

House Bill 1038

By: Representatives Shaw of the 176th, Smith of the 134th, Taylor of the 173rd, Rogers of the 29th, Atwood of the 179th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 extensively revise the Standard Valuation Law; to provide for definitions; to provide for
3 reserve valuation; to provide for actuarial opinion of reserves; to provide for computation of
4 minimum standard; to provide for computation of minimum standard for annuities; to
5 provide for computation of minimum standard by calendar year of issue; to provide for
6 reserve valuation method for life insurance and endowment benefits; to provide for reserve
7 valuation method of annuity and pure endowment benefits; to provide for minimum reserves;
8 to provide for optional reserve calculations; to provide for reserve calculation for valuation
9 of net premium exceeding the gross premium charged; to provide for reserve calculation of
10 indeterminate premium plans; to provide for minimum standards for accident and health
11 insurance contracts; to provide for valuation manual for policies issued on or after the
12 operative date of the valuation manual; to provide for requirements of a principle-based
13 valuation; to provide for experience reporting for policies in force on or after the operative
14 date of the valuation manual; to provide for confidentiality; to provide for single state
15 exemption; to provide for related matters; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
19 repealing in its entirety Code Section 33-10-13, relating to the valuation of reserves, and by
20 enacting a new Code Section 33-10-13 to read as follows:

21 "33-10-13.

22 (a) This Code section shall be known and may be cited as the 'Standard Valuation Law.'

23 (b) For the purposes of this Code section, the following definitions shall apply on or after
24 the operative date of the valuation manual:

- 25 (1) The term 'accident and health insurance' means contracts that incorporate morbidity
26 risk and provide protection against economic loss resulting from accident, sickness, or
27 medical conditions and as may be specified in the valuation manual.
- 28 (2) The term 'appointed actuary' means a qualified actuary who is appointed in
29 accordance with the valuation manual to prepare the actuarial opinion required in
30 paragraph (2) of subsection (d) of this Code section.
- 31 (3) The term 'company' means an entity, which (a) has written, issued, or reinsured life
32 insurance contracts, accident and health insurance contracts, or deposit-type contracts in
33 this State and has at least one such policy in force or on claim or (b) has written, issued,
34 or reinsured life insurance contracts, accident and health insurance contracts, or
35 deposit-type contracts in any state and is required to hold a certificate of authority to
36 write life insurance, accident and health insurance, or deposit-type contracts in this State.
- 37 (4) The term 'deposit-type contract' means contracts that do not incorporate mortality or
38 morbidity risks and as may be specified in the valuation manual.
- 39 (5) The term 'life insurance' means contracts that incorporate mortality risk, including
40 annuity and pure endowment contracts, and as may be specified in the valuation manual.
- 41 (6) The term 'NAIC' means the National Association of Insurance Commissioners.
- 42 (7) The term 'policyholder behavior' means any action a policyholder, contract holder,
43 or any other person with the right to elect options, such as a certificate holder, may take
44 under a policy or contract subject to this Code section, including, but not limited to, lapse,
45 withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections
46 prescribed by the policy or contract but excluding events of mortality or morbidity that
47 result in benefits prescribed in their essential aspects by the terms of the policy or
48 contract.
- 49 (8) The term 'principle-based valuation' means a reserve valuation that uses one or more
50 methods or one or more assumptions determined by the insurer and is required to comply
51 with subsection (p) of this Code section as specified in the valuation manual.
- 52 (9) The term 'qualified actuary' means an individual who is qualified to sign the
53 applicable statement of actuarial opinion in accordance with the American Academy of
54 Actuaries qualification standards for actuaries signing such statements and who meets the
55 requirements specified in the valuation manual.
- 56 (10) The term 'reserves' means reserve liabilities.
- 57 (11) The term 'tail risk' means a risk that occurs either where the frequency of low
58 probability events is higher than expected under a normal probability distribution or
59 where there are observed events of very significant size or magnitude.
- 60 (12) The term 'valuation manual' means the manual of valuation instructions adopted by
61 the NAIC as specified in this Code section or as subsequently amended.

62 (c)(1)(A) The Commissioner shall annually value, or cause to be valued, the reserve
63 liabilities (hereinafter called reserves) for all outstanding life insurance policies and
64 annuity and pure endowment contracts of every life insurance company doing business
65 in this state issued prior to the operative date of the valuation manual. In calculating
66 reserves, the Commissioner may use group methods and approximate averages for
67 fractions of a year or otherwise. In lieu of the valuation of the reserves required of a
68 foreign or alien company, the Commissioner may accept a valuation made, or caused
69 to be made, by the insurance supervisory official of any state or other jurisdiction when
70 the valuation complies with the minimum standard provided in this Code section.

71 (B) The provisions set forth in subsections (e) through (n) of this Code section shall
72 apply to all policies and contracts, as appropriate, subject to this Code section issued
73 on or after January 1, 1966, and prior to the operative date of the valuation manual and
74 the provisions set forth in subsections (o) and (p) of this Code section shall not apply
75 to any such policies and contracts.

76 (C) The minimum standard for the valuation of such policies and contracts issued prior
77 to January 1, 1966, shall be as required under the laws in effect immediately prior to
78 January 1, 1961, or the minimum provided in subsection (d) of this Code section if less.

79 (2)(A) The Commissioner shall annually value, or cause to be valued, the reserve
80 liabilities (hereinafter called reserves) for all outstanding life insurance contracts,
81 annuity and pure endowment contracts, accident and health contracts, and deposit-type
82 contracts of every company issued on or after the operative date of the valuation
83 manual. In lieu of the valuation of the reserves required of a foreign or alien company,
84 the Commissioner may accept a valuation made, or caused to be made, by the insurance
85 supervisory official of any state or other jurisdiction when the valuation complies with
86 the minimum standard provided in this Code section.

87 (B) The provisions set forth in subsections (o) and (p) of this Code section shall apply
88 to all policies and contracts issued on or after the operative date of the valuation
89 manual.

90 (d)(1)(A) Prior to the operative date of the valuation manual, every life insurance
91 company doing business in this state shall annually submit the opinion of a qualified
92 actuary as to whether the reserves and related actuarial items held in support of the
93 policies and contracts specified by the Commissioner by regulation are computed
94 appropriately, are based on assumptions that satisfy contractual provisions, are
95 consistent with prior reported amounts, and comply with applicable laws of this state.
96 The Commissioner shall define by regulation the specifics of this opinion and add any
97 other items deemed to be necessary to its scope.

98 (B)(i) Every life insurance company, except as exempted by regulation, shall also
99 annually include in the opinion required by subparagraph (A) of this paragraph, an
100 opinion of the same qualified actuary as to whether the reserves and related actuarial
101 items held in support of the policies and contracts specified by the Commissioner by
102 regulation, when considered in light of the assets held by the company with respect
103 to the reserves and related actuarial items, including but not limited to the investment
104 earnings on the assets and the considerations anticipated to be received and retained
105 under the policies and contracts, make adequate provision for the company's
106 obligations under the policies and contracts, including but not limited to the benefits
107 under and expenses associated with the policies and contracts.

108 (ii) The Commissioner may provide by regulation for a transition period for
109 establishing any higher reserves that the qualified actuary may deem necessary in
110 order to render the opinion required by this subsection.

111 (C) Each opinion required by subparagraph (B) of this paragraph shall be governed by
112 the following provisions:

113 (i) A memorandum, in form and substance acceptable to the Commissioner as
114 specified by regulation, shall be prepared to support each actuarial opinion; and

115 (ii) If the insurance company fails to provide a supporting memorandum at the
116 request of the Commissioner within a period specified by regulation or the
117 commissioner determines that the supporting memorandum provided by the insurance
118 company fails to meet the standards prescribed by the regulations or is otherwise
119 unacceptable to the Commissioner, the Commissioner may engage a qualified actuary
120 at the expense of the company to review the opinion and the basis for the opinion and
121 prepare the supporting memorandum required by the Commissioner.

122 (D) Every opinion required by this subsection shall be governed by the following
123 provisions:

124 (i) The opinion shall be submitted with the annual statement reflecting the valuation
125 of such reserve liabilities for each year ending on or after December 31, 1994;

126 (ii) The opinion shall apply to all business in force including individual and group
127 health insurance plans, in form and substance acceptable to the Commissioner as
128 specified by regulation;

129 (iii) The opinion shall be based on standards adopted from time to time by the
130 Actuarial Standards Board and on such additional standards as the Commissioner may
131 by regulation prescribe;

132 (iv) In the case of an opinion required to be submitted by a foreign or alien company,
133 the Commissioner may accept the opinion filed by that company with the insurance

134 supervisory official of another state if the Commissioner determines that the opinion
135 reasonably meets the requirements applicable to a company domiciled in this state;
136 (v) For the purposes of this subsection, the term 'qualified actuary' means a member
137 in good standing of the American Academy of Actuaries who meets the requirements
138 set forth in the regulation;
139 (vi) Except in cases of fraud or willful misconduct, the qualified actuary shall not be
140 liable for damages to any person, other than the insurance company and the
141 Commissioner, for any act, error, omission, decision or conduct with respect to the
142 actuary's opinion;
143 (vii) Disciplinary action by the Commissioner against the company or the qualified
144 actuary shall be defined in regulations by the Commissioner;
145 (viii) Except as provided in divisions (xii), (xiii), and (xiv) of this subparagraph,
146 documents, materials, or other information in the possession or control of the
147 department that are a memorandum in support of the opinion, and any other material
148 provided by the company to the Commissioner in connection with the memorandum,
149 shall be confidential by law and privileged, shall not be subject to Article 4 of Chapter
150 18 of Title 50, relating to open records, shall not be subject to subpoena, and shall not
151 be subject to discovery or admissible in evidence in any private civil action.
152 However, the Commissioner is authorized to use the documents, materials, or other
153 information in the furtherance of any regulatory or legal action brought as a part of
154 the Commissioner's official duties;
155 (ix) Neither the Commissioner nor any person who received documents, materials,
156 or other information while acting under the authority of the Commissioner shall be
157 permitted or required to testify in any private civil action concerning any confidential
158 documents, materials, or information subject to division (viii) of this subparagraph;
159 (x) In order to assist in the performance of the Commissioner's duties, the
160 Commissioner:
161 (I) May share documents, materials, or other information, including the confidential
162 and privileged documents, materials, or information subject to division (viii) of this
163 subparagraph with other state, federal, and international regulatory agencies, with
164 the National Association of Insurance Commissioners and its affiliates and
165 subsidiaries, and with state, federal, and international law enforcement authorities,
166 provided that the recipient agrees to maintain the confidentiality and privileged
167 status of the document, materials, or other information;
168 (II) May receive documents, materials, or information, including otherwise
169 confidential and privileged documents, materials, or information, from the National
170 Association of Insurance Commissioners and its affiliates and subsidiaries, and from

171 regulatory and law enforcement officials of other foreign or domestic jurisdictions,
172 and shall maintain as confidential or privileged any document, material, or
173 information received with notice or the understanding that it is confidential or
174 privileged under the laws of the jurisdiction that is the source of the document,
175 material, or information; and

176 (III) May enter into agreements governing sharing and use of information
177 consistent with divisions (vii) through (x) of this subparagraph;

178 (xi) No waiver of any applicable privilege or claim of confidentiality in the
179 documents, materials, or information shall occur as a result of disclosure to the
180 Commissioner under this subsection or as a result of sharing as authorized in division
181 (x) of this subparagraph;

182 (xii) A memorandum in support of the opinion, and any other material provided by
183 the company to the Commissioner in connection with the memorandum, may be
184 subject to subpoena for the purpose of defending an action seeking damages from the
185 actuary submitting the memorandum by reason of an action required by this
186 subsection or by regulations promulgated hereunder;

187 (xiii) The memorandum or other material may otherwise be released by the
188 Commissioner with the written consent of the company or to the American Academy
189 of Actuaries upon request stating that the memorandum or other material is required
190 for the purpose of professional disciplinary proceedings and setting forth procedures
191 satisfactory to the Commissioner for preserving the confidentiality of the
192 memorandum or other material; and

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

197 (2)(A) On and after the operative date of the valuation manual, every company with
198 outstanding life insurance contracts, accident and health insurance contracts, or
199 deposit-type contracts in this state and subject to regulation by the Commissioner shall
200 annually submit the opinion of the appointed actuary as to whether the reserves and
201 related actuarial items held in support of the policies and contracts are computed
202 appropriately, are based on assumptions that satisfy contractual provisions, are
203 consistent with prior reported amounts and comply with applicable laws of this state.
204 The valuation manual will prescribe the specifics of this opinion including any items
205 deemed to be necessary to its scope.

206 (B) Every company with outstanding life insurance contracts, accident and health
207 insurance contracts, or deposit-type contracts in this state and subject to regulation by

208 the Commissioner, except as exempted in the valuation manual, shall also annually
209 include in the opinion required by subparagraph (A) of this paragraph, an opinion of the
210 same appointed actuary as to whether the reserves and related actuarial items held in
211 support of the policies and contracts specified in the valuation manual, when considered
212 in light of the assets held by the company with respect to the reserves and related
213 actuarial items, including but not limited to the investment earnings on the assets and
214 the considerations anticipated to be received and retained under the policies and
215 contracts, make adequate provision for the company's obligations under the policies and
216 contracts, including but not limited to the benefits under and expenses associated with
217 the policies and contracts.

218 (C) Each opinion required by subparagraph (B) of paragraph (2) of this subsection
219 shall be governed by the following provisions:

220 (i) A memorandum, in form and substance as specified in the valuation manual, and
221 acceptable to the Commissioner, shall be prepared to support each actuarial opinion;
222 and

223 (ii) If the insurance company fails to provide a supporting memorandum at the
224 request of the Commissioner within a period specified in the valuation manual or the
225 Commissioner determines that the supporting memorandum provided by the
226 insurance company fails to meet the standards prescribed by the valuation manual or
227 is otherwise unacceptable to the Commissioner, the Commissioner may engage a
228 qualified actuary at the expense of the company to review the opinion and the basis
229 for the opinion and prepare the supporting memorandum required by the
230 Commissioner.

231 (D) Every opinion required by paragraph (2) of this subsection shall be governed by
232 the following provisions:

233 (i) The opinion shall be in form and substance as specified in the valuation manual
234 and acceptable to the Commissioner;

235 (ii) The opinion shall be submitted with the annual statement reflecting the valuation
236 of such reserve liabilities for each year ending on or after the operative date of the
237 valuation manual;

238 (iii) The opinion shall apply to all policies and contracts subject to subparagraph (B)
239 of paragraph (2) of this subsection, plus other actuarial liabilities as may be specified
240 in the valuation manual;

241 (iv) The opinion shall be based on standards adopted from time to time by the
242 Actuarial Standards Board or its successor, and on such additional standards as may
243 be prescribed in the valuation manual;

244 (v) In the case of an opinion required to be submitted by a foreign or alien company,
 245 the Commissioner may accept the opinion filed by that company with the insurance
 246 supervisory official of another state if the Commissioner determines that the opinion
 247 reasonably meets the requirements applicable to a company domiciled in this state;
 248 (vi) Except in cases of fraud or willful misconduct, the appointed actuary shall not
 249 be liable for damages to any person, other than the insurance company and the
 250 Commissioner, for any act, error, omission, decision or conduct with respect to the
 251 appointed actuary's opinion; and
 252 (vii) Disciplinary action by the Commissioner against the company or the appointed
 253 actuary shall be defined in regulations by the Commissioner.

254 (e)(1) Except as otherwise provided in paragraph (2) of this subsection and subsection (f)
 255 of this Code section, the minimum standards for the valuation of all life insurance
 256 policies and annuity or pure endowment contracts issued on or after January 1, 1966,
 257 shall be the Commissioner's reserve valuation methods defined in subsections (g), (h),
 258 and (i) of this Code section and the following interest rates and tables:

259 (A) Three and one-half percent interest or, in the case of policies and contracts other
 260 than annuity and pure endowment contracts issued on or after July 1, 1973, 4 percent
 261 interest for such policies issued prior to July 1, 1979, 5 1/2 percent interest for single
 262 premium life insurance policies, and 4 1/2 percent interest for all other such policies
 263 issued on or after July 1, 1979;

264 (B) For all ordinary policies of life insurance issued on the standard basis, excluding
 265 any disability and accidental death benefits in such policies, the Commissioners 1958
 266 Standard Ordinary Mortality Tables for such policies issued prior to the operative date
 267 of subsection (e) of Code Section 33-25-4 as amended, except that for any category of
 268 such policies issued on female risk modified net premiums and present values, referred
 269 to in subsection (g) of this Code section, may be calculated at the insurer's option and
 270 with the Commissioner's approval according to an age not more than six years younger
 271 than the actual age of the insured; and for such policies issued on or after the operative
 272 date of subsection (e) of Code Section 33-25-4, (i) the Commissioners 1980 Standard
 273 Ordinary Mortality Table or, (ii) at the election of the insurer for any one or more
 274 specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality
 275 Table with Ten-Year Select Mortality Factors, or (iii) any ordinary mortality table,
 276 adopted after 1980 by the National Association of Insurance Commissioners, that is
 277 approved by regulation promulgated by the Commissioner for use in determining the
 278 minimum standard of valuation for such policies;

279 (C) For all industrial life insurance policies issued on the standard basis, excluding any
 280 disability and accidental death benefits in such policies, the 1941 Standard Industrial

281 Mortality Table; for such policies issued prior to the date on which the Commissioners
282 1961 Standard Industrial Mortality Table becomes applicable in accordance with
283 subsection (d) of Code Section 33-25-4 and for such policies issued on or after such
284 date the Commissioners 1961 Standard Industrial Mortality Table or any industrial
285 mortality table, adopted after 1980 by the National Association of Insurance
286 Commissioners, that is approved by regulation promulgated by the Commissioner for
287 use in determining the minimum standard of valuation for such policies;

288 (D) For individual annuity and pure endowment contracts, excluding any disability and
289 accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table
290 or, at the option of the insurer, the Annuity Mortality Table for 1949, ultimate, or any
291 modification of either of these tables approved by the Commissioner;

292 (E) For group annuity and pure endowment contracts, excluding any disability and
293 accidental death benefits in such policies, the Group Annuity Mortality Table for 1951,
294 any modification of such table approved by the Commissioner or, at the option of the
295 insurer, any of the tables or modifications of tables specified for individual annuity and
296 pure endowment contracts;

297 (F) For total and permanent disability benefits in or supplementary to ordinary policies
298 or contracts, for policies or contracts issued on or after January 1, 1966, the tables of
299 Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability
300 Study of the Society of Actuaries, with due regard to the type of benefit or any tables
301 of disablement rates and termination rates, adopted after 1980 by the National
302 Association of Insurance Commissioners, that are approved by regulation promulgated
303 by the Commissioner for use in determining the minimum standard of valuation for
304 such policies; for policies or contracts issued prior to January 1, 1966, either such tables
305 or, at the option of the insurer, the Class (3) Disability Table (1926). Any such table
306 shall, for active lives, be combined with a mortality table permitted for calculating the
307 reserves for life insurance policies;

308 (G) For accidental death benefits in or supplementary to policies, for policies issued
309 on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental
310 death benefits table, adopted after 1980 by the National Association of Insurance
311 Commissioners, that is approved by regulation promulgated by the Commissioner for
312 use in determining the minimum standard of valuation for such policies; for policies
313 issued prior to January 1, 1966, either such table or, at the option of the insurer, the
314 Inter-Company Double Indemnity Mortality Table. Either table shall be combined with
315 a mortality table permitted for calculating the reserves for life insurance policies; and
316 (H) For group life insurance, life insurance issued on the substandard basis, and other
317 special benefits such tables or appropriate modifications of such tables as may be

318 approved by the Commissioner as being sufficient with relation to the benefits provided
319 by those policies.

320 (2) Except as provided in paragraphs (3) through (7) of this subsection, the minimum
321 standard for the valuation of all individual annuity and pure endowment contracts issued
322 on or after the operative date of this paragraph, as defined in this paragraph, and for all
323 annuities and pure endowments purchased on or after the operative date under group
324 annuity and pure endowment contracts, shall be the Commissioner's reserve valuation
325 methods defined in subsections (g) and (h) of this Code section and the following tables
326 and interest rates:

327 (A) For individual annuity and pure endowment contracts issued prior to July 1, 1979,
328 excluding any disability and accidental death benefits in such contracts, the 1971
329 Individual Annuity Mortality Table or any modification of this table approved by the
330 Commissioner and 6 percent interest for single premium immediate annuity contracts
331 and 4 percent interest for all other individual annuity and pure endowment contracts;

332 (B) For individual single premium immediate annuity contracts issued on or after July
333 1, 1979, excluding any disability and accidental death benefits in such contracts, the
334 1971 Individual Annuity Mortality Table or any individual annuity mortality table,
335 adopted after 1980 by the National Association of Insurance Commissioners that is
336 approved by regulation promulgated by the Commissioner for use in determining the
337 minimum standard of valuation for such contracts or any modification of these tables
338 approved by the Commissioner and 7 1/2 percent interest;

339 (C) For individual annuity and pure endowment contracts issued on or after July 1,
340 1979, other than single premium immediate annuity contracts, excluding any disability
341 and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality
342 Table or any individual annuity mortality table, adopted after 1980 by the National
343 Association of Insurance Commissioners, that is approved by regulation promulgated
344 by the Commissioner for use in determining the minimum standard of valuation for
345 such contracts or any modification of these tables approved by the Commissioner and
346 5 1/2 percent interest for single premium deferred annuity and pure endowment
347 contracts and 4 1/2 percent interest for all other such individual annuity and pure
348 endowment contracts;

349 (D) For all annuities and pure endowments purchased prior to July 1, 1979, under
350 group annuity and pure endowment contracts, excluding any disability and accidental
351 death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table
352 or any modification of this table approved by the Commissioner and 6 percent interest;
353 and

354 (E) For all annuities and pure endowments purchased on or after July 1, 1979, under
 355 group annuity and pure endowment contracts, excluding any disability and accidental
 356 death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table
 357 or any group annuity mortality table, adopted after 1980 by the National Association
 358 of Insurance Commissioners, that is approved by regulation promulgated by the
 359 Commissioner for use in determining the minimum standard of valuation for such
 360 annuities and pure endowments or any modification of these tables approved by the
 361 Commissioner and 7 1/2 percent interest.

362 After July 1, 1973, any insurer may file with the Commissioner a written notice of its
 363 election to comply with this paragraph after a specified date before January 1, 1979,
 364 which shall be the operative date of this paragraph for such insurer, provided that if an
 365 insurer makes no such election, the operative date of this paragraph for such insurer shall
 366 be January 1, 1979.

367 (f)(1) The interest rates used in determining the minimum standard for the valuation of:

368 (A) All life insurance policies issued in a particular calendar year, on or after the
 369 operative date of subsection (e) of Code Section 33-25-4;

370 (B) All individual annuity and pure endowment contracts issued in a particular
 371 calendar year on or after January 1, 1994;

372 (C) All annuities and pure endowments purchased in a particular calendar year on or
 373 after January 1, 1994, under group annuity and pure endowment contracts; and

374 (D) The net increase, if any, in a particular calendar year after January 1, 1994, in
 375 amounts held under guaranteed interest contracts

376 shall be the calendar year statutory valuation interest rates as defined in paragraphs (2)
 377 through (5) of this subsection.

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

380 (A) For life insurance:

381 $I = .03 + W(R1 - .03) + 1/2 W(R2 - .09);$

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

385 $I = .03 + W(R - .03)$

386 where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference
 387 interest rate defined in paragraph (6) of this subsection, and W is the weighting factor
 388 defined in paragraph (5) of this subsection;

389 (C) For other annuities with cash settlement options and guaranteed interest contracts
 390 with cash settlement options, valued on an issue year basis, except as stated in

391 subparagraph (B) of this paragraph, the formula for life insurance stated in
 392 subparagraph (A) of this paragraph shall apply to annuities and guaranteed interest
 393 contracts with guarantee durations in excess of ten years and the formula for single
 394 premium immediate annuities stated in subparagraph (B) of this paragraph shall apply
 395 to annuities and guaranteed interest contracts with guarantee duration of ten years or
 396 less;

397 (D) For other annuities with no cash settlement options and for guaranteed interest
 398 contracts with no cash settlement options, the formula for single premium immediate
 399 annuities stated in subparagraph (B) of this paragraph shall apply;

400 (E) For other annuities with cash settlement options and guaranteed interest contracts
 401 with cash settlement options, valued on a change in fund basis, the formula for single
 402 premium immediate annuities stated in subparagraph (B) of this paragraph shall apply;

403 However, if the calendar year statutory valuation interest rate for any life insurance
 404 policies issued in any calendar year determined without reference to this sentence differs
 405 from the corresponding actual rate for similar policies issued in the immediately
 406 preceding calendar year by less than one-half of 1 percent, the calendar year statutory
 407 valuation interest rate for such life insurance policies shall be equal to the corresponding
 408 actual rate for the immediately preceding calendar year. For purposes of applying the
 409 immediately preceding sentence, the calendar year statutory valuation interest rate for life
 410 insurance policies issued in a calendar year shall be determined for 1980 (using the
 411 reference interest rate defined for 1979) and shall be determined for each subsequent
 412 calendar year regardless of when subsection (e) of Code Section 33-25-4 becomes
 413 operative.

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

416 (A) Weighting Factors for Life Insurance:

<u>Guarantee</u>	<u>Weighting</u>
<u>Duration</u>	<u>Factors</u>
<u>Years</u>	
<u>10 or less</u>	<u>.50</u>
<u>More than 10, but not more than 20</u>	<u>.45</u>
<u>More than 20</u>	<u>.35</u>

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

427 (B) Weighting factor for single premium immediate annuities and for annuity benefits
 428 involving life contingencies arising from other annuities with cash settlement options
 429 and guaranteed interest contracts with cash settlement options: .80;

430 (C) Weighting factors for other annuities and for guaranteed interest contracts, except
 431 as stated in subparagraph (B) of this paragraph, shall be as specified in Tables I, II, and
 432 III of this subparagraph, according to the rules and definitions in IV, V, and VI of this
 433 subparagraph:

434 I. For annuities and guaranteed interest contracts valued on an issue year basis:

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

442 II. For annuities and guaranteed interest contracts valued on a change in fund basis,
 443 the factors shown in Table I increased by:

	<u>Plan Type</u>		
	<u>A</u>	<u>B</u>	<u>C</u>
	<u>.15</u>	<u>.25</u>	<u>.05</u>

447 III. For annuities and guaranteed interest contracts valued on an issue year basis
 448 (other than those with no cash settlement options) which do not guarantee interest on
 449 considerations received more than one year after issue or purchase and for annuities
 450 and guaranteed interest contracts valued on a change in fund basis which do not
 451 guarantee interest rates on considerations received more than 12 months beyond the
 452 valuation date, the factors shown in Table I or derived in Table II increased by:

	<u>Plan Type</u>		
	<u>A</u>	<u>B</u>	<u>C</u>
	<u>.15</u>	<u>.25</u>	<u>.05</u>

456 IV. For other annuities with cash settlement options and guaranteed interest contracts
 457 with cash settlement options, the guarantee duration is the number of years for which
 458 the contract guarantees interest rates in excess of the calendar year statutory valuation
 459 interest rate for life insurance policies with guarantee duration in excess of 20 years.
 460 For other annuities with no cash settlement options and for guaranteed interest
 461 contracts with no cash settlement options, the guarantee duration is the number of

462 years from the date of issue or date of purchase to the date annuity benefits are
463 scheduled to commence;

464 V. Plan type as used in the above tables is defined as follows:

465 Plan Type A: At any time policyholder may withdraw funds only (1) with an
466 adjustment to reflect changes in interest rates or asset values since receipt of the
467 funds by the insurer, or (2) without such adjustment but in installments over five
468 years or more, or (3) as an immediate life annuity, or (4) no withdrawal permitted;

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

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

480 VI. An insurer may elect to value guaranteed interest contracts with cash settlement
481 options and annuities with cash settlement options on either an issue year basis or
482 on a change in fund basis. Guaranteed interest contracts with no cash settlement
483 options and other annuities with no cash settlement options must be valued on an
484 issue year basis. As used in this subsection, an issue year basis of valuation refers
485 to a valuation basis under which the interest rate used to determine the minimum
486 valuation standard for the entire duration of the annuity or guaranteed interest
487 contract is the calendar year valuation interest rate for the year of issue or year of
488 purchase of the annuity or guaranteed interest contract, and the change in fund basis
489 of valuation refers to a valuation basis under which the interest rate used to
490 determine the minimum valuation standard applicable to each change in the fund
491 held under the annuity or guaranteed interest contract is the calendar year valuation
492 interest rate for the year of the change in the fund.

493 (4) The Reference Interest Rate referred to in paragraph (3) of this subsection shall be
494 defined as follows:

495 (A) For all life insurance, the lesser of the average over a period of 36 months and the
496 average over a period of 12 months, ending on June 30 of the calendar year next
497 preceding the year of issue, of Moody's Corporate Bond Yield Average — Monthly
498 Average Corporates, as published in Moody's Investors Service, Inc.;

499 (B) For single premium immediate annuities and for annuity benefits involving life
500 contingencies arising from other annuities with cash settlement options and guaranteed
501 interest contracts with cash settlement options, the average over a period of 12 months,
502 ending on June 30 of the calendar year of issue or year of purchase, of Moody's
503 Corporate Bond Yield Average — Monthly Average Corporates, as published by
504 Moody's Investors Service, Inc.;

505 (C) For other annuities with cash settlement options and guaranteed interest contracts
506 with cash settlement options, valued on a year of issue basis, except as stated in
507 subparagraph (B) of this paragraph, with guarantee duration in excess of ten years, the
508 lesser of the average over a period of 36 months and the average over a period of 12
509 months, ending on June 30 of the calendar year of issue or purchase, of Moody's
510 Corporate Bond Yield Average — Monthly Average Corporates, as published by
511 Moody's Investors Service, Inc.;

512 (D) For other annuities with cash settlement options and guaranteed interest contracts
513 with cash settlement options, valued on a year of issue basis, except as stated in
514 subparagraph (B) of this paragraph, with guarantee duration of ten years or less, the
515 average over a period of 12 months, ending on June 30 of the calendar year of issue or
516 purchase, of Moody's Corporate Bond Yield Average — Monthly Average Corporates,
517 as published by Moody's Investors Service, Inc.;

518 (E) For other annuities with no cash settlement options and for guaranteed interest
519 contracts with no cash settlement options, the average over a period of 12 months,
520 ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate
521 Bond Yield Average — Monthly Average Corporates, as published by Moody's
522 Investors Service, Inc.; and

523 (F) For other annuities with cash settlement options and guaranteed interest contracts
524 with cash settlement options, valued on a change in fund basis, except as stated in
525 subparagraph (B) of this paragraph, the average over a period of 12 months, ending on
526 June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond
527 Yield Average — Monthly Average Corporates, as published by Moody's Investors
528 Service, Inc.

529 (5) In the event that Moody's Corporate Bond Yield Average — Monthly Average
530 Corporates is no longer published by Moody's Investors Service, Inc., or, in the event that
531 the National Association of Insurance Commissioners determines that Moody's Corporate
532 Bond Yield Average — Monthly Average Corporates as published by Moody's Investors
533 Service, Inc., is no longer appropriate for the determination of the reference interest rate,
534 then the alternative method for determination of the reference interest rate, which is

535 adopted by the National Association of Insurance Commissioners and approved by
 536 regulation promulgated by the Commissioner, may be substituted.

537 (g)(1) Except as otherwise provided in subsections (h) and (i) of this Code section,
 538 reserves according to the Commissioner's reserve valuation method, for the life insurance
 539 and endowment benefits of policies providing for a uniform amount of insurance and
 540 requiring the payment of uniform premiums, shall be the excess, if any, of the present
 541 value at the date of valuation of the future guaranteed benefits provided for by the
 542 policies over the then present value of any future modified net premiums therefor. The
 543 modified net premiums for the policy shall be the uniform percentage of the respective
 544 contract premiums for the benefits, excluding extra premiums on a substandard policy,
 545 that the present value at the date of issue of the policy of all the modified net premiums
 546 shall be equal to the sum of the then present value of the benefits provided for by the
 547 policy and the excess of subparagraph (A) of this paragraph over subparagraph (B) of this
 548 paragraph as follows:

549 (A) A net level annual premium equal to the present value at the date of issue of such
 550 benefits provided for after the first policy year, divided by the present value at the date
 551 of issue of an annuity of one per annum payable on the first and each subsequent
 552 anniversary of such policy on which a premium falls due; provided, however, that the
 553 net level annual premium shall not exceed the net level annual premium on the 19 year
 554 premium whole life plan for insurance of the same amount at an age one year higher
 555 than the age at issue of the policy; and

556 (B) A net one-year term premium for the benefits provided for in the first policy year.
 557 Provided that for any life insurance policy issued on or after the effective date of
 558 subsection (h) of Code Section 33-25-4 for which the contract premium in the first policy
 559 year exceeds that of the second year and for which no comparable additional benefit is
 560 provided in the first year for such excess and which provides an endowment benefit or
 561 a cash surrender value or a combination thereof in an amount greater than such excess
 562 premium, the reserve according to the Commissioner's reserve valuation method as of any
 563 policy anniversary occurring on or before the assumed ending date defined in this
 564 subsection as the first policy anniversary on which the sum of any endowment benefit and
 565 any cash surrender value then available is greater than such excess premium shall, except
 566 as otherwise provided in subsection (l) of this Code section, be the greater of the reserve
 567 as of such policy anniversary calculated as described in the preceding paragraph and the
 568 reserve as of such policy anniversary calculated as described in that paragraph, but with
 569 (i) the value defined in subparagraph (A) of that paragraph being reduced by 15 percent
 570 of the amount of such excess first year premium, (ii) all present values of benefits and
 571 premiums being determined without reference to premiums or benefits provided for by

572 the policy after the assumed ending date, (iii) the policy being assumed to mature on such
 573 date as an endowment, and (iv) the cash surrender value provided on such date being
 574 considered as an endowment benefit. In making the above comparison the mortality and
 575 interest bases stated in subsections (e) and (f) of this Code section shall be used.

576 (2) Reserves according to the Commissioner's reserve valuation method for:

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

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

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

585 (D) All other benefits, except life insurance and endowment benefits in life insurance
 586 policies and benefits provided by all other annuity and pure endowment contracts, shall
 587 be calculated by a method consistent with the principles of this subsection.

588 (h) This subsection shall apply to all annuity and pure endowment contracts other than
 589 group annuity and pure endowment contracts purchased under a retirement plan or plan of
 590 deferred compensation established or maintained by an employer, including a partnership
 591 or sole proprietorship, or by an employee organization or by both, other than a plan
 592 providing individual retirement accounts or individual retirement annuities under Section
 593 408 of the Internal Revenue Code. Reserves according to the Commissioner's annuity
 594 reserve method for benefits under annuity or pure endowment contracts, excluding any
 595 disability and accidental death benefits in the contracts, shall be the greatest of the
 596 respective excesses of the present values at the date of valuation of the future guaranteed
 597 benefits, including guaranteed nonforfeiture benefits provided for by the contracts at the
 598 end of each respective contract year, over the present value at the date of valuation of any
 599 future valuation considerations derived from future gross considerations required by the
 600 terms of the contract that become payable prior to the end of the respective contract year.
 601 The future guaranteed benefits shall be determined by using the mortality table, if any, and
 602 the interest rate or rates, specified in such contracts for determining guaranteed benefits.
 603 The valuation considerations are the portions of the respective gross considerations applied
 604 under the terms of the contracts to determine nonforfeiture values.

605 (i) In no event shall an insurer's aggregate reserve for all life insurance policies, excluding
 606 disability and accidental death benefits issued on or after January 1, 1966, be less than the
 607 aggregate reserves calculated in accordance with the methods set forth in subsections (g),

608 (h), (l), and (m) of this Code section and the mortality table or tables and rate or rates of
609 interest used in calculating nonforfeiture benefits for the policies.

610 (j)(1) Reserves for all policies and contracts issued prior to January 1, 1966, may be
611 calculated, at the option of the insurer, according to any standards which produce greater
612 aggregate reserves for all the policies and contracts than the minimum reserves required
613 by the laws in effect immediately prior to that date.

614 (2) For any category of policies, contracts, or benefits specified in subsection (e) of this
615 Code section issued on or after January 1, 1966, reserves may be calculated, at the option
616 of the insurer, according to any standard or standards which produce greater aggregate
617 reserves for such category than those calculated according to the minimum standard
618 provided in this Code section; but the rate or rates of interest used for policies and
619 contracts, other than annuity and pure endowment contracts, shall not be higher than the
620 corresponding rate or rates of interest used in calculating any nonforfeiture benefits
621 provided for in the policies and contracts.

622 (k) An insurer who at any time had adopted any standard of valuation producing greater
623 aggregate reserves than those calculated according to the minimum standard provided for
624 in subsection (i) of this Code section may, with the approval of the Commissioner, adopt
625 any lower standard of valuation but not lower than the minimum provided in this
626 subsection; provided, however, that for the purposes of this subsection, the holding of
627 additional reserves previously determined by a qualified actuary to be necessary to render
628 the opinion required by subsection (d) of this Code section shall not be deemed to be the
629 adoption of a higher standard of valuation.

630 (l) If in any contract year the gross premium charged by any life insurer on any policy or
631 contract issued on or after January 1, 1966, is less than the valuation net premium for the
632 policy or contract calculated by the method used in calculating the reserve thereon but
633 using the minimum valuation standards of mortality and rate of interest, the minimum
634 reserve required for such policy or contract shall be the greater of either the reserve
635 calculated according to the mortality table, rate of interest, and method actually used for
636 such policy or contract or the reserve calculated by the method actually used for the policy
637 or contract but using the minimum valuation standards of mortality and rate of interest and
638 replacing the valuation net premium by the actual gross premium in each contract year for
639 which the valuation net premium exceeds the actual gross premium. The minimum
640 valuation standards of mortality and rate of interest referred to in this Code section are
641 those standards stated in subsections (e) and (f) of this Code section. Provided that for any
642 life insurance policy issued on or after the effective date of subsection (h) of Code Section
643 33-25-4 for which the gross premium in the first policy year exceeds that of the second
644 year and for which no comparable additional benefit is provided in the first year for such

645 excess and which provides as an endowment benefit or a cash surrender value or a
 646 combination thereof in an amount greater than such excess premium, the foregoing
 647 provisions of this subsection shall be applied as if the method actually used in calculating
 648 the reserve for such policy were the method described in subsection (g) of this Code
 649 section, ignoring the second paragraph of paragraph (1) of subsection (g) of this Code
 650 section. The minimum reserve at each policy anniversary of such a policy shall be the
 651 greater of the minimum reserve calculated in accordance with subsection (g) of this Code
 652 section, including the second paragraph of paragraph (1) of subsection (g) of this Code
 653 section, and the minimum reserve calculated in accordance with this subsection.

654 (m) In the case of any plan of life insurance which provides for future premium
 655 determination, the amounts of which are to be determined by the insurer based on then
 656 estimates of future experience, or in the case of any plan of life insurance or annuity which
 657 is of such a nature that the minimum reserves cannot be determined by the methods
 658 described in subsections (e), (g), (h), and (l) of this Code section, the reserves which are
 659 held under any such plan must:

660 (1) Be appropriate in relation to the benefits and the pattern of premiums for that plan;
 661 and

662 (2) Be computed by a method which is consistent with the principles of this Code
 663 section, the 'Standard Valuation Law,'

664 as determined by regulations promulgated by the Commissioner.

665 (n) For accident and health insurance contracts issued on or after the operative date of the
 666 valuation manual, the standard prescribed in the valuation manual is the minimum standard
 667 of valuation required under paragraph (2) of subsection (c) of this Code section. For
 668 disability, accident and sickness, accident, and health insurance contracts issued prior to
 669 the operative date of the valuation manual, the minimum standard of valuation is the
 670 standard adopted by the Commissioner by regulation.

671 (o)(1) For policies issued on or after the operative date of the valuation manual, the
 672 standard prescribed in the valuation manual is the minimum standard of valuation
 673 required under paragraph (2) of subsection (c) of this Code section, except as provided
 674 under paragraphs (5) and (7) of this subsection.

675 (2) The operative date of the valuation manual is January 1 of the first calendar year
 676 following the first July 1 as of which all of the following have occurred:

677 (A) The valuation manual has been adopted by the NAIC by an affirmative vote of at
 678 least 42 members, or three-fourths of the members voting, whichever is greater;

679 (B) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation
 680 including substantially similar terms and provisions, has been enacted by states
 681 representing greater than 75 percent of the direct premiums written as reported in the

682 following annual statements submitted for 2008: life, accident and health annual
 683 statements; health annual statements; or fraternal annual statements; and

684 (C) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation
 685 including substantially similar terms and provisions, has been enacted by at least 42 of
 686 the following 55 jurisdictions: The 50 states of the United States, American Samoa, the
 687 American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

688 (3) Unless a change in the valuation manual specifies a later effective date, changes to
 689 the valuation manual shall be effective on January 1 following the date when the change
 690 to the valuation manual has been adopted by the NAIC by an affirmative vote
 691 representing:

692 (A) At least three-fourths of the members of the NAIC voting, but not less than a
 693 majority of the total membership; and

694 (B) Members of the NAIC representing jurisdictions totaling greater than 75 percent
 695 of the direct premiums written as reported in the following annual statements most
 696 recently available prior to the vote in division (i) of this subparagraph: life, accident and
 697 health annual statements, health annual statements, or fraternal annual statements.

698 (4) The valuation manual must specify all of the following:

699 (A) Minimum valuation standards for and definitions of the policies or contracts
 700 subject to paragraph (2) of subsection (c) of this Code section. Such minimum
 701 valuation standards shall be:

702 (i) The Commissioner's reserve valuation method for life insurance contracts, other
 703 than annuity contracts, subject to paragraph (2) of subsection (c) of this Code section;

704 (ii) The Commissioner's annuity reserve valuation method for annuity contracts
 705 subject to paragraph (2) of subsection (c) of this Code section; and

706 (iii) Minimum reserves for all other policies or contracts subject to paragraph (2) of
 707 subsection (c) of this Code section;

708 (B) Which policies or contracts or types of policies or contracts that are subject to the
 709 requirements of a principle-based valuation in paragraph (1) of subsection (p) of this
 710 Code section and the minimum valuation standards consistent with those requirements;

711 (C) For policies and contracts subject to a principle-based valuation under subsection
 712 (p) of this Code section:

713 (i) Requirements for the format of reports to the Commissioner under
 714 subparagraph (p)(2)(C) of this Code section and which shall include information
 715 necessary to determine if the valuation is appropriate and in compliance with this
 716 Code section;

717 (ii) Assumptions shall be prescribed for risks over which the company does not have
 718 significant control or influence; and

719 (iii) Procedures for corporate governance and oversight of the actuarial function, and
720 a process for appropriate waiver or modification of such procedures;
721 (D) For policies not subject to a principle-based valuation under subsection (p) of this
722 Code section the minimum valuation standard shall either:
723 (i) Be consistent with the minimum standard of valuation prior to the operative date
724 of the valuation manual; or
725 (ii) Develop reserves that quantify the benefits and guarantees, and the funding,
726 associated with the contracts and their risks at a level of conservatism that reflects
727 conditions that include unfavorable events that have a reasonable probability of
728 occurring;
729 (E) Other requirements, including, but not limited to, those relating to reserve methods,
730 models for measuring risk, generation of economic scenarios, assumptions, margins,
731 use of company experience, risk measurement, disclosure, certifications, reports,
732 actuarial opinions and memorandums, transition rules, and internal controls; and
733 (F) The data and form of the data required under subsection (q) of this Code section,
734 with whom the data must be submitted, and may specify other requirements including
735 data analyses and reporting of analyses.
736 (5) In the absence of a specific valuation requirement or if a specific valuation
737 requirement in the valuation manual is not, in the opinion of the Commissioner, in
738 compliance with this Code section, then the company shall, with respect to such
739 requirements, comply with minimum valuation standards prescribed by the
740 Commissioner by regulation.
741 (6) The Commissioner may engage a qualified actuary, at the expense of the company,
742 to perform an actuarial examination of the company and opine on the appropriateness of
743 any reserve assumption or method used by the company, or to review and opine on a
744 company's compliance with any requirement set forth in this Code section. The
745 Commissioner may rely upon the opinion, regarding provisions contained within this
746 Code section, of a qualified actuary engaged by the commissioner of another state,
747 district, or territory of the United States. As used in this paragraph, the term 'engage'
748 includes employment and contracting.
749 (7) The Commissioner may require a company to change any assumption or method that
750 in the opinion of the Commissioner is necessary in order to comply with the requirements
751 of the valuation manual or this Code section; and the company shall adjust the reserves
752 as required by the Commissioner. The Commissioner may take other disciplinary action
753 as permitted pursuant to this title.
754 (p)(1) A company must establish reserves using a principle-based valuation that meets
755 the following conditions for policies or contracts as specified in the valuation manual:

- 756 (A) Quantify the benefits and guarantees, and the funding, associated with the contracts
 757 and their risks at a level of conservatism that reflects conditions that include
 758 unfavorable events that have a reasonable probability of occurring during the lifetime
 759 of the contracts. For policies or contracts with significant tail risk, reflects conditions
 760 appropriately adverse to quantify the tail risk;
- 761 (B) Incorporate assumptions, risk analysis methods and financial models and
 762 management techniques that are consistent with, but not necessarily identical to, those
 763 utilized within the company's overall risk assessment process, while recognizing
 764 potential differences in financial reporting structures and any prescribed assumptions
 765 or methods;
- 766 (C) Incorporate assumptions that are derived in one of the following manners:
- 767 (i) The assumption is prescribed in the valuation manual; or
 768 (ii) For assumptions that are not prescribed, the assumptions shall:
- 769 (I) Be established utilizing the company's available experience, to the extent it is
 770 relevant and statistically credible; or
- 771 (II) To the extent that company data is not available, relevant, or statistically
 772 credible, be established utilizing other relevant, statistically credible experience; and
- 773 (D) Provide margins for uncertainty including adverse deviation and estimation error,
 774 such that the greater the uncertainty the larger the margin and resulting reserve.
- 775 (2) A company using a principle-based valuation for one or more policies or contracts
 776 subject to this subsection as specified in the valuation manual shall:
- 777 (A) Establish procedures for corporate governance and oversight of the actuarial
 778 valuation function consistent with those described in the valuation manual;
- 779 (B) Provide to the Commissioner and the board of directors an annual certification of
 780 the effectiveness of the internal controls with respect to the principle-based valuation.
 781 Such controls shall be designed to assure that all material risks inherent in the liabilities
 782 and associated assets subject to such valuation are included in the valuation, and that
 783 valuations are made in accordance with the valuation manual. The certification shall
 784 be based on the controls in place as of the end of the preceding calendar year; and
- 785 (C) Develop, and file with the Commissioner upon request, a principle-based valuation
 786 report that complies with standards prescribed in the valuation manual.
- 787 (3) A principle-based valuation may include a prescribed formulaic reserve component.
- 788 (q) A company shall submit mortality, morbidity, policyholder behavior, or expense
 789 experience and other data as prescribed in the valuation manual.
- 790 (r)(1) For purposes of this subsection, the term 'confidential information' shall mean:
- 791 (A) A memorandum in support of an opinion submitted under subsection (d) of this
 792 Code section and any other documents, materials, and other information, including, but

793 not limited to, all working papers, and copies thereof, created, produced, or obtained
794 by or disclosed to the Commissioner or any other person in connection with such
795 memorandum;

796 (B) All documents, materials, and other information, including, but not limited to, all
797 working papers, and copies thereof, created, produced, or obtained by or disclosed to
798 the Commissioner or any other person in the course of an examination made under
799 paragraph (6) of subsection (o) of this Code section; provided, however, that if an
800 examination report or other material prepared in connection with an examination made
801 under Chapter 2 of this title is not held as private and confidential information under
802 Chapter 2 of this title, an examination report or other material prepared in connection
803 with an examination made under paragraph (6) of subsection (o) of this Code section
804 shall not be confidential information to the same extent as if such examination report
805 or other material had been prepared under Chapter 2 of this title;

806 (C) Any reports, documents, materials, and other information developed by a company
807 in support of, or in connection with, an annual certification by the company under
808 subparagraph (p)(2)(B) of this Code section evaluating the effectiveness of the
809 company's internal controls with respect to a principle-based valuation and any other
810 documents, materials, and other information, including, but not limited to, all working
811 papers, and copies thereof, created, produced, or obtained by or disclosed to the
812 Commissioner or any other person in connection with such reports, documents,
813 materials, and other information;

814 (D) Any principle-based valuation report developed under subparagraph (p)(2)(C) of
815 this Code section and any other documents, materials, and other information, including,
816 but not limited to, all working papers, and copies thereof, created, produced, or
817 obtained by or disclosed to the Commissioner or any other person in connection with
818 such report; and

819 (E) Any documents, materials, data, and other information submitted by a company
820 under subsection (q) of this Code section (collectively, 'experience data') and any other
821 documents, materials, data, and other information, including, but not limited to, all
822 working papers, and copies thereof, created or produced in connection with such
823 experience data, in each case that include any potentially company-identifying or
824 personally identifiable information, that is provided to or obtained by the Commissioner
825 (together with any 'experience data,' the 'experience materials') and any other
826 documents, materials, data, and other information, including, but not limited to, all
827 working papers, and copies thereof, created, produced, or obtained by or disclosed to
828 the Commissioner or any other person in connection with such experience materials.

829 (2)(A) Except as provided in this subsection, a company's confidential information is
830 confidential by law and privileged, and shall not be subject to Article 4 of Chapter 18
831 of Title 50, shall not be subject to subpoena, and shall not be subject to discovery or
832 admissible in evidence in any private civil action; provided, however, that the
833 Commissioner is authorized to use the confidential information in the furtherance of
834 any regulatory or legal action brought against the company as a part of the
835 Commissioner's official duties.

836 (B) Neither the Commissioner nor any person who received confidential information
837 while acting under the authority of the Commissioner shall be permitted or required to
838 testify in any private civil action concerning any confidential information.

839 (C) In order to assist in the performance of the Commissioner's duties, the
840 Commissioner may share confidential information (i) with other state, federal, and
841 international regulatory agencies and with the NAIC and its affiliates and subsidiaries,
842 and (ii) in the case of confidential information specified in subparagraphs (A) and (D)
843 of paragraph (1) of this subsection only, with the Actuarial Board for Counseling and
844 Discipline or its successor upon request stating that the confidential information is
845 required for the purpose of professional disciplinary proceedings and with state, federal,
846 and international law enforcement officials; in the case of (a) and (b), provided that
847 such recipient agrees, and has the legal authority to agree, to maintain the
848 confidentiality and privileged status of such documents, materials, data, and other
849 information in the same manner and to the same extent as required for the
850 Commissioner.

851 (D) The Commissioner may receive documents, materials, data, and other information,
852 including otherwise confidential and privileged documents, materials, data, or
853 information, from the NAIC and its affiliates and subsidiaries, from regulatory or law
854 enforcement officials of other foreign or domestic jurisdictions, and from the Actuarial
855 Board for Counseling and Discipline or its successor and shall maintain as confidential
856 or privileged any document, material, data, or other information received with notice
857 or the understanding that it is confidential or privileged under the laws of the
858 jurisdiction that is the source of the document, material, or other information.

859 (E) The Commissioner may enter into agreements governing sharing and use of
860 information consistent with this paragraph.

861 (F) No waiver of any applicable privilege or claim of confidentiality in the confidential
862 information shall occur as a result of disclosure to the Commissioner under this
863 subsection or as a result of sharing as authorized in subparagraph (C) of paragraph (2)
864 of this subsection.

865 (G) A privilege established under the law of any state or jurisdiction that is
 866 substantially similar to the privilege established under this paragraph shall be available
 867 and enforced in any proceeding in, and in any court of, this state.

868 (H) In this subsection, the terms 'regulatory agency,' 'law enforcement agency,' and the
 869 'NAIC' include, but are not limited to, their employees, agents, consultants and
 870 contractors.

871 (3) Notwithstanding this paragraph, any confidential information specified in
 872 subparagraphs (A) and (D) of paragraph (1) of this subsection:

873 (A) May be subject to subpoena for the purpose of defending an action seeking
 874 damages from the appointed actuary submitting the related memorandum in support of
 875 an opinion submitted under subsection (d) of this Code section or principle-based
 876 valuation report developed under subparagraph (p)(2)(C) of this Code section by reason
 877 of an action required by this Code section or by regulations promulgated hereunder;

878 (B) May otherwise be released by the Commissioner with the written consent of the
 879 company; and

880 (C) Once any portion of a memorandum in support of an opinion submitted under
 881 subsection (d) of this Code section or a principle-based valuation report developed
 882 under subparagraph (p)(2)(C) of this Code section is cited by the company in its
 883 marketing or is publicly volunteered to or before a governmental agency other than a
 884 state insurance department or is released by the company to the news media, all
 885 portions of such memorandum or report shall no longer be confidential.

886 (s)(1) The Commissioner may exempt specific product forms or product lines of a
 887 domestic company that is licensed and doing business only in this state from the
 888 requirements of subsection (o) of this Code section, provided:

889 (A) The Commissioner has issued an exemption in writing to the company and has not
 890 subsequently revoked the exemption in writing; and

891 (B) The company computes reserves using assumptions and methods used prior to the
 892 operative date of the valuation manual in addition to any requirements established by
 893 the Commissioner and promulgated by regulation.

894 (2) For any company granted an exemption under this subsection, subsections (d)
 895 through (n) of this Code section shall be applicable. With respect to any company
 896 applying this exemption, any reference to subsection (o) of this Code section in
 897 subsections (d) through (n) of this Code section shall not be applicable."

898 **SECTION 2.**

899 Said title is further amended by revising subsection (e) of Code Section 33-25-4, relating to
 900 required nonforfeiture provisions, as follows:

901 “(e)(1) As used in this subsection, the term 'operative date of the valuation manual' means
902 January 1 of the first calendar year that the valuation manual as defined in subsection (o)
903 of Code Section 33-1-10 becomes effective.

904 (1.1) This subsection shall apply to any life insurance policy issued on or after January 1,
905 1989, or such earlier date as may have been elected by the insurer with respect to such
906 policy in accordance with the provisions of paragraph (11) of this subsection. Except as
907 provided in paragraph (3) of this subsection, the adjusted premiums for any policy shall
908 be calculated on an annual basis and shall be such uniform percentage of the respective
909 premiums specified in the policy for each policy year, excluding amounts payable as
910 extra premiums to cover impairments or special hazards and also excluding any uniform
911 annual contract charge or policy fee specified in the policy in a statement of the method
912 to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that
913 the present value, at the date of issue of the policy, of all adjusted premiums shall be
914 equal to the sum of (A) the then present value of the future guaranteed benefits provided
915 for by the policy; (B) one percent of either the amount of insurance, if the insurance is
916 uniform in amount, or the average amount of insurance at the beginning of each of the
917 first ten policy years; and (C) 125 percent of the nonforfeiture net level premium as
918 defined in this subsection; provided, however, that in applying the percentage specified
919 in item (C) of this paragraph no nonforfeiture net level premium shall be deemed to
920 exceed 4 percent of either the amount of insurance, if the insurance is uniform in amount,
921 or the average amount of insurance at the beginning of each of the first ten policy years.
922 The date of issue of a policy for the purpose of this subsection shall be the date as of
923 which the rated age of the insured is determined.

924 (2) The nonforfeiture net level premium shall be equal to the present value, at the date
925 of issue of the policy, of the guaranteed benefits provided for by the policy divided by the
926 present value, at the date of issue of the policy, of an annuity of one per annum payable
927 on the date of issue of the policy and on each anniversary of such policy on which a
928 premium falls due.

929 (3) In the case of policies which cause on a basis guaranteed in the policy unscheduled
930 changes in benefits or premiums or which provide an option for changes in benefits or
931 premiums other than a change to a new policy, the adjusted premiums and present values
932 shall initially be calculated on the assumption that future benefits and premiums do not
933 change from those stipulated at the date of issue of the policy. At the time of any such
934 change in the benefits or premiums the future adjusted premiums, nonforfeiture net level
935 premiums and present values shall be recalculated on the assumption that the future
936 benefits and premiums do not change from those stipulated by the policy immediately
937 after the change.

938 (4) Except as otherwise provided in paragraph (7) of this subsection, the recalculated
939 future adjusted premiums for any such policy shall be such uniform percentage of the
940 respective future premiums specified in the policy for each policy year, excluding
941 amounts payable as extra premiums to cover impairments and special hazards and also
942 excluding any uniform annual contract charge or policy fee specified in the policy in a
943 statement of the method to be used in calculating the cash surrender values and paid-up
944 nonforfeiture benefits, that the present value, at the time of change to the newly defined
945 benefits or premiums, of all such future adjusted premiums shall be equal to the excess
946 of (A) the sum of (i) the then present value of the then future guaranteed benefits
947 provided for by the policy and (ii) the additional expense allowance, if any, over (B) the
948 then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit
949 under the policy.

950 (5) The additional expense allowance, at the time of the change to the newly defined
951 benefits or premiums, shall be the sum of (A) 1 percent of the excess, if positive, of the
952 average amount of insurance at the beginning of each of the first ten policy years
953 subsequent to the change over the average amount of insurance prior to the change at the
954 beginning of each of the first ten policy years subsequent to the time of the most recent
955 previous change, or, if there has been no previous change, the date of issue of the policy;
956 and (B) 125 percent of the increase, if positive, in the nonforfeiture net level premium.

957 (6) The recalculated nonforfeiture net level premium shall be equal to the result obtained
958 by dividing (A) by (B) where:

959 (A) Equals the sum of:

960 (i) The nonforfeiture net level premium applicable prior to the change times the
961 present value of an annuity of one per annum payable on each anniversary of the
962 policy on or subsequent to the date of the change on which a premium would have
963 fallen due had the change not occurred; and

964 (ii) The present value of the increase in future guaranteed benefits provided for by
965 the policy; and

966 (B) Equals the present value of an annuity of one per annum payable on each
967 anniversary of the policy on or subsequent to the date of change on which a premium
968 falls due.

969 (7) Notwithstanding any other provisions of this subsection to the contrary, in the case
970 of a policy issued on a substandard basis which provides reduced graded amounts of
971 insurance so that, in each policy year, such policy has the same tabular mortality cost as
972 an otherwise similar policy issued on the standard basis which provides higher uniform
973 amounts of insurance, adjusted premiums and present values for such substandard policy

974 may be calculated as if it were issued to provide such higher uniform amounts of
 975 insurance on the standard basis.

976 (8) All adjusted premiums and present values referred to in this Code section shall for
 977 all policies of ordinary insurance be calculated on the basis of (A) the Commissioners
 978 1980 Standard Ordinary Mortality Table or (B) at the election of the insurer for any one
 979 or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary
 980 Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial
 981 insurance be calculated on the basis of the Commissioners 1961 Standard Industrial
 982 Mortality Table; and shall for all policies issued in a particular calendar year be
 983 calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate
 984 as defined in this subsection for policies issued in that calendar year; provided, however,
 985 that:

986 (A) At the option of the insurer, calculations for all policies issued in a particular
 987 calendar year may be made on the basis of a rate of interest not exceeding the
 988 nonforfeiture interest rate, as defined in this subsection, for policies issued in the
 989 immediately preceding calendar year;

990 (B) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions,
 991 any cash surrender value available, whether or not required by subsection (a) of this
 992 Code section, shall be calculated on the basis of the mortality table and rate of interest
 993 used in determining the amount of such paid-up nonforfeiture benefit and paid-up
 994 dividend additions, if any;

995 (C) An insurer may calculate the amount of any guaranteed paid-up nonforfeiture
 996 benefit including any paid-up additions under the policy on the basis of an interest rate
 997 no lower than that specified in the policy for calculating cash surrender values;

998 (D) In calculating the present value of any paid-up term insurance with accompanying
 999 pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality
 1000 assumed may be not more than those shown in the Commissioners 1980 Extended Term
 1001 Insurance Table for policies of ordinary insurance and not more than the
 1002 Commissioners 1961 Industrial Extended Term Insurance Table for policies of
 1003 industrial insurance;

1004 (E) For insurance issued on a substandard basis, the calculation of any such adjusted
 1005 premiums and present values may be based on appropriate modifications of the
 1006 aforementioned tables;

1007 (F) For policies issued prior to the operative date of the valuation manual, any ~~Any~~
 1008 Commissioners standard ordinary mortality tables adopted after 1980 by the National
 1009 Association of Insurance Commissioners that are approved by regulation promulgated
 1010 by the Commissioner for use in determining the minimum nonforfeiture standard may

1011 be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or
 1012 without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended
 1013 Term Insurance Table. For policies issued on or after the operative date of the
 1014 valuation manual, the valuation manual shall provide the Commissioners standard
 1015 mortality table for use in determining the minimum nonforfeiture standard that may be
 1016 substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or
 1017 without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended
 1018 Term Insurance Table. If the Commissioner approves by regulation any
 1019 Commissioners standard ordinary mortality table adopted by the National Association
 1020 of Insurance Commissioners for use in determining the minimum nonforfeiture
 1021 standard for policies issued on or after the operative date of the valuation manual, then
 1022 that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard
 1023 provided by the valuation manual; and

1024 (G) For policies issued prior to the operative date of the valuation manual, any ~~Any~~
 1025 Commissioners standard industrial mortality tables adopted after 1980 by the National
 1026 Association of Insurance Commissioners that are approved by regulation promulgated
 1027 by the Commissioner for use in determining the minimum nonforfeiture standard may
 1028 be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the
 1029 Commissioners 1961 Industrial Extended Term Insurance Table. For policies issued
 1030 on or after the operative date of the valuation manual, the valuation manual shall
 1031 provide the Commissioners standard mortality table for use in determining the
 1032 minimum nonforfeiture standard that may be substituted for the Commissioners 1961
 1033 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended
 1034 Term Insurance Table. If the Commissioner approves by regulation any
 1035 Commissioners standard industrial mortality table adopted by the National Association
 1036 of Insurance Commissioners for use in determining the minimum nonforfeiture
 1037 standard for policies issued on or after the operative date of the valuation manual, then
 1038 that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard
 1039 provided by the valuation manual.

1040 (9) The nonforfeiture interest rate is defined as follows:

1041 (A) For policies issued prior to the operative date of the valuation manual, the ~~The~~
 1042 nonforfeiture interest rate per annum for any policy issued in a particular calendar year
 1043 shall be equal to 125 percent of the calendar year statutory valuation interest rate for
 1044 such policy as defined in Code Section 33-10-13, the Standard Valuation Law, rounded
 1045 to the nearer one quarter of 1 percent; provided, however, that the nonforfeiture interest
 1046 rate shall not be less than 4.00 percent.

1047 (B) For policies issued on and after the operative date of the valuation manual, the
1048 nonforfeiture interest rate per annum for any policy issued in a particular calendar year
1049 shall be provided by the valuation manual.

1050 (10) Notwithstanding any other provision in this title to the contrary, any refiling of
1051 nonforfeiture values or their methods of computation for any previously approved policy
1052 form which involves only a change in the interest rate or mortality table used to compute
1053 nonforfeiture values shall not require refiling of any other provisions of that policy form.

1054 (11) After November 1, 1982, any insurer may file with the Commissioner a written
1055 notice of its election to comply with the provisions of this subsection with respect to
1056 specified policy forms after a specified date before January 1, 1989, which shall be the
1057 operative date of this subsection for such specified policy forms. If an insurer makes no
1058 such election, the operative date of this subsection for such insurer shall be January 1,
1059 1989."

1060

SECTION 3.

1061 All laws and parts of laws in conflict with this Act are repealed.