

SB 214

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STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



ENROLLED

SENATE BILL NO. 214

(By Senator Helmick)



PASSED March 3, 1999

In Effect from Passage

3 (b) *Reserve valuation.* – The commissioner shall annually
4 value, or cause to be valued, the reserve liabilities (herein-
5 after called reserves) for all outstanding life insurance
6 policies and annuity and pure endowment contracts of
7 every life insurance company doing business in this state,
8 and may certify the amount of any such reserves specifying
9 the mortality table or tables, rate or rates of interest and
10 methods (net level premium method or other) used in the
11 calculation of such reserves. In calculating such reserves,
12 he or she may use group methods and approximate aver-
13 ages for fractions of a year or otherwise. In lieu of the
14 valuation of the reserves herein required of any foreign or
15 alien company, he or she may accept any valuation made,
16 or caused to be made, by the insurance supervisory official
17 of any state or other jurisdiction when such valuation
18 complies with the minimum standard herein provided and
19 if the official of such state or jurisdiction accepts as
20 sufficient and for all valid legal purposes the certificate of
21 valuation of the commissioner when such certificate states
22 the valuation to have been made in a specified manner
23 according to which the aggregate reserves would be at
24 least as large as if they had been computed in the manner
25 prescribed by the law of that state or jurisdiction.

26 (c) *Actuarial opinion of reserves.* – This subsection shall
27 become operative on first day of January, one thousand
28 nine hundred ninety-six.

29 (1) *General.* – Every life insurance company doing
30 business in this state shall annually submit the opinion of
31 a qualified actuary as to whether the reserves and related
32 actuarial items held in support of the policies and con-
33 tracts specified by the commissioner by regulation are
34 computed appropriately, are based on assumptions which
35 satisfy contractual provisions, are consistent with prior
36 reported amounts and comply with applicable laws of this
37 state. The commissioner by regulation shall define the
38 specifics of this opinion and add any other item considered
39 to be necessary to its scope.

40 (2) *Actuarial analysis of reserves and assets supporting*
41 *such reserves.*

42 (A) Every life insurance company, except as exempted by
43 or pursuant to regulation, shall also annually include in
44 the opinion required by subdivision (1) of this subsection,
45 an opinion of the same qualified actuary as to whether the
46 reserves and related actuarial items held in support of the
47 policies and contracts specified by the commissioner by
48 regulation, when considered in light of the assets held by
49 the company with respect to the reserves and related
50 actuarial items, including, but not limited to, the invest-
51 ment earnings on the assets and the considerations antici-
52 pated to be received and retained under the policies and
53 contracts, make adequate provision for the company's
54 obligations under the policies and contracts, including, but
55 not limited to, the benefits under and expenses associated
56 with the policies and contracts.

57 (B) The commissioner may provide by regulation for a
58 transition period for establishing any higher reserves
59 which the qualified actuary may consider necessary in
60 order to render the opinion required by this subsection.

61 (3) *Requirement for opinion under subdivision (2).*—Each
62 opinion required by subdivision (2) of this subsection shall
63 be governed by the following provisions:

64 (A) A memorandum in form and substance acceptable to
65 the commissioner as specified by regulation shall be
66 prepared to support each actuarial opinion.

67 (B) If the insurance company fails to provide a support-
68 ing memorandum at the request of the commissioner
69 within a period specified by regulation or the commis-
70 sioner determines that the supporting memorandum
71 provided by the insurance company fails to meet the
72 standards prescribed by the regulations or is otherwise
73 unacceptable to the commissioner, the commissioner may
74 engage a qualified actuary at the expense of the company
75 to review the opinion and the basis for the opinion and
76 prepare such supporting memorandum as is required by
77 the commissioner.

78 (4) *Requirement for all opinions.*—Every opinion shall be
79 governed by the following provisions:

80 (A) The opinion shall be submitted with the annual
81 statement reflecting the valuation of such reserve liabilities
82 for each year ending on or after the thirty-first day of
83 December, one thousand nine hundred ninety-five.

84 (B) The opinion shall apply to all business in force,
85 including individual and group health insurance plans, in
86 form and substance acceptable to the commissioner as
87 specified by regulation.

88 (C) The opinion shall be based on standards adopted
89 from time to time by the actuarial standards board and on
90 such additional standards as the commissioner may by
91 regulation prescribe.

92 (D) In the case of an opinion required to be submitted by
93 a foreign or alien company, the commissioner may accept
94 the opinion filed by that company with the insurance
95 supervisory official of another state if the commissioner
96 determines that the opinion reasonably meets the require-
97 ments applicable to a company domiciled in this state.

98 (E) For the purposes of this section, "qualified actuary"
99 means a member in good standing of the American acad-
100 emy of actuaries who meets the requirements set forth in
101 such regulations.

102 (F) Except in cases of fraud or willful misconduct, the
103 qualified actuary shall not be liable for damages to any
104 person (other than the insurance company and the com-
105 missioner) for any act, error, omission, decision or conduct
106 with respect to the actuary's opinion.

107 (G) Disciplinary action by the commissioner against the
108 company or the qualified actuary shall be defined in
109 regulations by the commissioner.

110 (H) Any memorandum in support of the opinion and any
111 other material provided by the company to the commis-
112 sioner in connection therewith shall be kept confidential
113 by the commissioner and shall not be made public and
114 shall not be subject to subpoena, other than for the
115 purpose of defending an action seeking damages from any
116 person by reason of any action required by this section or
117 by regulations promulgated hereunder: *Provided*, That the

118 memorandum or other material may otherwise be released
119 by the commissioner: (i) With the written consent of the
120 company; or (ii) to the American academy of actuaries
121 upon request stating that the memorandum or other
122 material is required for the purpose of professional
123 disciplinary proceedings and setting forth procedures
124 satisfactory to the commissioner for preserving the
125 confidentiality of the memorandum or other material.
126 Once any portion of the confidential memorandum is cited
127 by the company in its marketing or is cited before any
128 governmental agency other than a state insurance depart-
129 ment or is released by the company to the news media, all
130 portions of the confidential memorandum shall be no
131 longer confidential.

132 (d) *Computation of minimum standards.* – Except as
133 otherwise provided in subsections (e), (f) and (m) of this
134 section, the minimum standard for the valuation of all
135 such policies and contracts issued prior to the effective
136 date of this section shall be that provided by the laws in
137 effect immediately prior to such date. Except as otherwise
138 provided in subsections (e), (f) and (m) of this section, the
139 minimum standard for the valuation of all such policies
140 and contracts issued on or after the effective date of this
141 section shall be the commissioners reserve valuation
142 methods defined in subsections (g), (h), (k) and (m) of this
143 section, three and one-half percent interest, or in the case
144 of life insurance policies and contracts, other than annuity
145 and pure endowment contracts, issued on or after the first
146 day of June, one thousand nine hundred seventy-four, four
147 percent interest for such policies issued prior to the sixth
148 day of April, one thousand nine hundred seventy-seven,
149 five and one-half percent interest for single premium life
150 insurance policies and four and one-half percent interest
151 for all other such policies issued on and after the sixth day
152 of April, one thousand nine hundred seventy-seven, and
153 the following tables:

154 (1) For all ordinary policies of life insurance issued on
155 the standard basis, excluding any disability and accidental
156 death benefits in such policies: The commissioners 1941
157 standard ordinary mortality table for such policies issued
158 prior to the operative date of subsection (4a), section

159 thirty, article thirteen of this chapter, the commissioners
160 1958 standard ordinary mortality table for such policies
161 issued on or after the operative date of said subsection and
162 prior to the operative date of subsection (4c) of said
163 section: *Provided*, That for any category of such policies
164 issued on female risks, all modified net premiums and
165 present values referred to in this section may be calculated
166 according to an age not more than six years younger than
167 the actual age of the insured; and for such policies issued
168 on or after the operative date of subsection (4c), section
169 thirty, article thirteen of this chapter: (i) The commission-
170 ers 1980 standard ordinary mortality table; or (ii) at the
171 election of the company for any one or more specified
172 plans of life insurance, the commissioners 1980 standard
173 ordinary mortality table with ten-year select mortality
174 factors; or (iii) any ordinary mortality table, adopted after
175 the year one thousand nine hundred eighty by the national
176 association of insurance commissioners, that is approved
177 by regulation promulgated by the commissioner for use in
178 determining the minimum standard of valuation for such
179 policies.

180 (2) For all industrial life insurance policies issued on the
181 standard basis, excluding any disability and accidental
182 death benefits in such policies: The 1941 standard indus-
183 trial mortality table for such policies issued prior to the
184 operative date of subsection (4b), section thirty, article
185 thirteen of this chapter, and for such policies issued on or
186 after such operative date, the commissioners 1961 stan-
187 dard industrial mortality table or any industrial mortality
188 table, adopted after the year one thousand nine hundred
189 eighty by the national association of insurance commis-
190 sioners, that is approved by regulation promulgated by the
191 commissioner for use in determining the minimum stan-
192 dard of valuation for such policies.

193 (3) For individual annuity and pure endowment con-
194 tracts, excluding any disability and accidental death
195 benefits in such policies: The 1937 standard annuity
196 mortality table, or at the option of the company, the
197 annuity mortality table for 1949, ultimate, or any modifi-
198 cation of either of these tables approved by the commis-
199 sioner.

200 (4) For group annuity and pure endowment contracts,
201 excluding any disability and accidental death benefits in
202 such policies: The group annuity mortality table for 1951,
203 any modification of such table approved by the commis-
204 sioner, or at the option of the company, any of the tables
205 or modifications of tables specified for individual annuity
206 and pure endowment contracts.

207 (5) For total and permanent disability benefits in or
208 supplementary to ordinary policies or contracts: For
209 policies or contracts issued on or after the first day of
210 January, one thousand nine hundred sixty-six, the tables
211 of period two disablement rates and the 1930 to 1950
212 termination rates of the 1952 disability study of the society
213 of actuaries, with due regard to the type of benefit or any
214 tables of disablement rates and termination rates adopted
215 after the year one thousand nine hundred eighty, by the
216 national association of insurance commissioners, that are
217 approved by regulation promulgated by the commissioner
218 for use in determining the minimum standard of valuation
219 for such policies; for policies or contracts issued on or after
220 the first day of January, one thousand nine hundred
221 sixty-one, and prior to the first day of January, one
222 thousand nine hundred sixty-six, either such tables or, at
223 the option of the company, the Class (3) disability table
224 (1926); and for policies issued prior to the first day of
225 January, one thousand nine hundred sixty-one, the Class
226 (3) disability table (1926). Any such table shall, for active
227 lives, be combined with a mortality table permitted for
228 calculating the reserves for life insurance policies.

229 (6) For accidental death benefits in or supplementary to
230 policies issued on or after the first day of January, one
231 thousand nine hundred sixty-six, the 1959 accidental
232 death benefits table or any accidental death benefits table
233 adopted after the year one thousand nine hundred eighty
234 by the national association of insurance commissioners,
235 that is approved by regulation promulgated by the com-
236 missioner for use in determining the minimum standard of
237 valuation for such policies, for policies issued on or after
238 the first day of January, one thousand nine hundred
239 sixty-one, and prior to the first day of January, one
240 thousand nine hundred sixty-six, either such table or, at

241 the option of the company, the inter-company double
242 indemnity mortality table; and for policies issued prior to
243 the first day of January, one thousand nine hundred
244 sixty-one, the inter-company double indemnity mortality
245 table. Either table shall be combined with a mortality
246 table for calculating the reserves for life insurance poli-
247 cies.

248 (7) For group life insurance, life insurance issued on the
249 substandard basis and other special benefits: Such tables
250 as may be approved by the commissioner.

251 (e) *Computation of minimum standard for annuities.* –
252 Except as provided in subsection (f) of this section, the
253 minimum standard for the valuation of all individual
254 annuity and pure endowment contracts issued on or after
255 the operative date of this subsection, as defined herein,
256 and for all annuities and pure endowments purchased on
257 or after such operative date under group annuity and pure
258 endowment contracts, shall be the commissioner's reserve
259 valuation methods defined in subsections (g) and (h) of this
260 section, and the following tables and interest rates:

261 (1) For individual annuity and pure endowment con-
262 tracts issued prior to the sixth day of April, one thousand
263 nine hundred seventy-seven, excluding any disability and
264 accidental death benefits in such contracts: The 1971
265 individual annuity mortality table, or any modification of
266 this table approved by the commissioner, and six percent
267 interest for single premium immediate annuity contracts
268 and four percent interest for all other individual annuity
269 and pure endowment contracts;

270 (2) For individual single premium immediate annuity
271 contracts issued on or after the sixth day of April, one
272 thousand nine hundred seventy-seven, excluding any
273 disability and accidental death benefits in such contracts:
274 The 1971 individual annuity mortality table or any
275 individual annuity mortality table, adopted after the year
276 one thousand nine hundred eighty by the national associa-
277 tion of insurance commissioners that is approved by
278 regulation promulgated by the commissioner for use in
279 determining the minimum standard of valuation for such

280 contracts, or any modification of these tables approved by
281 the commissioner, and seven and one-half percent interest;

282 (3) For individual annuity and pure endowment con-
283 tracts issued on or after the sixth day of April, one thou-
284 sand nine hundred seventy-seven, other than single
285 premium immediate annuity contracts, excluding any
286 disability and accidental death benefits in such contracts:
287 The 1971 individual annuity mortality table or any
288 individual annuity mortality table adopted after the year
289 one thousand nine hundred eighty by the national associa-
290 tion of insurance commissioners, that is approved by
291 regulation promulgated by the commissioner for use in
292 determining the minimum standard of valuation for such
293 contracts, or any modification of these tables approved by
294 the commissioner, and five and one-half percent interest
295 for single premium deferred annuity and pure endowment
296 contracts and four and one-half percent interest for all
297 other such individual annuity and pure endowment
298 contracts;

299 (4) For all annuities and pure endowments purchased
300 prior to the sixth day of April, one thousand nine hundred
301 seventy-seven, under group annuity and pure endowment
302 contracts, excluding any disability and accidental death
303 benefits purchased under such contracts: The 1971 group
304 annuity mortality table, or any modification of this table
305 approved by the commissioner, and six percent interest;

306 (5) For all annuities and pure endowments purchased on
307 or after the sixth day of April, one thousand nine hundred
308 seventy-seven, under group annuity and pure endowment
309 contracts, excluding any disability and accidental death
310 benefits purchased under such contracts: The 1971 group
311 annuity mortality table, or any group annuity mortality
312 table adopted after the year one thousand nine hundred
313 eighty by the national association of insurance commis-
314 sioners, that is approved by regulation promulgated by the
315 commissioner for use in determining the minimum stan-
316 dard of valuation for such annuities and pure endowments,
317 or any modification of these tables approved by the
318 commissioner, and seven and one-half percent interest.

319 After the third day of June, one thousand nine hundred
320 seventy-four, any company may file with the commissioner
321 a written notice of its election to comply with the provi-
322 sions of this subsection after a specified date before the
323 first day of January, one thousand nine hundred sev-
324 enty-nine, which shall be the operative date of this subsec-
325 tion for such company, provided, if a company makes no
326 such election, the operative date of this section for such
327 company shall be the first day of January, one thousand
328 nine hundred seventy-nine.

329 (f) *Computation of minimum standard by calendar year*
330 *of issue.*

331 (1) *Applicability of this section.* – The interest rates used
332 in determining the minimum standard for the valuation of:

333 (A) All life insurance policies issued in a particular
334 calendar year, on or after the operative date of subsection
335 (4c), section thirty, article thirteen of this chapter as
336 amended;

337 (B) All individual annuity and pure endowment con-
338 tracts issued in a particular calendar year on or after the
339 first day of January, one thousand nine hundred
340 eighty-two;

341 (C) All annuities and pure endowments purchased in a
342 particular calendar year on or after the first day of
343 January, one thousand nine hundred eighty-two, under
344 group annuity and pure endowment contracts; and

345 (D) The net increase, if any, in a particular calendar
346 year after the first day of January, one thousand nine
347 hundred eighty-two, in amounts held under guaranteed
348 interest contracts, shall be the calendar year statutory
349 valuation interest rates as defined in this subsection.

350 (2) *Calendar year statutory valuation interest rates.*

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

354 (i) For life insurance,

355 $I = .03 + W(R_1 - .03) + W/2(R_2 - .09);$

356 (ii) For single premium immediate annuities and for
357 annuity benefits involving life contingencies arising from
358 other annuities with cash settlement options and from
359 guaranteed interest contracts with cash settlement options,

360 $I = .03 + W * -.03)$

361 where R_1 is the lesser of R and $.09$,

362 R_2 is the greater of R and $.09$,

363 R is the reference interest rate defined in this subsection
364 and W is the weighting factor defined in this section;

365 (iii) For other annuities with cash settlement options and
366 guaranteed interest contracts with cash settlement options,
367 valued on an issue year basis, except as stated in subpara-
368 graph (ii) of this paragraph, the formula for life insurance
369 stated in subparagraph (i) of this paragraph shall apply to
370 annuities and guaranteed interest contracts with guaran-
371 tee durations in excess of ten years and the formula for
372 single premium immediate annuities stated in subpara-
373 graph (ii) of this paragraph shall apply to annuities and
374 guaranteed interest contracts with guarantee duration of
375 ten years or less;

376 (iv) For other annuities with no cash settlement options
377 and for guaranteed interest contracts with no cash settle-
378 ment options, the formula for single premium immediate
379 annuities stated in subparagraph (ii) of this paragraph
380 shall apply;

381 (v) For other annuities with cash settlement options and
382 guaranteed interest contracts with cash settlement options,
383 valued on a change in fund basis, the formula for single
384 premium immediate annuities stated in subparagraph (ii)
385 of this paragraph shall apply.

386 (B) However, if the calendar year statutory valuation
387 interest rate for any life insurance policies issued in any
388 calendar year determined without reference to this sen-
389 tence differs from the corresponding actual rate for similar
390 policies issued in the immediately preceding calendar year
391 by less than one half of one percent the calendar year

392 statutory valuation interest rate for such life insurance
 393 policies shall be equal to the corresponding actual rate for
 394 the immediately preceding calendar year. For purposes of
 395 applying the immediately preceding sentence, the calendar
 396 year statutory valuation interest rate for life insurance
 397 policies issued in a calendar year shall be determined for
 398 the year one thousand nine hundred eighty (using the
 399 reference interest rate defined for the year one thousand
 400 nine hundred seventy-nine) and shall be determined for
 401 each subsequent calendar year regardless of when subsec-
 402 tion (4c), section thirty, article thirteen of this chapter, as
 403 amended, becomes operative.

404 (3) *Weighting factors.*

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

407 (i) Weighting Factors for Life Insurance:

| 408 Guarantee | 409 Duration | 410 (Years) | Weighting Factors |
|--|--------------|-------------|----------------------|
| 411 10 or less | | | .50 |
| 412 More than 10, but not more than 20 | | | .45 |
| 413 More than 20 | | | .35 |

414 For life insurance, the guarantee duration is the maxi-
 415 mum number of years the life insurance can remain in
 416 force on a basis guaranteed in the policy or under options
 417 to convert to plans of life insurance with premium rates or
 418 nonforfeiture values or both which are guaranteed in the
 419 original policy;

420 (ii) Weighting factor for single premium immediate
 421 annuities and for annuity benefits involving life contin-
 422 gencies arising from other annuities with cash settlement
 423 options and guaranteed interest contracts with cash
 424 settlement options: .80;

425 (iii) Weighting factors for other annuities and for
 426 guaranteed interest contracts, except as stated in subpara-
 427 graph (ii) of this paragraph, shall be as specified in clauses

428 (I), (II) and (III) below, according to the rules and defini-
429 tions in clauses (IV), (V) and (VI) below:

430 (I) For annuities and guaranteed interest contracts
431 valued on an issue year basis:

| 432 | Guarantee | Weighting Factor | | |
|-----|-------------------------------------|------------------|-----|-----|
| | | for Plan Type | | |
| 433 | Duration | A | B | C |
| 434 | (Years) | | | |
| 435 | 5 or less: | .80 | .60 | .50 |
| 436 | More than 5, but not more than 10: | .75 | .60 | .50 |
| 437 | More than 10, but not more than 20: | .65 | .50 | .45 |
| 438 | More than 20: | .45 | .35 | .35 |

439 (II) For annuities and guaranteed interest contracts
440 valued on a change in fund basis, the factors shown in
441 subparagraph (i) of this paragraph increased by:

| 442 | | Weighting Factor | | |
|-----|--|------------------|-----|-----|
| | | for Plan Type | | |
| 443 | | A | B | C1 |
| 444 | | | | |
| 445 | | .15 | .25 | .05 |

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

| 455 | | Weighting Factor | | |
|-----|--|------------------|-----|-----|
| | | for Plan Type | | |
| 456 | | A | B | C1 |
| 457 | | | | |
| 458 | | .05 | .05 | .05 |

459 (IV) For other annuities with cash settlement options
460 and guaranteed interest contracts with cash settlement

461 options, the guarantee duration is the number of years for
462 which the contract guarantees interest rates in excess of
463 the calendar year statutory valuation interest rate for life
464 insurance policies with guarantee duration in excess of
465 twenty years. For other annuities with no cash settlement
466 options and for guaranteed interest contracts with no cash
467 settlement options, the guaranteed duration is the number
468 of years from the date of issue or date of purchase to the
469 date annuity benefits are scheduled to commence.

470 (V) Plan type as used in the above tables is defined as
471 follows:

472 Plan Type A:

473 At any time policyholder may withdraw funds only: (1)
474 With an adjustment to reflect changes in interest rates or
475 asset values since receipt of the funds by the insurance
476 company; or (2) without such adjustment but in install-
477 ments over five years or more; or (3) as an immediate life
478 annuity; or (4) no withdrawal permitted;

479 Plan Type B:

480 Before expiration of the interest rate guarantee, policy-
481 holder may withdraw funds only: (1) With an adjustment
482 to reflect changes in interest rates or asset values since
483 receipt of the funds by the insurance company; or (2)
484 without such adjustment but in installments over five
485 years or more; or (3) no withdrawal permitted. At the end
486 of interest rate guarantee, funds may be withdrawn
487 without such adjustment in a single sum or installments
488 over less than five years;

489 Plan Type C:

490 Policyholder may withdraw funds before expiration of
491 interest rate guarantee in a single sum or installments over
492 less than five years either: (1) Without adjustment to
493 reflect changes in interest rates or asset values since
494 receipt of the funds by the insurance company; or (2)
495 subject only to a fixed surrender charge stipulated in the
496 contract as a percentage of the fund.

497 (VI) A company may elect to value guaranteed interest
498 contracts with cash settlement options and annuities with
499 cash settlement options on either an issue year basis or on
500 a change in fund basis. Guaranteed interest contracts with
501 no cash settlement options and other annuities with no
502 cash settlement options must be valued on an issue year
503 basis. As used in this section, an issue year basis of
504 valuation refers to a valuation basis under which the
505 interest rate used to determine the minimum valuation
506 standard for the entire duration of the annuity or guaran-
507 teed interest contract is the calendar year valuation
508 interest rate for the year of issue or year of purchase of the
509 annuity or guaranteed interest contract and the change in
510 fund basis of valuation refers to a valuation basis under
511 which the interest rate used to determine the minimum
512 valuation standard applicable to each change in the fund
513 held under the annuity or guaranteed interest contract is
514 the calendar year valuation interest rate for the year of the
515 change in the fund.

516 (4) *Reference interest rate.*

517 (A) Reference interest rate referred to in subparagraph
518 (ii), paragraph (A), subdivision (2) of this subsection shall
519 be defined as follows:

520 (i) For all life insurance, the lesser of the average over a
521 period of thirty-six months and the average over a period
522 of twelve months, ending on the thirtieth day of June of
523 the calendar year next preceding the year of issue, of the
524 monthly average of the composite yield on seasoned
525 corporate bonds, as published by Moody's Investors
526 Service, Inc.

527 (ii) For single premium immediate annuities and for
528 annuity benefits involving life contingencies arising from
529 other annuities with cash settlement options and guaran-
530 teed interest contracts with cash settlement options, the
531 average over a period of twelve months, ending on the
532 thirtieth day of June of the calendar year of issue or year
533 of purchase, of the monthly average of the composite yield
534 on seasoned corporate bonds, as published by Moody's
535 Investors Service, Inc.

536 (iii) For other annuities with cash settlement options
537 and guaranteed interest contracts with cash settlement
538 options, valued on a year of issue basis, except as stated in
539 subparagraph (ii) of this paragraph, with guarantee
540 duration in excess of ten years, the lesser of the average
541 over a period of thirty-six months and the average over a
542 period of twelve months, ending on the thirtieth day of
543 June of the calendar year of issue or purchase, of the
544 monthly average of the composite yield on seasoned
545 Corporate Bonds, as published by Moody's Investors
546 Service, Inc.

547 (iv) For other annuities with cash settlement options and
548 guaranteed interest contracts with cash settlement options,
549 valued on a year of issue basis, except as stated in (ii)
550 above, with guarantee duration of ten years or less, the
551 average over a period of twelve months, ending on the
552 thirtieth day of June of the calendar year of issue or
553 purchase, of the monthly average of the composite yield on
554 seasoned corporate bonds, as published by Moody's
555 Investors Service, Inc.

556 (v) For other annuities with no cash settlement options
557 and for guaranteed interest contracts with no cash settle-
558 ment options, the average over a period of twelve months,
559 ending on the thirtieth day of June of the calendar year of
560 issue or purchase, of the monthly average of the composite
561 yield on seasoned corporate bonds, as published by
562 Moody's Investors Service, Inc.

563 (vi) For other annuities with cash settlement options and
564 guaranteed interest contracts with cash settlement options,
565 valued on a change in fund basis, except as stated in
566 subparagraph (ii) of this paragraph, the average over a
567 period of twelve months, ending on the thirtieth day of
568 June of the calendar year of the change in the fund, of the
569 monthly average of the composite yield on seasoned
570 corporate bonds, as published by Moody's Investors
571 Service, Inc.

572 (5) *Alternative method for determining reference*
573 *interest rates.*

574 In the event that the monthly average of the composite
575 yield on seasoned corporate bonds is no longer published
576 by Moody's Investors Service, Inc., or in the event that the
577 national association of insurance commissioners deter-
578 mines that the monthly average of the composite yield on
579 seasoned corporate bonds as published by Moody's Inves-
580 tors Service, Inc., is no longer appropriate for the determi-
581 nation of the reference interest rate, then an alternative
582 method for determination of the reference interest rate,
583 which is adopted by the national association of insurance
584 commissioners and approved by regulation promulgated
585 by the commissioner, may be substituted.

586 (g) *Reserve valuation method – life insurance and*
587 *endowment benefits.*

588 Except as otherwise provided in subsections (h), (k) and
589 (m) of this section, reserves according to the commissioners
590 reserve valuation method, for the life insurance and
591 endowment benefits of policies providing for a uniform
592 amount of insurance and requiring the payment of uniform
593 premiums shall be the excess, if any, of the present value,
594 at the date of valuation, of such future guaranteed benefits
595 provided for by such policies, over the then present value
596 of any future modified net premiums therefor. The
597 modified net premiums for any such policy shall be such
598 uniform percentage of the respective contract premiums
599 for such benefits that the present value, at the date of issue
600 of the policy, of all such modified net premiums shall be
601 equal to the sum of the then present value of such benefits
602 provided for by the policy and the excess of subdivision (1)
603 over subdivision (2), as follows:

604 (1) A net level annual premium equal to the present
605 value, at the date of issue, of such benefits provided for
606 after the first policy year, divided by the present value, at
607 the date of issue, of an annuity of one per annum payable
608 on the first and each subsequent anniversary of such
609 policy on which a premium falls due: *Provided*, That such
610 net level annual premium shall not exceed the net level
611 annual premium on the nineteen year premium whole life
612 plan for insurance of the same amount at an age one year
613 higher than the age at issue of such policy.

614 (2) A net one year term premium for such benefits
615 provided for in the first policy year: *Provided*, That for
616 any life insurance policy issued on or after the first day of
617 January, one thousand nine hundred eighty-five, for which
618 the contract premium in the first policy year exceeds that
619 of the second year and for which no comparable additional
620 benefit is provided in the first year for such excess and
621 which provides an endowment benefit or a cash surrender
622 value or a combination thereof in an amount greater than
623 such excess premium, the reserve according to the commis-
624 sioners' reserve valuation method as of any policy anniver-
625 sary occurring on or before the assumed ending date
626 defined herein as the first policy anniversary on which the
627 sum of any endowment benefit and any cash surrender
628 value then available is greater than such excess premium
629 shall, except as otherwise provided in subsection (k) of this
630 section, be the greater of the reserve as of such policy
631 anniversary calculated as described in the preceding
632 paragraph and the reserve as of such policy anniversary
633 calculated as described in that paragraph, but with: (i) The
634 value defined in subdivision (1) of that paragraph being
635 reduced by fifteen percent of the amount of such excess
636 first year premium; (ii) all present values of benefits and
637 premiums being determined without reference to premi-
638 ums or benefits provided for by the policy after the
639 assumed ending date; (iii) the policy being assumed to
640 mature on such date as an endowment; and (iv) the cash
641 surrender value provided on such date being considered as
642 an endowment benefit. In making the above comparison
643 the mortality and interest bases stated in subsections (d)
644 and (f) of this section shall be used.

645 Reserves according to the commissioners' reserve
646 valuation method for: (i) Life insurance policies providing
647 for a varying amount of insurance or requiring the pay-
648 ment of varying premiums; (ii) group annuity and pure
649 endowment contracts purchased under a retirement plan
650 or plan of deferred compensation, established or main-
651 tained by an employer (including a partnership or sole
652 proprietorship) or by an employee organization, or by
653 both, other than a plan providing individual retirement
654 accounts or individual retirement annuities under Section

655 408 of the Internal Revenue Code (26 U.S.C. §408), as now
656 or hereafter amended; (iii) disability and accidental death
657 benefits in all policies and contracts; and (iv) all other
658 benefits, except life insurance and endowment benefits in
659 life insurance policies and benefits provided by all other
660 annuity and pure endowment contracts, shall be calculated
661 by a method consistent with the principles of the preced-
662 ing paragraphs of this section.

663 (h) *Reserve valuation method – annuity and pure*
664 *endowment benefits.*

665 This subsection shall apply to all annuity and pure
666 endowment contracts other than group annuity and pure
667 endowment contracts purchased under a retirement plan
668 or plan of deferred compensation, established or main-
669 tained by an employer (including a partnership or sole
670 proprietorship) or by an employee organization, or by
671 both, other than a plan providing individual retirement
672 accounts or individual retirement annuities under Section
673 408 of the Internal Revenue Code (26 U.S.C. §408), as now
674 or hereafter amended.

675 Reserves according to the commissioners' annuity
676 reserve method for benefits under annuity or pure endow-
677 ment contracts, excluding any disability and accidental
678 death benefits in such contracts, shall be the greatest of
679 the respective excesses of the present values, at the date of
680 valuation, of the future guaranteed benefits, including
681 guaranteed nonforfeiture benefits, provided for by such
682 contracts at the end of each respective contract year, over
683 the present value, at the date of valuation, of any future
684 valuation considerations derived from future gross consid-
685 erations, required by the terms of such contract, that
686 become payable prior to the end of such respective con-
687 tract year. The future guaranteed benefits shall be deter-
688 mined by using the mortality table, if any, and the interest
689 rate, or rates, specified in such contracts for determining
690 guaranteed benefits. The valuation considerations are the
691 portions of the respective gross considerations applied
692 under the terms of such contracts to determine
693 nonforfeiture values.

694 (i) *Minimum reserves.*

695 (1) In no event shall a company's aggregate reserves for
696 all life insurance policies, excluding disability and acci-
697 dental death benefits, issued on or after the effective date
698 of this section, be less than the aggregate reserves calcu-
699 lated in accordance with the methods set forth in subsec-
700 tions (g), (h), (k) and (l) of this section and the mortality
701 table or tables and rate or rates of interest used in calcu-
702 lating nonforfeiture benefits for such policies.

703 (2) In no event shall the aggregate reserves for all
704 policies, contracts and benefits be less than the aggregate
705 reserves determined by the qualified actuary to be neces-
706 sary to render the opinion required by subsection (c) of this
707 section.

708 (j) *Optional reserve calculation.*

709 Reserves for all policies and contracts issued prior to the
710 effective date of this section may be calculated, at the
711 option of the company, according to any standards which
712 produce greater aggregate reserves for all such policies
713 and contracts than the minimum reserves required by the
714 laws in effect immediately prior to such date.

715 Reserves for any category of policies, contracts or
716 benefits as established by the commissioner, issued on or
717 after the effective date of this section, may be calculated,
718 at the option of the company, according to any standards
719 which produce greater aggregate reserves for such cate-
720 gory than those calculated according to the minimum
721 standard herein provided, but the rate or rates of interest
722 used for policies and contracts, other than annuity and
723 pure endowment contracts, shall not be higher than the
724 corresponding rate or rates of interest used in calculating
725 any nonforfeiture benefits provided therein.

726 Any such company which at any time shall have
727 adopted any standard of valuation producing greater
728 aggregate reserves than those calculated according to the
729 minimum standard herein provided may, with the ap-
730 proval of the commissioner, adopt any lower standard of
731 valuation, but not lower than the minimum herein pro-
732 vided: *Provided*, That for the purposes of this section, the
733 holding of additional reserves previously determined by a

734 qualified actuary to be necessary to render the opinion
735 required by subsection (c) of this section shall not be
736 considered to be the adoption of a higher standard of
737 valuation.

738 (k) *Reserve calculation – valuation net premium exceed-*
739 *ing the gross premium charged.*

740 If in any contract year the gross premium charged by
741 any life insurance company on any policy or contract is
742 less than the valuation net premium for the policy or
743 contract calculated by the method used in calculating the
744 reserve thereon but using the minimum valuation stan-
745 dards of mortality and rate of interest, the minimum
746 reserve required for such policy or contract shall be the
747 greater of either the reserve calculated according to the
748 mortality table, rate of interest and method actually used
749 for such policy or contract, or the reserve calculated by the
750 method actually used for such policy or contract but using
751 the minimum valuation standards of mortality and rate of
752 interest and replacing the valuation net premium by the
753 actual gross premium in each contract year for which the
754 valuation net premium exceeds the actual gross premium.
755 The minimum valuation standards of mortality and rate of
756 interest referred to in this section are those standards
757 stated in subsections (d) and (f) of this section: *Provided,*
758 *That for any life insurance policy issued on or after the*
759 *first day of January, one thousand nine hundred*
760 *eighty-five, for which the gross premium in the first policy*
761 *year exceeds that of the second year and for which no*
762 *comparable additional benefit is provided in the first year*
763 *for such excess and which provides an endowment benefit*
764 *or a cash surrender value or a combination thereof in an*
765 *amount greater than such excess premium, the foregoing*
766 *provisions of this subsection shall be applied as if the*
767 *method actually used in calculating the reserve for such*
768 *policy were the method described in subsection (g) of this*
769 *section, ignoring the second paragraph of said subsection.*
770 *The minimum reserve at each policy anniversary of such a*
771 *policy shall be the greater of the minimum reserve calcu-*
772 *lated in accordance with said subsection, including the*
773 *second paragraph of that section, and the minimum*
774 *reserve calculated in accordance with this subsection.*

775 (l) *Reserve calculation – indeterminate premium plans.*

776 In the case of any plan of life insurance which provides
777 for future premium determination, the amounts of which
778 are to be determined by the insurance company based on
779 then estimates of future experience, or in the case of any
780 plan of life insurance or annuity which is of such a nature
781 that the minimum reserves cannot be determined by the
782 methods described in subsections (g), (h) and (k) of this
783 section, the reserves which are held under any such plan
784 must:

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

787 (2) Be computed by a method which is consistent with
788 the principles of this standard valuation law, as deter-
789 mined by regulations promulgated by the commissioner.

790 (m) *Minimum standards for health (disability, accident*
791 *and sickness) plans.*

792 The commissioner shall promulgate a regulation
793 containing the minimum standards applicable to the
794 valuation of health (disability, sickness and accident)
795 plans.

796 (n) The commissioner shall promulgate a rule on or
797 before the first day of November, one thousand nine
798 hundred ninety-five, prescribing the guidelines and
799 standards for statements of actuarial opinion which are to
800 be submitted in accordance with subsection (c) of this
801 section and for memoranda in support thereof; guidelines
802 and standards for statements of actuarial opinion which
803 are to be submitted when a company is exempt from
804 subdivision (2), subsection (c) of the standard valuation
805 law; and rules applicable to the appointment of an ap-
806 pointed actuary.

807 (o) *Effective date.*

808 All acts and parts of acts inconsistent with the provision
809 of this section are hereby repealed as of the effective date
810 of this section. This section shall take effect the first day
811 of January, one thousand nine hundred ninety-six.

812 (p) *Modification of the standard valuation law for*
813 *certain types of contracts.*

814 (1) The commissioner may, by rule, establish alternative
815 methods of calculating reserve liabilities, which methods
816 shall be used to calculate reserve liabilities for the types of
817 policies, annuities or other contracts identified in the rule:
818 *Provided*, That the method specified in the rule shall be
819 one which, in the opinion of the commissioner and in light
820 of the methods applied to such contracts by the insurance
821 regulators of other states, is appropriate to such contracts.
822 This power shall be in addition to, and in no way diminish,
823 rule-making power granted to the commissioner elsewhere
824 in this code.

825 (2) The legislative rule filed in the state register on the
826 twentieth day of August, one thousand nine hundred
827 ninety-six, (valuation of life insurance policies, 114 CSR
828 49) is hereby disapproved and is not authorized for
829 promulgation: *Provided*, That for purposes of determining
830 the legal effects of the aforementioned rule, this provision
831 shall be considered to have taken effect on the thirty-first
832 day of December, one thousand nine hundred ninety-
833 seven. This disapproval shall in no way limit the commis-
834 sioner's power to promulgate in the future a rule similar or
835 identical to the rule here disapproved.

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

Paul Brown
.....
Chairman Senate Committee

Joe F. Smith
.....
Chairman House Committee

Originating in the Senate.

In effect from passage.

Darrell Holman
.....
Clerk of the Senate

Gregg M. Sneyd
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *approved* this the *17th*
Day of *March*, 1999

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date. 3/15/99

Time 3:00 pm