WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1945

ENROLLED

SENATE BILL No. 241

(By Mr. Hall of Raleigh)

PASSED March 2 1945

In Effect From Passage
AN ACT to amend sections three, five, eight and eighteen, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and by adding a new section designated section eighteen-a to said article, all relating to life insurance policies.

Be it enacted by the Legislature of West Virginia:

That sections three, five, eight and eighteen, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and re-enacted, and that said article be further amended by the addi-
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Section there to of a new section designated section eighteen-a to read as follows:

Section 3. Valuation of Life Policies.—(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves.

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

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

In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves here-in required of any foreign or alien company, he may accept any valuation made, or caused to be made, by the
insurance supervisory official of any state or other jurisdic-
tion when such valuation complies with the minimum
standard herein provided and if the official of such state
or jurisdiction accepts as sufficient and valid for all
legal purposes the certificate of valuation of the commis-
sioner when such certificate states the valuation to have
been made in a specified manner according to which the
aggregate reserves would be at least as large as if they had
been computed in the manner prescribed by the law of
that state or jurisdiction.

Any such company which at any time shall have
adopted any standard of valuation producing greater ag-
gregate reserves than those calculated according to the
minimum standard herein provided may, with the ap-
proval of the commissioner, adopt any lower standard of
valuation, but not lower than the minimum herein pro-
vided.

(2) This subsection shall apply to only those policies
and contracts issued prior to the operative date of section
eighteen-a (the Standard Non-forfeiture Law). All valu-
ations shall be according to the standard of valuations
adopted by the company for the obligations to be valued.

Any company may adopt different standards for obligations of different dates or classes, but if the total value determined by any such standard for the obligations for which it has been adopted shall be less than that determined by the legal minimum standard hereinafter prescribed, or if the company adopt no standard, said legal minimum standard shall be used.

The legal minimum standard for contracts issued before the first day of January, in the year one thousand nine hundred one, shall be actuaries' or combined experience table of mortality with interest at four per cent per annum, and for contracts issued on or after said date shall be the "American Experience Table" of mortality with interest at three and one-half per cent per annum. Policies issued by companies doing business in this state may provide for not more than one year preliminary term insurance:

Provided, however, That if, the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereof in less than twenty years from the date of the
policy, or under an endowment preliminary term policy, exceeds that charged for like insurance under twenty payment life preliminary term policies of the same company, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a twenty payment life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium payment period, equal to the difference between the value at the end of such period of such a twenty payment life preliminary term policy and a full reserve at such time of such a limited payment life or endowment policy.

The commissioner may vary the standards of interest and mortality in the case of corporations from foreign countries and in particular cases of invalid lives and other extra hazards.

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

(3) This subsection shall apply to only those policies and contracts issued on or after the operative date of section eighteen-a (the Standard Nonforfeiture Law).

(a) The minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation method defined in paragraph (b), three and one-half per cent interest, and the following tables:

(i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the Commissioners 1941 Standard Ordinary Mortality Table.

(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the 1941 Standard Industrial Mortality Table.

(iii) For annuity and pure endowment contracts, excluding any disability and accidental death bene-
fits in such policies,—the 1937 Standard Annuity Mortality Table.

(iv) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—Class (3) Disability Table (1926) which, for active lives, shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(v) For accidental death benefits in or supplementary to policies—the Inter-Company Double Indemnity Mortality Table combined with a mortality table permitted for calculating the reserves for life insurance policies.

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

(b) Reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums
shall be the excess, if any, of the present value, at the
date of valuation, of such future guaranteed benefits pro-
vided for by such policies, over the then present value of
any future modified net premiums therefor. The modi-
"fied net premiums for any such policy shall be such uni-
form percentage of the respective contract premiums for
such benefits that the present value, at the date of issue
of the policy, of all such modified net premiums shall be
equal to the sum of the then present value of such benefits
provided for by the policy and the excess of (A) over (B),
as follows:

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

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

Reserves according to the commissioners reserve valuation method for (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (ii) annuity and pure endowment contracts, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of this paragraph (b).

(c) In no event shall a company’s aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the method set forth in paragraph (b) and the mortality table or tables and rate or rates of interest used in calculating non-forfeiture benefits for such policies.
(d) Reserves for any category of policies, contracts or benefits as established by the commissioner may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any non-forfeiture benefits provided for therein: Provided, however, that reserves for participating life insurance policies may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the non-forfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the non-forfeiture benefits by more than one-half per cent the company issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and non-forfeiture benefits in such policies as the commissioner shall approve.
(e) If the gross premium charged by any life insurance company on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

Sec. 5. Payment of Dividends.—Except where it is otherwise specially provided in this chapter, payments in the form of dividends or otherwise shall not be made to its stockholders by any life insurance company organized under the laws of this state, unless its assets exceed by the amount of such payment the amount of its paid up capital stock and all of its liabilities, including its reinsurance reserve computed in accordance with the minimum basis prescribed in section three of this article; and
no payment shall be made to the policyholders of any such company except for matured claims and in the purchase of surrendered policies, unless the assets of such company exceed by the amount of such payments its liabilities, including its reinsurance reserve, computed as above provided in this section; but for all other purposes the reinsurance reserve of every such company shall be computed as provided in section three of this article.

Sec. 8. Reports by Insurance Companies of Other States; Valuation of Policies.—Every life insurance company organized under the laws of any other state or country, before being admitted to do business in this state, in addition to conforming to requirements of article two of this chapter, shall annually, on or before the first day of March, furnish to the insurance commissioner, on blanks to be furnished by him for that purpose, a full report of its condition on the preceding thirty-first day of December, duly sworn to by its president and secretary or other proper officers, together with a certificate, by the proper officers of the government by whose authority it is organized, and that it has complied with the laws of
such state or country and is authorized to transact business therein. No license, or certificate of authority, to do business in this state shall be issued to such company, unless such certificate is furnished and the insurance commissioner is satisfied with such certificate, nor unless such other state or country shall license life insurance companies incorporated by this state to transact business within its jurisdiction upon a similar certificate from the insurance commissioner, until such company makes the report required by companies incorporated by this state.

Sec. 18. Rights of Insured After Default in Payment of Premium in Policies Issued Prior to Operative Date of Section Eighteen-a.—In event of default in payment of any premium due on any policy issued prior to the operative date of section eighteen-a, (the Standard Non-forfeiture Law), provided not less than three full years' premiums shall have been paid, there shall be secured to the insured, without action on his part, insurance either paid up or extended, or extended as specified in the policy, the net value of which shall be at least equal to the entire
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net reserve held by the company on such policy, less two
and one-half per cent of the amount insured by the
policy and dividend additions, if any, and less any out-
standing indebtedness to the company on the policy at
the time of default. There shall be secured to the insured
the right to surrender such policy to the company at its
home office within one month after the date of default
for the cash value otherwise available for the purchase
of the paid up or extended insurance as aforesaid.

Sec. 18-a. Standard Non-forfeiture Law.—(1) In the
case of policies issued on or after the operative date of this
section, as defined in subsection (7), no policy of life
insurance, except as stated in subsection (6), shall be
issued or delivered in this state unless it shall contain
in substance the following provisions, or corresponding
provisions which in the opinion of the commissioner are
at least as favorable to the defaulting or surrendering
policyholder:

(a) That, in the event of default in any premium pay-
ment, the company will grant, upon proper request
not later than sixty days after the due date of the
premium in default, a paid-up non-forfeiture bene-
fit on a plan stipulated in the policy, effective as of
such due date, of such value as may be hereinafter
specified;

(b) That, upon surrender of the policy within sixty
days after the due date of any premium payment in
default after premiums have been paid for at least
three full years the company will pay, in lieu of
any paid-up non-forfeiture benefit, a cash surrender
value of such amount as may be hereinafter speci-

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

(d) That, if the policy shall have become paid up by
completion of all premium payments or if it is con-
tinued under any paid-up non-forfeiture benefit
which became effective on or after the third policy
anniversary the company will pay, upon surrender
of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified;

(e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up non-forfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up non-forfeiture benefits, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy;

(f) A statement of the method to be used in calculating the cash surrender value and the paid-up non-forfeiture benefit available under the policy on any policy anniversary with an explanation of the manner in which the cash surrender values and the paid-up
non-forfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy.

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

(2) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection (1), shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of (i) the then present value of the adjusted premiums as defined in subsection (4), corresponding to premiums which would have fallen due on and after such anniversary, and (ii) the amount of any indebtedness to the company on the policy. Any cash surrender value available within thirty-days after any policy anniversary under any policy paid up by completion of all premium pay-
ments or any policy continued under any paid-up non-
forfeiture benefit, whether or not required by subsection
(1), shall be an amount not less than the present value,
on such anniversary, of the future guaranteed benefits
provided for by the policy, including any existing paid-up
additions, decreased by any indebtedness to the company
on the policy.
(3) Any paid-up non-forfeiture benefit available under
the policy in the event of default in a premium payment
due on any policy anniversary shall be such that its
present value as of such anniversary shall be at least
equal to the cash surrender value then provided for by
the policy or, if none is provided for, that cash surrender
value which would have been required by this section in
the absence of the condition that premiums shall have
been paid for at least a specified period.
(4) The adjusted premiums for any policy shall be
calculated on an annual basis and shall be such uniform
percentage of the respective premiums specified in the
policy for each policy year that the present value, at the
date of issue of the policy, of all such adjusted premiums
shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) two per cent of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (iii) forty per cent of the adjusted premium for the first policy year; (iv) twenty-five per cent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less: *Provided, however,* That in applying the percentages specified in (iii) and (iv) above, no adjusted premium shall be deemed to exceed four per cent of the amount of insurance or level amount equivalent thereto. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent
level amount thereof for the purpose of this subsection shall be deemed to be the level amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the inception of the insurance as the benefits under the policy.

All adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table for ordinary insurance and the 1941 Standard Industrial Mortality Table for industrial insurance and the rate of interest, not exceeding three and one-half per cent per annum, specified in the policy for calculating cash surrender values and paid-up non-forfeiture benefits: Provided, however, That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a non-forfeiture benefit, the rates of mortality assumed may be not more than one hundred and thirty per cent of the rates of mortality
according to such applicable table: Provided, further, That for insurance issued on a sub-standard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

(5) Any cash surrender value and any paid-up non-forfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (2), (3) and (4) may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of subsection (2), additional benefits payable (a) in the event of death or dismemberment by accident or accidental means, (b) in the event of total
and permanent disability, (c) as reversionary annuity or deferred reversionary annuity benefits, (d) as decreasing term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, and (e) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and non-forfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up non-forfeiture benefits.

(6) This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of fifteen years or less expiring before age sixty-six, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsection (4), is less than the adjusted premium so calculated, on such fifteen
year term policy issued at the same age and for the same initial amount of insurance, nor to any policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy.

(7) After the effective date of this act, any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January first, nineteen hundred forty-eight. After the filing of such notice, then upon such specified date (which shall be the operative date for such company), this section shall become operative with respect to the policies thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be January first, nineteen hundred forty-eight.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Charles C. Morris
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the

Senate

Takes effect from passage

Jerritt Hayes
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

Arnold M. Ticknor
President of the Senate

John C. Amos
Speaker House of Delegates

The within approved this the 15th day of March, 1945.

[Signature]
Governor

Filed in the office of the Secretary of State
of West Virginia, MAR 16 1945

Wm. S. O'Brien,
Secretary of State