

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1977



ENROLLED

SENATE BILL NO. 418

(By Mr. Brotherton, Mr. President & Mr. Neely)



PASSED April 6 1977

In Effect from Passage



110: 410

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Senate Bill No. 418

(By MR. BROTHERTON, MR. PRESIDENT, and MR. NEELEY)

[Passed April 6, 1977; in effect from passage.]

AN ACT to amend and reenact section nine, article seven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section thirty, article thirteen of said chapter; and to further amend said article thirteen by adding thereto a new section, designated section thirty-a, all relating to a standard valuation law for life insurance policies, a standard nonforfeiture law for life insurance and enacting a new nonforfeiture law for individual deferred annuities.

Be it enacted by the Legislature of West Virginia:

That section nine, article seven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section thirty, article thirteen of said chapter be amended and reenacted; and that said article thirteen be further amended by adding thereto a new section, designated section thirty-a, all to read as follows:

ARTICLE 7. ASSETS AND LIABILITIES.

§33-7-9. Standard valuation law for life policies.

1 (1) The commissioner shall annually value, or cause
2 to be valued, the reserve liabilities (hereinafter called
3 reserves) for all outstanding life insurance policies and
4 annuity and pure endowment contracts of every life
5 insurer transacting insurance in this state, except that in
6 the case of an alien insurer such valuation shall be
7 limited to its United States business, and may certify
8 the amount of any such reserves, specifying the mor-
9 tality table or tables, rate or rates of interest and methods
10 (net level premium method or other) used in the cal-
11 culation of such reserves.

12 All valuations made by him or by his authority shall
13 be made upon the net premium basis.

14 In every case the standard of valuation employed shall
15 be stated in his annual report.

16 In calculating such reserves, he may use group methods
17 and approximate averages for fractions of a year or
18 otherwise. In lieu of the valuation of the reserves
19 herein required of any foreign or alien insurer, he may
20 accept any valuation made, or caused to be made, by
21 the insurance supervisory official of any state or other
22 jurisdiction when such valuation complies with the
23 minimum standard herein provided and if the official
24 of such state or jurisdiction accepts as sufficient and
25 valid for all legal purposes the certificate of valuation
26 of the commissioner when such certificate states the
27 valuation to have been made in a specified manner ac-
28 cording to which the aggregate reserves would be at
29 least as large as if they had been computed in the
30 manner prescribed by the law of that state or juris-
31 diction.

32 Any such insurer which at any time shall have adopted
33 any standard of valuation producing greater aggregate
34 reserves than those calculated according to the mini-
35 mum standard herein provided may, with the approval
36 of the commissioner, adopt any lower standard of val-
37 uation, but not lower than the minimum herein provided.

38 (2) This subsection shall apply to only those policies
39 and contracts issued prior to the original operative
40 date of the Standard Nonforfeiture Law (now section
41 thirty of article thirteen of this chapter). All valua-
42 tions shall be according to the standard of valuations
43 adopted by the insurer for the obligations to be valued.
44 Any insurer may adopt different standards for obliga-
45 tions of different dates or classes, but if the total value
46 determined by any such standard for the obligation for
47 which it has been adopted shall be less than that deter-
48 mined by the legal minimum standard hereinafter
49 prescribed, or if the insurer adopts no standard, said
50 legal minimum standard shall be used.

51 Except as otherwise provided in subdivision (a)
52 (B) of subsection (3), the legal minimum standard for

53 contracts issued before the first day of January, in the
54 year one thousand nine hundred one, shall be actuaries'
55 or combined experience table of mortality with interest
56 at four percent per annum, and for contracts issued on
57 or after said date shall be the "American Experience
58 Table" of mortality with interest at three and one-half
59 percent per annum, except that the minimum standard
60 for the valuation of annuities and pure endowments
61 purchased under group annuity and pure endowment
62 contracts shall be that provided by this subsection but
63 replacing the interest rates specified in this subsection
64 by an interest rate of five percent per annum. Policies
65 issued by insurers doing business in this state may
66 provide for not more than one-year preliminary term
67 insurance: *Provided*, That if the premium charged for
68 term insurance under a limited payment life preliminary
69 term policy providing for the payment of all premiums
70 thereof in less than twenty years from the date of the
71 policy, or under an endowment preliminary term policy,
72 exceeds that charged for like insurance under twenty
73 payment life preliminary term policies of the same
74 insurer, the reserve thereon at the end of any year,
75 including the first, shall not be less than the reserve
76 on a twenty payment life preliminary term policy is-
77 sued in the same year and at the same age, together
78 with an amount which shall be equivalent to the ac-
79 cumulation of a net level premium sufficient to provide
80 for a pure endowment at the end of the premium pay-
81 ment period, equal to the difference between the value
82 at the end of such period of such a twenty payment life
83 preliminary term policy and a full reserve at such time
84 of such a limited payment life or endowment policy.

85 The commissioner may vary the standards of interest
86 and mortality in the case of alien insurers and in partic-
87 ular cases of invalid lives and other extra hazards.

88 Reserves for all such policies and contracts may be
89 calculated, at the option of the insurer, according to
90 any standards which produce greater aggregate reserves
91 for all such policies and contracts than the minimum
92 reserves required by this subsection.

93 (3) Except as otherwise provided in subdivision (a)
94 (B) of this subsection, this subsection shall apply to
95 only those policies and contracts issued on or after the
96 original operative date of the Standard Nonforfeiture
97 Law (now section thirty of article thirteen of this
98 chapter).

99 (a) (A) Except as otherwise provided in paragraph
100 (B) of this subdivision, the minimum standard for the
101 valuation of all such policies and contracts shall be the
102 commissioners reserve valuation methods defined in sub-
103 divisions (b), (c) and (f), five percent interest for group
104 annuity and pure endowment contracts and three and
105 one-half percent interest for all other such policies and
106 contracts, or in the case of policies and contracts, other
107 than annuity and pure endowment contracts, issued
108 on or after the third day of June, one thousand nine
109 hundred seventy-four, four percent interest for such
110 policies issued prior to the effective date of the amend-
111 ment to this section of one thousand nine hundred
112 seventy-seven, five and one-half percent interest for
113 single premium life insurance policies and four and one-
114 half percent interest for all other such policies issued
115 on or after the effective date of the amendment to this
116 section of one thousand nine hundred seventy-seven,
117 and the following tables:

118 (i) For all ordinary policies of life insurance issued
119 on the standard basis, excluding any disability and ac-
120 cidental death benefits in such policies, — the Commis-
121 sioners 1941 Standard Ordinary Mortality Table for
122 such policies issued prior to the operative date of sub-
123 section four-a of section thirty, article thirteen of
124 this chapter, and the Commissioners 1958 Standard
125 Ordinary Mortality Table for such policies issued on
126 or after such operative date: *Provided*, That for any
127 category of such policies issued on female risks all
128 modified net premiums and present values referred to
129 in this section may be calculated according to an age
130 not more than six years younger than the actual age
131 of the insured.

132 (ii) For all industrial life insurance policies issued
133 on the standard basis, excluding any disability and ac-

134 cidental death benefits in such policies,—the 1941
135 Standard Industrial Mortality Table for such policies
136 issued prior to the operative date of subsection four-b
137 of section thirty, article thirteen of this chapter, and
138 the Commissioners 1961 Standard Industrial Mortality
139 Table for such policies issued on or after such operative
140 date.

141 (iii) For individual annuity and pure endowment
142 contracts, excluding any disability and accidental death
143 benefits in such policies,—the 1937 Standard Annuity
144 Mortality Table or, at the option of the company, the
145 Annuity Mortality Table for 1949, ultimate, or any
146 modification of either of these tables approved by the
147 commissioner.

148 (iv) For group annuity and pure endowment con-
149 tracts, excluding any disability and accidental death
150 benefits in such policies,—the Group Annuity Mortality
151 Table for 1951, any modification of such table approved
152 by the commissioner, or, at the option of the company,
153 any of the tables or modification of tables specified for
154 individual annuity and pure endowment contracts.

155 (v) For total permanent disability benefits in or
156 supplementary to ordinary policies or contracts, — for
157 policies or contracts issued on or after the first day of
158 January, one thousand nine hundred sixty-six, the tables
159 of period two disablement rates and the one thousand
160 nine hundred thirty to one thousand nine hundred
161 fifty termination rates of the one thousand nine hundred
162 fifty-two disability study of the society of actuaries,
163 with due regard to the type of benefit; for policies or
164 contracts issued on or after the first day of January,
165 one thousand nine hundred sixty-one and prior
166 to the first day of January, one thousand nine hundred
167 sixty-six, either such tables or, at the option of the
168 company, the Class (3) Disability Table (1926); and
169 for policies issued prior to the first day of January, one
170 thousand nine hundred sixty-one, the Class (3) Dis-
171 ability Table (1926). Any such table shall, for active
172 lives, be combined with a mortality table permitted for
173 calculating the reserves for life insurance policies.

174 (vi) For accidental death benefits in or supplementary
175 to policies,—for policies issued on or after the first
176 day of January, one thousand nine hundred sixty-six,
177 the 1959 Accidental Death Benefits Table; for policies
178 issued on or after the first day of January, one thousand
179 nine hundred sixty-one and prior to the first day of
180 January, one thousand nine hundred sixty-six, either
181 such table or, at the option of the company, the Inter-
182 Company Double Indemnity Mortality Table; and for
183 policies issued prior to the first day of January, one
184 thousand nine hundred sixty-one, the Inter-Company
185 Double Indemnity Mortality Table. Either table shall
186 be combined with a mortality table permitted for cal-
187 culating the reserves for life insurance policies.

188 (vii) For group life insurance, life insurance issued
189 on the substandard basis and other special benefits,—
190 such tables as may be approved by the commissioner.

191 (B) The minimum standard for the valuation of all
192 individual annuity and pure endowment contracts is-
193 sued on or after the operative date of this paragraph
194 (B), as defined herein, and for all annuities and pure
195 endowments purchased on or after such operative date
196 under group annuity and pure endowment contracts,
197 shall be the commissioner's reserve valuation methods
198 defined in subdivisions (b) and (c) and the following
199 tables and interest rates:

200 (i) For individual annuity and pure endowment con-
201 tracts issued prior to the effective date of the amendment
202 to this section of one thousand nine hundred seventy-sev-
203 en, excluding any disability and accidental death benefits
204 in such contracts,—the 1971 Individual Annuity Mortality
205 Table, or any modification of this table approved by the
206 commissioner, and six percent interest for single premium
207 immediate annuity contracts, and four percent interest for
208 all other individual annuity and pure endowment con-
209 tracts.

210 (ii) For individual single premium immediate annuity
211 contracts issued on or after the effective date of the
212 amendment to this section of one thousand nine hundred
213 seventy-seven, excluding any disability and accidental
214 death benefits in such contracts,—the 1971 Individual

215 Annuity Mortality Table, or any modification of this table
216 approved by the commissioner, and seven and one-half
217 percent interest.

218 (iii) For individual annuity and pure endowment
219 contracts issued on or after the effective date of the
220 amendment to this section of one thousand nine hundred
221 seventy-seven, other than single premium immediate
222 annuity contracts, excluding any disability and accidental
223 death benefits in such contracts, — the 1971 Individual
224 Annuity Mortality Table, or any modification of this table
225 approved by the commissioner, and five and one-half
226 percent interest for single premium deferred annuity and
227 pure endowment contracts and four and one-half percent
228 interest for all other such individual annuity and pure
229 endowment contracts.

230 (iv) For all annuities and pure endowments purchased
231 prior to the amendment to this section of one thousand
232 nine hundred seventy-seven under group annuity and
233 pure endowment contracts, excluding any disability and
234 accidental death benefits purchased under such contracts,
235 — the 1971 Group Annuity Mortality Table, or any modi-
236 fication of this table approved by the commissioner, and
237 six percent interest.

238 (v) For all annuities and pure endowments purchased on
239 or after the effective date of the amendment of this section
240 of one thousand nine hundred seventy-seven under group
241 annuity and pure endowment contracts, excluding any
242 disability and accidental death benefits purchased under
243 such contracts, — the 1971 Group Annuity Mortality
244 Table, or any modification of this table approved by the
245 commissioner, and seven and one-half percent interest.

246 After the third day of June, one thousand nine hundred
247 seventy-four, any company may file with the commis-
248 sioner a written notice of its election to comply with the
249 provisions of this paragraph (B) after a specified date
250 before the first day of January, nineteen hundred and
251 seventy-nine, which shall be the operative date of this
252 paragraph (B) for such company, provided that a com-
253 pany may elect a different operative date for individual
254 annuity and pure endowment contracts from that elected

255 for group annuity and pure endowment contracts. If a
256 company makes no such election, the operative date of
257 this paragraph (B) for such company shall be the first day
258 of January, nineteen hundred and seventy-nine.

259 (b) Except as otherwise provided in subdivisions (c)
260 and (f), reserves according to the commissioners reserve
261 valuation method, for the life insurance and endowment
262 benefits of policies providing for a uniform amount of
263 insurance and requiring the payment of uniform premi-
264 ums shall be the excess, if any, of the present value, at the
265 date of valuation, of such future guaranteed benefits
266 provided for by such policies, over the then present value
267 of any future modified net premium therefor. The modi-
268 fied net premiums for any such policy shall be such uni-
269 form percentage of the respective contract premiums for
270 such benefits that the present value, at the date of issue of
271 the policy of all such modified net premiums shall be
272 equal to the sum of the then present value of such bene-
273 fits provided for by the policy and the excess of (A) over
274 (B), as follows:

275 (A) A net level annual premium equal to the present
276 value, at the date of issue, of such benefits provided for
277 after the first policy year, divided by the present value,
278 at the date of issue, of an annuity of one percent per
279 annum payable on the first and each subsequent anniver-
280 sary of such policy on which the premium falls due:
281 *Provided*, That such net level annual premium shall not
282 exceed the net level annual premium on the nineteen-year
283 premium whole life plan for insurance of the same amount
284 at an age one year higher than the age at issue of such
285 policy.

286 (B) A net one-year term premium for such benefits
287 provided for in the first policy year.

288 Reserves according to the commissioner's reserve
289 valuation method for (i) life insurance policies providing
290 for a varying amount of insurance or requiring the pay-
291 ment of varying premiums, (ii) group annuity and pure
292 endowment contracts purchased under a retirement plan
293 or plan of deferred compensation, established or main-
294 tained by an employer (including a partnership or sole
295 proprietorship) or by an employee organization, or by

296 both, other than a plan providing individual retirement
297 accounts or individual retirement annuities under section
298 408 of the Internal Revenue Code, as now or hereafter
299 amended, (iii) disability and accidental death benefits in
300 all policies and contracts, and (iv) all other benefits,
301 except life insurance and endowment benefits in life
302 insurance policies and benefits provided by all other
303 annuity and pure endowment contracts, shall be calcu-
304 lated by a method consistent with the principles of this
305 subdivision (b), except that any extra premiums charged
306 because of impairments or special hazards shall be dis-
307 regarded in the determination of modified net premiums.

308 (c) This subdivision shall apply to all annuity and
309 pure endowment contracts other than group annuity and
310 pure endowment contracts purchased under a retirement
311 plan or plan of deferred compensation, established or
312 maintained by an employer (including a partnership or
313 sole proprietorship) or by an employee organization, or by
314 both, other than a plan providing individual retirement
315 accounts or individual retirement annuities under section
316 408 of the Internal Revenue Code, as now or hereafter
317 amended.

318 Reserves according to the commissioners annuity
319 reserve method for benefits under annuity or pure endow-
320 ment contracts, excluding any disability and accidental
321 death benefits in such contracts, shall be the greatest of
322 the respective excesses of the present values, at the date of
323 valuation, of the future guaranteed benefits, including
324 guaranteed nonforfeiture benefits, provided for by such
325 contracts at the end of each respective contract year,
326 over the present value, at the date of valuation, of any
327 future valuation considerations derived from future gross
328 considerations, required by the terms of such contract,
329 that become payable prior to the end of such respective
330 contract year. The future guaranteed benefits shall be
331 determined by using the mortality table, if any, and the
332 interest rate, or rates, specified in such contracts for deter-
333 mining guaranteed benefits. The valuation considerations
334 are the portions of the respective gross considerations
335 applied under the terms of such contracts to determine
336 nonforfeiture values.

337 (d) In no event shall an insurer's aggregate reserves
338 for all life insurance policies, excluding disability and
339 accidental death benefits, be less than the aggregate
340 reserves calculated in accordance with the methods set
341 forth in subdivisions (b), (c) and (f) and the mortality
342 table or tables and rate or rates of interest used in cal-
343 culating nonforfeiture benefits for such policies.

344 (e) Reserves for any category of policies, contracts or
345 benefits as established by the commissioner may be cal-
346 culated, at the option of the insurer, according to any
347 standards which produce greater aggregate reserves for
348 such category than those calculated according to the
349 minimum standard herein provided, but the rate or rates
350 of interest used for policies and contracts, other than
351 annuity and pure endowment contracts, shall not be
352 higher than the corresponding rate or rates of interest
353 used in calculating any nonforfeiture benefits provided for
354 therein.

355 (f) If in any contract year the gross premium charged
356 by any life insurer on any policy or contract is less than
357 the valuation net premium for the policy or contract cal-
358 culated by the method used in calculating the reserve
359 thereon; but using the minimum valuation standards of
360 mortality and rate of interest, the minimum reserve re-
361 quired for such policy or contract shall be the greater of
362 either the reserve calculated according to the mortality
363 table, rate of interest, and method actually used for such
364 policy or contract, or the reserve calculated by the method
365 actually used for such policy or contract but using the
366 minimum standards of mortality and rate of interest and
367 replacing the valuation net premium by the actual gross
368 premium in each contract year for which the valuation
369 net premium exceeds the actual gross premium.

ARTICLE 13. LIFE INSURANCE.

§33-13-30. Standard nonforfeiture law for life insurance.

1 (1) In the case of policies issued on or after the origi-
2 nal operative date of this provision, no policy of life
3 insurance, except as stated in subsection six, shall be
4 delivered or issued for delivery in this state unless it
5 shall contain in substance the following provisions, or

6 corresponding provisions which in the opinion of the
7 commissioner are at least as favorable to the defaulting
8 or surrendering policyholder:

9 (a) That, in the event of default in any premium
10 payment, the insurer will grant, upon proper request
11 not later than sixty days after the due date of the
12 premium in default, a paid-up nonforfeiture benefit on a
13 plan stipulated in the policy, effective as of such due date,
14 of such value as may be hereinafter specified;

15 (b) That, upon surrender of the policy within sixty
16 days after the due date of any premium payment in de-
17 fault after premiums have been paid for at least three
18 full years, the insurer will pay, in lieu of any paid-up
19 nonforfeiture benefit, a cash surrender value of such
20 amount as may be hereinafter specified;

21 (c) That a specified paid-up nonforfeiture benefit shall
22 become effective as specified in the policy unless the
23 person entitled to make such election elects another
24 available option not later than sixty days after the due
25 date of the premium in default;

26 (d) That, if the policy shall have become paid up by
27 completion of all premium payments or if it is continued
28 under any paid-up nonforfeiture benefit which became
29 effective on or after the third policy anniversary the
30 insurer will pay, upon surrender of the policy within
31 thirty days after any policy anniversary, a cash surrender
32 value of such amount as may be hereinafter specified;

33 (e) A statement of the mortality table and interest
34 rate used in calculating the cash surrender values and
35 the paid-up nonforfeiture benefits available under the
36 policy, together with a table showing the cash surrender
37 value, if any, and paid-up nonforfeiture benefits, if any,
38 available under the policy on each policy anniversary
39 either during the first twenty policy years or during the
40 term of the policy, whichever is shorter, such values and
41 benefits to be calculated upon the assumption that there
42 are no dividends or paid-up additions credited to the
43 policy and that there is no indebtedness to the insurer
44 on the policy;

45 (f) A statement that the cash surrender values and
46 the paid-up nonforfeiture benefits available under the

47 policy are not less than the minimum values and benefits
48 required by or pursuant to the insurance law of the
49 state in which the policy is delivered; an explanation
50 of the manner in which the cash surrender values and
51 the paid-up nonforfeiture benefits are altered by the
52 existence of any paid-up additions credited to the policy
53 or any indebtedness to the company on the policy; if a
54 detailed statement of the method of computation of the
55 values and benefits shown in the policy is not stated
56 therein a statement that such method of computation
57 has been filed with the insurance supervisory official
58 of the state in which the policy is delivered; and a state-
59 ment of the method to be used in calculating the cash
60 surrender value and paid-up nonforfeiture benefit avail-
61 able under the policy on any policy anniversary beyond
62 the last anniversary for which such values and benefits
63 are consecutively shown in the policy.

64 Any of the foregoing provisions or portions thereof,
65 not applicable by reason of the plan of insurance may,
66 to the extent inapplicable, be omitted from the policy.

67 The insurer shall reserve the right to defer the pay-
68 ment of any cash surrender value for a period of six
69 months after demand therefor with surrender of the
70 policy.

71 (2) Any cash surrender value available under the
72 policy in the event of default in a premium payment
73 due on any policy anniversary, whether or not required
74 by subsection one, shall be an amount not less than the
75 excess, if any, of the present value, on such anniversary,
76 of the future guaranteed benefits which would have been
77 provided for by the policy, including any existing paid-
78 up additions, if there had been no default, over the sum
79 of (i) the then present value of the adjusted premiums
80 as defined in subsections four, four-a and four-b, corre-
81 sponding to premiums which would have fallen due on
82 and after such anniversary, and (ii) the amount of any
83 indebtedness to the insurer on the policy. Any cash
84 surrender value available within thirty days after any
85 policy anniversary under any policy paid up by comple-
86 tion of all premium payments or any policy continued
87 under any paid-up nonforfeiture benefit, whether or not

88 required by subsection one, shall be an amount not less
89 than the present value, on such anniversary, of the
90 future guaranteed benefits provided for by the policy,
91 including any existing paid-up additions decreased by
92 any indebtedness to the insurer on the policy.

93 (3) Any paid-up nonforfeiture benefit available under
94 the policy in the event of default in a premium payment
95 due on any policy anniversary shall be such that its
96 present value as of such anniversary shall be at least
97 equal to the cash surrender value then provided for by
98 the policy or, if none is provided for that cash surrender
99 value which would have been required by this section
100 in the absence of the condition that premiums shall have
101 been paid for at least a specific period.

102 (4) Except as provided in the third paragraph of this
103 subsection, the adjusted premiums for any policy shall
104 be calculated on an annual basis and shall be such uni-
105 form percentage of the respective premiums specified in
106 the policy for each policy year, excluding extra premiums
107 on a substandard policy, that the present value, at the
108 date of issue of the policy, of all such adjusted premiums
109 shall be equal to the sum of (i) the then present value
110 of the future guaranteed benefits provided for by the
111 policy; (ii) two percent of the amount of insurance, if
112 the insurance be uniform in amount, or of the equivalent
113 uniform amount, as hereinafter defined, if the amount
114 of insurance varies with duration of the policy; (iii) forty
115 percent of the adjusted premium for the first policy year;
116 (iv) twenty-five percent of either the adjusted premium
117 for the first policy year or the adjusted premium for a
118 whole life policy of the same uniform or equivalent
119 uniform amount with uniform premiums for the whole
120 of life issued at the same age for the same amount of
121 insurance, whichever is less: *Provided*, That in applying
122 the percentages specified in (iii) and (iv) above, no
123 adjusted premium shall be deemed to exceed four percent
124 of the amount of insurance or uniform amount equivalent
125 thereto. The date of issue of a policy for the purpose of
126 this subsection shall be the date as of which the rated
127 age of the insured is determined.

128 In the case of a policy providing an amount of insur-
129 ance varying with duration of the policy, the equivalent
130 uniform amount thereof for the purpose of this sub-
131 section shall be deemed to be the uniform amount of
132 insurance provided by an otherwise similar policy, con-
133 taining the same endowment benefit or benefits, if any,
134 issued at the same age and for the same term, the amount
135 of which does not vary with duration and the benefits
136 under which have the same present value at the date of
137 issue as the benefits under the policy: *Provided, however,*
138 That in the case of a policy providing a varying amount
139 of insurance issued on the life of a child under age ten,
140 the equivalent uniform amount may be computed as
141 though the amount of insurance provided by the policy
142 prior to the attainment of age ten were the amount pro-
143 vided by such policy at age ten.

144 The adjusted premiums for any policy providing term
145 insurance benefits by rider or supplemental policy pro-
146 vision shall be equal to (a) the adjusted premiums for
147 an otherwise similar policy issued at the same age with-
148 out such term insurance benefits, increased, during the
149 period for which premiums for such term insurance bene-
150 fits are payable, by (b) the adjusted premiums for such
151 term insurance, the foregoing items (a) and (b) being
152 calculated separately and as specified in the first two
153 paragraphs of this subsection except that, for the pur-
154 poses of (ii), (iii) and (iv) of the first such paragraph,
155 the amount of insurance or equivalent uniform amount
156 of insurance used in the calculation of the adjusted
157 premiums referred to in (b) shall be equal to the excess
158 of the corresponding amount determined for the entire
159 policy over the amount used in the calculation of the
160 adjusted premiums in (a).

161 Except as otherwise provided in subsection four-a and
162 four-b, all adjusted premiums and present values referred
163 to in this section shall for all policies of ordinary insur-
164 ance be calculated on the basis of the Commissioners
165 1941 Standard Ordinary Mortality Table: *Provided, That*
166 for any category of ordinary insurance issued on female
167 risks, adjusted premiums and present values may be
168 calculated according to an age not more than three years

169 younger than the actual age of the insured, and such
170 calculations for all policies of industrial insurance shall
171 be made on the basis of the 1941 Standard Industrial
172 Mortality Table. All calculations shall be made on the
173 basis of the rate of interest, not exceeding three and
174 one-half percent per annum, specified in the policy for
175 calculating cash surrender values and paid-up nonfor-
176 feiture benefits: *Provided*, That in calculating the present
177 value of any paid-up term insurance with accompanying
178 pure endowment, if any, offered as a nonforfeiture bene-
179 fit, the rate of mortality assumed may be not more than
180 one hundred and thirty percent of the rates of mortality
181 according to such applicable table: *Provided further*,
182 That for insurance issued on a substandard basis, the
183 calculation of any such adjusted premiums and present
184 values may be based on such other table of mortality as
185 may be specified by the insurer and approved by the
186 commissioner.

187 (4a) In the case of ordinary policies issued on or after
188 the operative date of this subsection four-a as defined
189 herein, all adjusted premiums and present values referred
190 to in this section shall be calculated on the basis of
191 the Commissioners 1958 Standard Ordinary Mortality
192 Table and the rate of interest specified in the policy for
193 calculating cash surrender values and paid-up nonfor-
194 feiture benefits provided that such rate of interest shall
195 not exceed three and one-half percent per annum except
196 that a rate of interest not exceeding four percent per
197 annum may be used for policies issued on or after the
198 third day of June, one thousand nine hundred seventy-
199 four and prior to the effective date of the amendment
200 to this section of one thousand nine hundred seventy-
201 seven and a rate of interest not exceeding five and one-
202 half percent per annum may be used for policies issued
203 on or after the effective date of the amendment to this
204 section of one thousand nine hundred seventy-seven,
205 except that for any single premium whole life or endow-
206 ment insurance policy a rate of interest not exceeding
207 six and one-half percent per annum may be used: *Pro-*
208 *vided*, That for any category of ordinary insurance issued
209 on female risks, adjusted premiums and present values

210 may be calculated according to an age not more than
211 six years younger than the actual age of the insured:
212 *Provided, however,* That in calculating the present value
213 of any paid-up term insurance with accompanying pure
214 endowment, if any, offered as a nonforfeiture benefit,
215 the rates of mortality assumed may be not more than
216 those shown in the Commissioners 1958 Extended Term
217 Insurance Table: *Provided further,* That for insurance
218 issued on a substandard basis, the calculation of any such
219 adjusted premiums and present values may be based on
220 such other table of mortality as may be specified by the
221 company and approved by the commissioner.

222 After the third day of June, one thousand nine hundred
223 fifty-nine, any company may file with the commissioner
224 a written notice of its election to comply with the pro-
225 visions of this subsection after a specified date before
226 the first day of January, one thousand nine hundred
227 sixty-six. After the filing of such notice, then upon such
228 specified date (which shall be the operative date of this
229 subsection for such company), this subsection shall be-
230 come operative with respect to the ordinary policies
231 thereafter issued by such company. If a company makes
232 no such election, the operative date of this subsection
233 for such company shall be the first day of January, one
234 thousand nine hundred sixty-six.

235 (4b) In the case of industrial policies issued on or
236 after the operative date of this subsection four-b as
237 defined herein, all adjusted premiums and present values
238 referred to in this section shall be calculated on the
239 basis of the Commissioners 1961 Standard Industrial
240 Mortality Table and the rate of interest specified in the
241 policy for calculating cash surrender values and paid-up
242 nonforfeiture benefits provided that such rate of interest
243 shall not exceed three and one-half percent per annum
244 except that a rate of interest not exceeding four percent
245 per annum may be used for policies issued on or after
246 the third day of June, one thousand nine hundred sev-
247 enty-four and prior to the effective date of the amend-
248 ment to this section of one thousand nine hundred
249 seventy-seven and a rate of interest not exceeding five

250 and one-half percent per annum may be used for policies
251 issued on or after the effective date of the amendment
252 to this section of one thousand nine hundred seventy-
253 seven, except that for any single premium whole life
254 or endowment insurance policy a rate of interest not
255 exceeding six and one-half percent per annum may be
256 used: *Provided*, That in calculating the present value of
257 any paid-up term insurance with accompanying pure
258 endowment, if any, offered as a nonforfeiture benefit,
259 the rates of mortality assumed may be not more than
260 those shown in the Commissioners 1961 Industrial Ex-
261 tended Term Insurance Table: *Provided, however*, That
262 for insurance issued on a substandard basis, the calcula-
263 tion of any such adjusted premiums and present values
264 may be based on such other table of mortality as may
265 be specified by the company and approved by the com-
266 missioner.

267 After the thirty-first day of May, one thousand
268 nine hundred sixty-five, any company may file with
269 the commissioner a written notice of its election to
270 comply with the provisions of this subsection after
271 a specified date before the first day of January, one
272 thousand nine hundred sixty-eight. After the filing
273 of such notice, then upon such specified date (which
274 shall be the operative date of this subsection for such
275 company), this subsection shall become operative with
276 respect to the industrial policies thereafter issued by
277 such company. If a company makes no such election,
278 the operative date of this subsection for such company
279 shall be the first day of January, one thousand nine hun-
280 dred sixty-eight.

281 (5) Any cash surrender value and any paid-up non-
282 forfeiture benefit, available under the policy in the event
283 of default in a premium payment due at any time other
284 than on the policy anniversary, shall be calculated with
285 allowance for the lapse of time and the payment of frac-
286 tional premiums beyond the last preceding policy anni-
287 versary. All values referred to in subsections two, three,
288 four, four-a and four-b may be calculated upon the
289 assumption that any death benefit is payable at the end

290 of the policy year of death. The net value of any paid-up
291 additions, other than paid-up term additions, shall be
292 not less than the dividends paid to provide such addi-
293 tions. Notwithstanding the provisions of subsection two,
294 additional benefits payable (a) in the event of death or
295 dismemberment by accident or accidental means, (b) in
296 the event of total and permanent disability, (c) as re-
297 versionary or deferred reversionary annuity benefits,
298 (d) as term insurance benefits provided by a rider or
299 supplemental policy provision to which, if issued as a
300 separate policy, this subsection would not apply, (e) as
301 term insurance on the life of a child or on the lives of
302 children provided in a policy on the life of a parent of
303 the child, if such term insurance expires before the
304 child's age is twenty-six, is uniform in amount after the
305 child's age is one, and has not become paid up by reason
306 of the death of a parent of the child, and (f) as other
307 policy benefits additional to life insurance and endow-
308 ment benefits, and premiums for all such additional
309 benefits, shall be disregarded in ascertaining cash sur-
310 render values and nonforfeiture benefits required by this
311 section, and no such additional benefits shall be required
312 to be included in any paid-up nonforfeiture benefits.

313 (6) This section shall not apply to any reinsurance,
314 group insurance, pure endowment, annuity or reversion-
315 ary annuity contract, nor to any term policy of uniform
316 amount, or renewal thereof, of fifteen years or less ex-
317 piring before age sixty-six, for which uniform premiums
318 are payable during the entire term of the policy, nor to
319 any term policy of decreasing amount on which each
320 adjusted premium, calculated as specified in subsections
321 four, four-a and four-b, is less than the adjusted premium
322 so calculated on a policy issued at the same age and for
323 the same initial amount of insurance for a term defined
324 as follows—for ages at issue fifty and under, the term
325 shall be fifteen years, thereafter, the terms shall decrease
326 one year for each year of age beyond fifty, nor to any
327 policy which shall be delivered outside this state through
328 an agent or other representative of the insurer issuing
329 the policy.

§33-13-30a. Standard nonforfeiture law for individual deferred annuities.

1 (1) This section shall be known as the "Standard
2 Nonforfeiture Law for Individual Deferred Annuities."

3 (2) This section shall not apply to any reinsurance,
4 group annuity purchased under a retirement plan or plan
5 of deferred compensation established or maintained by an
6 employer (including a partnership or sole proprietorship)
7 or by an employee organization, or by both, other than a
8 plan providing individual retirement accounts or indi-
9 vidual retirement annuities under Section 408 of the
10 Internal Revenue Code, as now or hereafter amended,
11 premium deposit fund, variable annuity, investment
12 annuity, immediate annuity, any deferred annuity con-
13 tract after annuity payments have commenced, or rever-
14 sionary annuity, nor to any contract which shall be
15 delivered outside this state through an agent or other
16 representative of the company issuing the contract.

17 (3) In the case of contracts issued on or after the
18 operative date of this section as defined in subsection
19 (12), no contract of annuity, except as stated in sub-
20 section (2), shall be delivered or issued for delivery in
21 this state unless it contains in substance the following
22 provisions, or corresponding provisions which in the
23 opinion of the commissioner are at least as favorable to
24 the contractholder, upon cessation of payment of consid-
25 erations under the contract:

26 (a) That upon cessation of payment of considerations
27 under a contract, the company will grant a paid-up an-
28 nuity benefit on a plan stipulated in the contract of such
29 value as is specified in subsections (5), (6), (7), (8) and
30 (10);

31 (b) If a contract provides for a lump sum settlement at
32 maturity, or at any other time, that upon surrender of the
33 contract at or prior to the commencement of any annuity
34 payments, the company will pay in lieu of any paid-up
35 annuity benefit a cash surrender benefit of such amount as
36 is specified in subsections (5), (6), (8) and (10). The
37 company shall reserve the right to defer the payment of

38 such cash surrender benefit for a period of six months
39 after demand therefor with surrender of the contract;

40 (c) A statement of the mortality table, if any, and
41 interest rates used in calculating any minimum paid-up
42 annuity, cash surrender or death benefits that are guaran-
43 teed under the contract, together with sufficient infor-
44 mation to determine the amounts of such benefits; and

45 (d) A statement that any paid-up annuity, cash sur-
46 render or death benefits that may be available under the
47 contract are not less than the minimum benefits
48 required by any statute of the state in which the
49 contract is delivered and an explanation of the manner
50 in which such benefits are altered by the existence of any
51 additional amounts credited by the company to the con-
52 tract, any indebtedness to the company on the contract or
53 any prior withdrawals from or partial surrenders of the
54 contract.

55 Notwithstanding the requirements of this subsection,
56 any deferred annuity contract may provide that if no
57 considerations have been received under a contract for a
58 period of two full years and the portion of the paid-up
59 annuity benefit at maturity on the plan stipulated in the
60 contract arising from considerations paid prior to such
61 period would be less than twenty dollars monthly, the
62 company may at its option terminate such contract by
63 payment in cash of the then present value of such portion
64 of the paid-up annuity benefit, calculated on the basis of
65 the mortality table, if any, and interest rate specified in
66 the contract for determining the paid-up annuity benefit,
67 and by such payment shall be relieved of any further
68 obligation under such contract.

69 (4) The minimum values as specified in subsections (5),
70 (6), (7), (8) and (10) of any paid-up annuity, cash sur-
71 render or death benefits available under an annuity
72 contract shall be based upon minimum nonforfeiture
73 amounts as defined in this section:

74 (a) With respect to contracts providing for flexible
75 considerations, the minimum nonforfeiture amount at any
76 time at or prior to the commencement of any annuity
77 payments shall be equal to an accumulation up to such

78 time at a rate of interest of three percent per annum of
79 percentages of the net considerations (as hereinafter de-
80 fined) paid prior to such time, decreased by the sum
81 of:

82 (i) Any prior withdrawals from or partial surrenders
83 of the contract accumulated at a rate of interest of three
84 percent per annum; and

85 (ii) The amount of any indebtedness to the company on
86 the contract, including interest due and accrued; and
87 increased by any existing additional amounts credited by
88 the company to the contract.

89 The net considerations for a given contract year used
90 to define the minimum nonforfeiture amount shall be an
91 amount not less than zero and shall be equal to the
92 corresponding gross considerations credited to the contract
93 during that contract year less than an annual contract
94 charge of thirty dollars and less a collection charge of one
95 dollar and twenty-five cents per consideration credited to
96 the contract during that contract year. The percentages
97 of net considerations shall be sixty-five percent of the net
98 consideration for the first contract year and eighty-seven
99 and one-half percent of the net considerations for the
100 second and later contract years. Notwithstanding the
101 provisions of the preceding sentence, the percentage shall
102 be sixty-five percent of the portion of the total net
103 consideration for any renewal contract year which ex-
104 ceeds by not more than two times the sum of those
105 portions of the net considerations in all prior contract
106 years for which the percentage was sixty-five percent.

107 (b) With respect to contracts providing for fixed
108 scheduled considerations, minimum nonforfeiture amounts
109 shall be calculated on the assumption that considerations
110 are paid annually in advance and shall be defined as for
111 contracts with flexible considerations which are paid
112 annually with two exceptions:

113 (1) The portion of the net consideration for the first
114 contract year to be accumulated shall be the sum of
115 sixty-five percent of the net consideration for the first
116 contract year plus twenty-two and one-half percent of the
117 excess of the net consideration for the first contract year

118 over the lesser of the net considerations for the second and
119 third contract years.

120 (2) The annual contract charge shall be the lesser of
121 (i) thirty dollars or (ii) ten percent of the gross annual
122 consideration.

123 (c) With respect to contracts providing for a single
124 consideration, minimum nonforfeiture amounts shall be
125 defined as for contracts with flexible considerations except
126 that the percentage of net consideration used to determine
127 the minimum nonforfeiture amount shall be equal to
128 ninety percent and the net consideration shall be the gross
129 consideration less a contract charge of seventy-five
130 dollars.

131 (5) Any paid-up annuity benefit available under a
132 contract shall be such that its present value on the date
133 annuity payments are to commence is at least equal to the
134 minimum nonforfeiture amount on that date. Such present
135 value shall be computed using the mortality table, if any,
136 and the interest rate specified in the contract for deter-
137 mining the minimum paid-up annuity benefits guaranteed
138 in the contract.

139 (6) For contracts which provide cash surrender
140 benefits, such cash surrender benefits available prior to
141 maturity shall not be less than the present value as of the
142 date of surrender of that portion of the maturity value of
143 the paid-up annuity benefit which would be provided
144 under the contract at maturity arising from consideration
145 paid prior to the time of cash surrender reduced by the
146 amount appropriate to reflect any prior withdrawals from
147 or partial surrenders of the contract, such present value
148 being calculated on the basis of an interest rate not more
149 than one percent higher than the interest rate specified in
150 the contract for accumulating the net considerations to
151 determine such maturity value, decreased by the amount
152 of any indebtedness to the company on the contract, in-
153 cluding interest due and accrued, and increased by any
154 existing additional amounts credited by the company to
155 the contract. In no event shall any cash surrender benefit
156 be less than the minimum nonforfeiture amount at that
157 time. The death benefit under such contracts shall be at
158 least equal to the cash surrender benefit.

159 (7) For contracts which do not provide cash surrender
160 benefits, the present value of any paid-up annuity benefit
161 available as a nonforfeiture option at any time prior to
162 maturity shall not be less than the present value of that
163 portion of the maturity value of the paid-up annuity
164 benefit provided under the contract arising from consid-
165 erations paid prior to the time the contract is surrendered
166 in exchange for, or changed to, a deferred paid-up annu-
167 ity, such present value being calculated for the period
168 prior to the maturity date on the basis of the interest rate
169 specified in the contract for accumulating the net consid-
170 erations to determine such maturity value, and in-
171 creased by any existing additional amounts credited by
172 the company to the contract. For contracts which do not
173 provide any death benefits prior to the commencement of
174 any annuity payments, such present values shall be calcu-
175 lated on a basis of such interest rate and the mortality
176 table specified in the contract for determining the matur-
177 ity value of the paid-up annuity benefit. However, in no
178 event shall the present value of a paid-up annuity benefit
179 be less than the minimum nonforfeiture amount at that
180 time.

181 (8) For the purpose of determining the benefits
182 calculated under subsections (6) and (7), in the case of
183 annuity contracts under which an election may be made to
184 have annuity payments commence at optional maturity
185 dates, the maturity date shall be deemed to be the latest
186 date for which election shall be permitted by the contract,
187 but shall not be deemed to be later than the anniversary
188 of the contract next following the annuitant's seventieth
189 birthday or the tenth anniversary of the contract, which-
190 ever is later.

191 (9) Any contract which does not provide cash surrender
192 benefits or does not provide death benefits at least equal
193 to the minimum nonforfeiture amount prior to the com-
194 mencement of any annuity payments shall include a
195 statement in a prominent place in the contract that such
196 benefits are not provided.

197 (10) Any paid-up annuity, cash surrender or death
198 benefits available at any time, other than on the contract
199 anniversary under any contract with fixed scheduled

200 considerations, shall be calculated with allowance for the
201 lapse of time and the payment of any scheduled con-
202 siderations beyond the beginning of the contract year in
203 which cessation of payment of considerations under the
204 contract occurs.

205 (11) For any contract which provides, within the same
206 contract by rider or supplemental contract provision, both
207 annuity benefits and life insurance benefits that are in
208 excess of the greater of cash surrender benefits or a return
209 of the gross considerations with interest, the minimum
210 nonforfeiture benefits shall be equal to the sum of the
211 minimum nonforfeiture benefits for the annuity portion
212 and the minimum nonforfeiture benefits, if any, for the
213 life insurance portion computed as if each portion were a
214 separate contract. Notwithstanding the provisions of sub-
215 sections (5), (6), (7), (8) and (10), additional benefits
216 payable (a) in the event of total and permanent disability,
217 (b) as reversionary annuity or deferred reversionary
218 annuity benefits, or (c) as other policy benefits additional
219 to life insurance, endowment and annuity benefits, and
220 considerations for all such additional benefits, shall be
221 disregarded in ascertaining the minimum nonforfeiture
222 amounts, paid-up annuity, cash surrender and death bene-
223 fits that may be required by this section. The inclusion of
224 such additional benefits shall not be required in any paid-
225 up benefits, unless such additional benefits separately
226 would require minimum nonforfeiture amounts, paid-up
227 annuity, cash surrender and death benefits.

228 (12) After the effective date of this section, any
229 company may file with the commissioner a written notice
230 of its election to comply with the provisions of this section
231 after a specified date before the second anniversary of the
232 effective date of this section. After the filing of such
233 notice, then upon such specified date, which shall be the
234 operative date of this section for such company, this
235 section shall become operative with respect to annuity
236 contracts thereafter issued by such company. If a company
237 makes no such election, the operative date of this section
238 for such company shall be the second anniversary of the
239 effective date of this section.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Norman C. Johnston
Chairman House Committee

Originated in the Senate.

To take effect from passage.

J. P. Mullen Jr.
Clerk of the Senate

V. A. Blankenship
Clerk of the House of Delegates

W. F. Brantley Jr.
President of the Senate

Donald L. Kopp
Speaker House of Delegates

The within is approved this the 15
day of April, 1977.

John D. Ralston
Governor



APPROVED AND SIGNED BY THE GOVERNOR

RECEIVED
APR 9 2 58 PM '77
OFFICE OF THE GOVERNOR

Date April 15, 1977
Time 4:30 p.m.

OFFICE
SECY. OF STATE

77 APR 15 P4:37

RECEIVED