwise provided in Sections 4a, 4b and 10, the minimum standard for the valuation of all policies and contracts issued prior to the effective date of this Act shall be that provided by the laws in effect immediately prior to that date. Except as otherwise provided in Sections 4a, 4b and 10, t

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A. For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies: the Commissioners 1941 Standard Ordinary Mortality Table for policies issued prior to the operative date of Section 5a of the Standard Nonforfeiture Law for Life Insurance as amended, the Commissioners 1958 Standard Ordinary Mortality Table for policies issued on or after the operative date of Section 5a of the Standard Nonforfeiture Law for Life Insurance as amended and prior to the operative date of Section 5c of the Standard Nonforfeiture Law for Life Insurance as amended, provided that for any category of policies issued on female risks, all modified net premiums and present values referred to in this Act may be calculated according to an age not more than six (6) years younger than the actual age of the insured; and for policies issued on or after the operative date of Section 5c of the Standard Nonforfeiture Law for Life Insurance as amended:

(a) The Commissioners 1980 Standard Ordinary Mortality Table;

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

(c) Any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies;

B. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies: the 1941 Standard Industrial Mortality Table for policies issued prior to the operative date of Section 5b of the Standard Nonforfeiture Law for Life Insurance as amended, and for policies issued on or after the operative date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for the policies;

C. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in the 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 these tables approved by the commissioner;

 

D. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies: the Group Annuity Mortality Table for 1951, a modification of the table approved by the commissioner, or at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts;

E. For total and permanent disability benefits in or supplementary to ordinary policies or contracts: for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for those policies; for policies or contracts issued on or after January 1, 1961 and prior to January 1, 1966, either those tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, 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 issued on or after January 1, 1966: the 1959 Accidental Death Benefits Table or any accidental death benefits table adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for those policies, for policies issued on or after January 1, 1961 and prior to January 1, 1966, either that table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table for calculating the reserves for life insurance policies; and

G. For group life insurance, life insurance issued on the substandard basis and other special benefits: tables approved by the commissioner.

**Section 4a. Computation of Minimum Standard for Annuities**

A. The minimum standard for the valuation of all individual annuity and pure endowment contracts in force or issued on or after the operative date of the valuation manual and for all annuities and pure endowments in force purchased on or after the effective date under group annuity and pure endowment contracts, shall be as specified in Section 11 of this Act. Prior to the operative date of the valuation manual adopted under Section 11 of this Act or if specified in the valuation manual. The minimum standard of valuation for all individual and group annuity and pure endowment contracts allowed under Section 11 shall be the commissioners reserve valuation methods defined in Sections 5 and 5a, the interest rates in Section 4b and the following tables:

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(1) For individual annuity and pure endowment contracts issued prior to [insert effective date of 1976 NAIC amendments to the Standard Valuation Law], excluding any disability and accidental death benefits in those contracts: the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner, and six percent (6%) interest for single premium immediate annuity contracts and four percent (4%) interest for all other individual annuity and pure endowment contracts;

(2) For individual single premium immediate annuity contracts issued on or after [insert effective date of 1976 NAIC amendments to the Standard Valuation Law], excluding any disability and accidental death benefits in those contracts: 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 regulation promulgated by the commissioner for use in determining the minimum standard of valuation for these contracts, or any modification of these tables approved by the commissioner, and seven and one-half percent (7 1/2%) interest;

(3) For individual annuity and pure endowment contracts issued on or after [insert effective date of 1976 NAIC amendments to the Standard Valuation Law], other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in those contracts: 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 regulation promulgated by the commissioner for use in determining the minimum standard of valuation for those contracts, or any modification of these tables approved by the commissioner, and five and one-half percent (5 1/2%) interest for single premium deferred annuity and pure endowment contracts and four and one-half percent (4 1/2%) interest for all other individual annuity and pure endowment contracts;

(4) For all annuities and pure endowments purchased prior to [insert effective date of 1976 NAIC amendments to the Standard Valuation Law] under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under those contracts: the 1971 Group Annuity Mortality Table or any modification of this table approved by the commissioner, and six percent (6%) interest; and

(5) For all annuities and pure endowments purchased on or after [insert effective date of 1976 NAIC amendments to the Standard Valuation Law] under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under those contracts: 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 regulation promulgated by the commissioner for use in determining the minimum standard of valuation for annuities and pure endowments, or any modification of these tables approved by the commissioner, and seven and one-half percent (7 1/2%) interest;

B. After [insert effective date of 1972 NAIC amendments to the Standard Valuation Law], any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1979, which shall be the operative date of this section for that company. If a company makes no election, the operative date of this section for that company shall be January 1, 1979.

**Section 4b. Computation of Minimum Standard by Calendar Year of Issue**

A. The interest rates used in determining the minimum standard for the valuation of the following shall be the calendar year statutory valuation interest rates as defined in this section:

(1) All life insurance policies issued in a particular calendar year, on or after the operative date of Section 5c of the Standard Nonforfeiture Law for Life Insurance as amended;

(2) All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 19[ ] [insert the calendar year next following the effective year of passage of this amendatory Act];

(3) All annuities and pure endowments purchased in a particular calendar year on or after January 1, 19[ ] [insert the calendar year next following the effective year of passage of this amendatory Act] under group annuity and pure endowment contracts; and

(4) The net increase, if any, in a particular calendar year after January 1, 19[ ] [insert the calendar year next following the effective year of passage of this amendatory Act], in amounts held under guaranteed interest contracts.

B. Calendar Year Statutory Valuation Interest Rates

(1) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of one percent:

(a) For life insurance:

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

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

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

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

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

(d) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in Subparagraph (b) above shall apply.

(e) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in Subparagraph (b) above shall apply.

(2) However, if the calendar year statutory valuation interest rate for a life insurance policy issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent (1/2 of 1%), the calendar year statutory valuation interest rate for the life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined in 1979) and shall be determined for each subsequent calendar year regardless of when Section 5c of the Standard Nonforfeiture Law for Life Insurance as amended becomes operative.

C. Weighting Factors

(1) The weighting factors referred to in the formulas stated above are given in the following tables:

(a) Weighting Factors for Life Insurance:

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

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

(b) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

.80

(c) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in Subparagraph (b) above, shall be as specified in Items (i), (ii) and (iii) below, according to the rules and definitions in Items (iv), (v) and (vi) below:

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

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

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

| | Plan Type A | B | C |
|---|---|---|---|
| (iii) For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) that do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis that do not guarantee interest rates on considerations received more than twelve (12) months beyond the valuation date, the factors shown in Item (i) or derived in Item (ii) increased by: | .05 | .05 | .05 |

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

(v) Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only (l) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without an adjustment but installments over five years or more, or (3) as an immediate life annuity, or (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without an adjustment but in installments over five years or more, or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without an adjustment in a single sum or installments over less than five years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

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

D. Reference Interest Rate

(1) The reference interest rate referred to in Subsection B of this section shall be defined as follows:

(a) For all life insurance, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (l2) months, ending on June 30 of the calendar year preceding the year of issue, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody’s Investors Service, Inc.

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

 

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

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

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

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

E. Alternative Method for Determining Reference Interest Rates. In the event that the monthly average of the composite yield on seasoned corporate bonds is no longer published by Moody's Investors Service, Inc. or in the event that the National Association of Insurance Commissioners determines that the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the commissioner may be substituted.

**Section 5. Reserve Valuation Method—Life Insurance and Endowment Benefits**

A. Except as otherwise provided in Sections 5a, 8, 10 and 11, reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided for by those policies, over the then present value of any future modified net premiums therefor. The modified net premiums for a policy shall be the uniform percentage of the respective contract the premiums for the benefits that the present value, at the date of issue of the policy, of all modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the policy and the excess of (1) over (2), as follows:

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

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

B. Except as provided in Section 11 of this Act for a life insurance policy issued on or after January 1, 19[ ] [insert the fourth calendar year commencing after the effective date of this amendatory Act] for which the

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contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination in an amount greater than the excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium shall, except as otherwise provided in Section 8, be the greater of the reserve as of the policy anniversary calculated as described in the preceding paragraph and the reserve as of the policy anniversary calculated as described in that paragraph, but with (i) the value defined in Subsection A of that paragraph being reduced by fifteen percent (15%) of the amount of such excess first year premium, (ii) 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, (iii) the policy being assumed to mature on that date as an endowment, and (iv) 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 Sections 4 and 4b shall be used.

C. Except as provided in Section 11 of this Act reserves according to the commissioners reserve valuation method shall be calculated by a method consistent with the principles of the preceding paragraphs of this section for:

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(1) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

(2) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended;

(3) Disability and accidental death benefits in all policies and contracts; and

(4) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts.

## Section 5a. Reserve Valuation Method—Annuity and Pure Endowment Benefits

A. Except as provided in Section 11 of this Act, this section shall apply 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, as now or hereafter amended.

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B. Except as provided in Section 11 of this Act reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in the contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by the 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 prior to the end of the respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in the 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.

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## Section 6. Minimum Reserves

A. Except as provided in Section 11 of this Act in no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the effective date

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of this Act, be less than the aggregate reserves calculated in accordance with the methods set forth in Sections 5, 5a, 8 and 9 and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies.

B. In no event shall the aggregate reserves for all policies, contracts and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by Section 3.

**Section 7. Optional Reserve Calculation**

A. Reserves for all policies and contracts issued prior to the effective date of this Act may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to that date.

B. Except as provided in Section 11 of this Act, reserves for any category of policies, contracts or benefits established by the commissioner, issued on or after the effective date of this Act, may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for the category than those calculated according to the minimum standard provided here, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided there.

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C. A company that shall have adopted at any time a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided under this Act may, with the approval of the commissioner, adopt a lower standard of valuation, but not lower than the minimum provided here; provided that, for the purposes of this section, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by Section 3 shall not be deemed to be the adoption of a higher standard of valuation.

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**Section 8. Reserve Calculation—Valuation Net Premium Exceeding the Gross Premium Charged**

Except as provided in Section 11 of this Act, if in any contract year the gross premium charged by a life insurance company 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 but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract, or the reserve calculated by the method actually used for the policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in Sections 4 and 4b.

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Except as provided in Section 11 of this Act, for a life insurance policy issued on or after January 1, 19[ ] [insert the fourth calendar year commencing after the effective date of this amendatory Act] for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination in an amount greater than the excess premium, the provisions of this section shall be applied as if the method actually used in calculating the reserve for the policy were the method described in Section 5, ignoring the second paragraph of Section 5. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with Section 5, including the second paragraph of that section, and the minimum reserve calculated in accordance with this section.

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**Section 9. Reserve Calculation—Indeterminate Premium Plans**

Except as provided in Section 11 of this Act, in the case of a plan of life insurance that provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of a plan of life insurance or annuity that is of such a nature that the minimum reserves cannot be determined by the methods described in Sections 5, 5a and 8, the reserves that are held under the plan shall:

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A. Be appropriate in relation to the benefits and the pattern of premiums for that plan; and

B. Be computed by a method that is consistent with the principles of this Standard Valuation Law, as determined by regulations promulgated by the commissioner.

**Drafting Note**: If desired the following paragraph may be added.

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

If the previous paragraph is enacted in a state where prior filing and approval of life insurance policy forms has not been previously required by statute, this paragraph would mandate such action for plans requiring approval under Section 9. If the previous paragraph is enacted in a state where approval is deemed under certain circumstances, the deemed provision would be overridden by the terms of this section. In some states specific reference must be made to any statutory provision that is overridden.

**Section 10. Minimum Standards for Health [Disability, Accident and Sickness] Plans**

The minimum standard for the valuation of all health [disability, sickness and accident] policies and contracts in force or issued on or after the operative date of the valuation manual shall be as specified in the valuation manual pursuant to Section 11 of this Act. Prior to the operative date of the valuation manual under Section 11 of this Act or if specified in the valuation manual, the minimum standard of valuation allowed under Section 11 is the standard adopted by the he commissioner by regulation.

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**Section 11. Minimum Valuation Standard**

A. Except as provided under Subsections D or E of this section, the standard prescribed in the valuation manual is the minimum standard of valuation required under Section 2 of this Act for policies or contracts in force or issued on or after the operative date of the valuation manual.

B. The operative date of the valuation manual is January 1 following the date that both:

(1) The valuation manual or a change to the valuation manual is adopted by seventy-five percent (75%) of the NAIC; and

(2) The number of states specified in the valuation manual, not less than a majority, has adopted this Act.

C. The valuation manual must specify:

(1) Minimum valuation standards for the policies or contracts subject to Section 2 of this Act;

(2) The policies or contracts or types of policies or contracts that are subject to the requirements of a principles-based valuation in Subsection H of this section and the minimum valuation standards consistent with those requirements;

(3) For a principles-based valuation:

(a) A minimum reserve level that is the greater of the present value of policy cash flows and the cash surrender value as specified in the valuation manual;

(b) Requirements relating to the annual actuarial review by an independent actuary under Subsection H(4) of this section including requirements relating to the form and general content of the independent actuary's review and independence criteria; and

(c) Requirements including format of the reports to the commissioner under Subsection H(6) of this section and including the information necessary for the commissioner to determine if the valuation is appropriate and in compliance with this Act;

(4) Other requirements 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, internal controls, and coordination with risk-based capital requirements; and

(5) The data and form of the data required under Subsection K of this section, to whom the data must be filed, and may specify other requirements including data analyses and reporting of analyses.

D. If the valuation manual does not contain the requirements listed in Subsection C of this section or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, consistent with the objectives of statutory financial reporting or otherwise in compliance with this Act, the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the commissioner by regulation.

E. The commissioner may exempt a domestic company that is licensed only in [Name of State] from the requirements of this Section.

F. The commissioner may require a company to change any assumption or method that the commissioner considers inappropriate, unreasonable, or inconsistent with any of the requirements of the valuation manual or this Act and the company shall adjust the reserves as required by the commissioner.

G. The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company or to review and opine on a company's compliance with any other requirement set forth in this Act.

H. A company using a principles-based valuation for a policy or contract that is subject to this section as specified in the valuation manual must:

(1) Capture all benefits and guarantees associated with the contracts and their identifiable, quantifiable and material risks, including tail risk and funding of the risks;

(2) Incorporate assumptions and methods that:

(a) Are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment and management process; and

(b) Provide a level of conservatism consistent with the objectives of statutory financial reporting; and

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

(3) Use assumptions that are set toward the conservative end of the range of plausible scenarios, to the extent that relevant and credible empirical data over the range of plausible scenarios is not available;

(4) If required in the valuation manual, engage an independent qualified actuary to perform an annual review and opinion of the reserve methods, generation of economic scenarios, reasonableness of models, supportability of reserve assumptions and margins, whether all material risks have been captured, and compliance with all relevant laws, regulations, and actuarial standards of practice with respect to the company's principles-based valuations. The independent actuarial review and opinion must comply with the standard prescribed in the valuation manual;

(5) Adopt internal controls with respect to a principles-based valuation reasonably designed to assure that all material risks inherent in the liabilities and assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The company shall annually evaluate the effectiveness of such controls as of the end of the preceding

calendar year, and a report of such evaluation shall be made to the company's board of directors and the commissioner;

(6) Develop a principles-based valuation report that complies with standards prescribed in the valuation manual; and

(7) File with the commissioner a prior written notice as prescribed in the valuation manual regarding the engagement of the independent actuary under (4) of this subsection;

(8) File with the commissioner, upon request:

(a) The principles-based valuation report under (6) of this subsection;

(b) Any documents including work papers of the independent qualified actuary engaged by the company under (4) of this subsection.

I The information provided to the commissioner under Subsection F(5) of this section is subject to the confidentiality provisions in Section 3D(8) – Section 3D(14) of this Act.

J. The commissioner may disapprove a company's selection of the independent qualified actuary required under Subsection H(4) of this section if the actuary does not meet the qualification or independence requirements prescribed in the valuation manual.

K. A company shall file mortality, morbidity, policyholder behavior, or expense experience, and other data for purposes of determining industry experience and trends as prescribed in the valuation manual, subject to the following:

(1) A company's specific data is confidential by law and privileged, shall not be subject to [insert open records, freedom of information, sunshine or other appropriate phrase], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties;

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

L. For purposes of this section:

(1) "Appointed actuary" means the qualified actuary that opines on reserves and related actuarial items under Section 3;

(2) "NAIC" means the National Association of Insurance Commissioners;

(3) "Company" means an entity subject to this Act under Section 2;

(4) "Policyholder behavior" means any action a policyholder or contract holder may take under a policy or contract subject to this Act including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit election;

(5) "Principles-based valuation" means a reserve valuation specified in the valuation manual that uses one or more methods or one or more assumptions determined by the insurer;

(6) "Qualified actuary" has the meaning given in Section 3; and

 

(7) "Valuation manual" means the valuation instructions adopted by the NAIC; as such instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

**Drafting Note**: Section 11 presumes that each state is permitted under their state laws to "adopt" the valuation manual in a manner similar to similar to how the *Accounting Practices and Procedures Manual* becomes effective in many states, without a separate regulatory process such as adoption by regulation It is desirable that all states adopt the valuation manual requirements and that such adoption be achieved without a separate state regulatory process in order to achieve uniformity of reserve standards in all states. However, to the extent that a state may need to adopt the valuation manual through a formal state regulatory process, Section 11B may be amended in a manner similar to the following:

B. The operative date of the valuation manual is January 1 following the date that:

(1) The valuation manual or a change to the valuation manual is adopted by seventy-five percent (75%) of the NAIC;

(2) The number of states specified in the valuation manual, but not less than a majority, has adopted this Act; and

(3) The valuation manual becomes effective pursuant to [an order of] [regulation adopted by] the commissioner.

**Section 12. Effective Date**

All acts and parts of acts inconsistent with the provision of this Act are hereby repealed as of the effective date of this Act. This Act shall take effect January 1, 1944.

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