WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

ENROLLED

SENATE BILL NO. 418

(By Mr. Brotherton, President)

PASSED April 4, 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.


1 (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 insurer transacting insurance in this state, except that in the case of an alien insurer such valuation shall be limited to its United States business, 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 herein required of any foreign or alien insurer, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction 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 commissioner 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 insurer which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(2) This subsection shall apply to only those policies and contracts issued prior to the original operative date of the Standard Nonforfeiture Law (now section thirty of article thirteen of this chapter). All valuations shall be according to the standard of valuations adopted by the insurer for the obligations to be valued. Any insurer may adopt different standards for obligations of different dates or classes, but if the total value determined by any such standard for the obligation for which it has been adopted shall be less than that determined by the legal minimum standard hereinafter prescribed, or if the insurer adopts no standard, said legal minimum standard shall be used.

Except as otherwise provided in subdivision (a) (B) of subsection (3), 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 percent 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
percent per annum, except that the minimum standard
for the valuation of annuities and pure endowments
purchased under group annuity and pure endowment
contracts shall be that provided by this subsection but
replacing the interest rates specified in this subsection
by an interest rate of five percent per annum. Policies
issued by insurers doing business in this state may
provide for not more than one-year preliminary term
insurance: Provided, 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
insurer, 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 is-
sued in the same year and at the same age, together
with an amount which shall be equivalent to the ac-
cumulation of a net level premium sufficient to provide
for a pure endowment at the end of the premium pay-
ment 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 alien insurers and in partic-
ular cases of invalid lives and other extra hazards.

Reserves for all such policies and contracts may be
calculated, at the option of the insurer, according to
any standards which produce greater aggregate reserves
for all such policies and contracts than the minimum
reserves required by this subsection.
(3) Except as otherwise provided in subdivision (a) (B) of this subsection, this subsection shall apply to only those policies and contracts issued on or after the original operative date of the Standard Nonforfeiture Law (now section thirty of article thirteen of this chapter).

(a) (A) Except as otherwise provided in paragraph (B) of this subdivision, the minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation methods defined in subdivisions (b), (c) and (f), five percent interest for group annuity and pure endowment contracts and three and one-half percent interest for all other such policies and contracts, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after the third day of June, one thousand nine hundred seventy-four, four percent interest for such policies issued prior to the effective date of the amendment to this section of one thousand nine hundred seventy-seven, five and one-half percent interest for single premium life insurance policies and four and one-half percent interest for all other such policies issued on or after the effective date of the amendment to this section of one thousand nine hundred seventy-seven, 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 for such policies issued prior to the operative date of subsection four-a of section thirty, article thirteen of this chapter, and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date: Provided, That for any category of such policies issued on female risks all modified net premiums and present values referred to in this section may be calculated according to an age not more than six years younger than the actual age of the insured.

(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and ac-
cidental death benefits in such policies, — the 1941
Standard Industrial Mortality Table for such policies
issued prior to the operative date of subsection four-b
of section thirty, article thirteen of this chapter, and
the Commissioners 1961 Standard Industrial Mortality
Table for such policies issued on or after such operative
date.

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

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

(v) For total permanent disability benefits in or
supplementary to ordinary policies or contracts, — for
policies or contracts issued on or after the first day of
January, one thousand nine hundred sixty-six, the tables
of period two disablement rates and the one thousand
nine hundred thirty to one thousand nine hundred
fifty termination rates of the one thousand nine hundred
fifty-two disability study of the society of actuaries,
with due regard to the type of benefit; for policies or
contracts issued on or after the first day of January,
one thousand nine hundred sixty-one and prior
to the first day of January, one thousand nine hundred
sixty-six, either such tables or, at the option of the
company, the Class (3) Disability Table (1926); and
for policies issued prior to the first day of January, one
thousand nine hundred sixty-one, the Class (3) Dis-
ability Table (1926). Any such table shall, for active
lives, be combined with a mortality table permitted for
calculating the reserves for life insurance policies.
(vi) For accidental death benefits in or supplementary to policies, — for policies issued on or after the first day of January, one thousand nine hundred sixty-six, the 1959 Accidental Death Benefits Table; for policies issued on or after the first day of January, one thousand nine hundred sixty-one and prior to the first day of January, one thousand nine hundred sixty-six, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to the first day of January, one thousand nine hundred sixty-one, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vii) 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) The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph (B), as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the commissioners reserve valuation methods defined in subdivisions (b) and (c) and the following tables and interest rates:

(i) For individual annuity and pure endowment contracts issued prior to the effective date of the amendment to this section of one thousand nine hundred seventy-seven, excluding any disability and accidental death benefits in such contracts, — the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner, and six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts.

(ii) For individual single premium immediate annuity contracts issued on or after the effective date of the amendment to this section of one thousand nine hundred seventy-seven, excluding any disability and accidental death benefits in such contracts, — the 1971 Individual
Annuity Mortality Table, or any modification of this table approved by the commissioner, and seven and one-half percent interest.

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

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

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

After the third day of June, one thousand nine hundred seventy-four, any company may file with the commissioner a written notice of its election to comply with the provisions of this paragraph (B) after a specified date before the first day of January, nineteen hundred and seventy-nine, which shall be the operative date of this paragraph (B) for such company, provided that a company may elect a different operative date for individual annuity and pure endowment contracts from that elected
for group annuity and pure endowment contracts. If a
company makes no such election, the operative date of
this paragraph (B) for such company shall be the first day
of January, nineteen hundred and seventy-nine.

(b) Except as otherwise provided in subdivisions (c)
and (f), reserves according to the commissioner's 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 premi-
ums shall be the excess, if any, of the present value, at the
date of valuation, of such future guaranteed benefits
provided for by such policies, over the then present value
of any future modified net premium therefor. The modi-
ified 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 bene-
fits 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 provided for
after the first policy year, divided by the present value,
at the date of issue, of an annuity of one percent per
annum payable on the first and each subsequent anniver-
sary of such policy on which the premium falls due:

Provided, 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 commissioner's reserve
valuation method for (i) life insurance policies providing
for a varying amount of insurance or requiring the pay-
ment of varying premiums, (ii) group annuity and pure
endowment contracts purchased under a retirement plan
or plan of deferred compensation, established or main-
tained by an employer (including a partnership or sole
proprietorship) or by an employee organization, or by
both, other than a plan providing individual retirement
accounts or individual retirement annuities under section
408 of the Internal Revenue Code, as now or hereafter
amended, (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 and benefits provided by all other
annuity and pure endowment contracts, shall be calcu-
lated by a method consistent with the principles of this
subdivision (b), except that any extra premiums charged
because of impairments or special hazards shall be dis-
regarded in the determination of modified net premiums.

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

Reserves according to the commissioners annuity
reserve method for benefits under annuity or pure endow-
ment contracts, excluding any disability and accidental
death benefits in such contracts, shall be the greatest of
the respective excesses of the present values, at the date of
valuation, of the future guaranteed benefits, including
guaranteed nonforfeiture benefits, provided for by such
contracts at the end of each respective contract year,
over the present value, at the date of valuation, of any
future valuation considerations derived from future gross
considerations, required by the terms of such contract,
that become payable prior to the end of such respective
contract year. The future guaranteed benefits shall be
determined by using the mortality table, if any, and the
interest rate, or rates, specified in such contracts for deter-
mining guaranteed benefits. The valuation considerations
are the portions of the respective gross considerations
applied under the terms of such contracts to determine
nonforfeiture values.
(d) In no event shall an insurer'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 methods set forth in subdivisions (b), (c) and (d) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(e) Reserves for any category of policies, contracts or benefits as established by the commissioner may be calculated, at the option of the insurer, 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 for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(f) If in any contract year the gross premium charged by any life insurer on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon; but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium.

ARTICLE 13. LIFE INSURANCE.


(1) In the case of policies issued on or after the original operative date of this provision, no policy of life insurance, except as stated in subsection six, shall be delivered or issued for delivery 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 payment, the insurer will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit 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 insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified;

(c) That a specified paid-up nonforfeiture 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 continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary the insurer 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 nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture 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 insurer on the policy;

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the
policy are not less than the minimum values and benefits
required by or pursuant to the insurance law of the
state in which the policy is delivered; an explanation
of the manner in which the cash surrender values and
the paid-up nonforfeiture benefits are altered by the
existence of any paid-up additions credited to the policy
or any indebtedness to the company on the policy; if a
detailed statement of the method of computation of the
values and benefits shown in the policy is not stated
therein a statement that such method of computation
has been filed with the insurance supervisory official
of the state in which the policy is delivered; and a state-
ment of the method to be used in calculating the cash
surrender value and paid-up nonforfeiture benefit avail-
able under the policy on any policy anniversary beyond
the last anniversary for which such values and benefits
are consecutively shown in 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.

The insurer shall reserve the right to defer the pay-
ment of any cash surrender value for a period of six
months after demand therefor with surrender of 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 one, 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 subsections four, four-a and four-b, corre-
sponding to premiums which would have fallen due on
and after such anniversary, and (ii) the amount of any
indebtedness to the insurer on the policy. Any cash
surrender value available within thirty days after any
policy anniversary under any policy paid up by comple-
tion of all premium payments or any policy continued
under any paid-up nonforfeiture benefit, whether or not
required by subsection one, 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 insurer on the policy.

(3) Any paid-up nonforfeiture 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 specific period.

(4) Except as provided in the third paragraph of this subsection, 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, excluding extra premiums on a substandard policy, 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 percent 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 percent of the adjusted premium for the first policy year; (iv) twenty-five percent 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, That in applying the percentages specified in (iii) and (iv) above, no adjusted premium shall be deemed to exceed four percent of the amount of insurance or uniform 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 uniform amount thereof for the purpose of this subsection shall be deemed to be the uniform 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 date of issue as the benefits under the policy: Provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in the first two paragraphs of this subsection except that, for the purposes of (ii), (iii) and (iv) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

Except as otherwise provided in subsection four-a and four-b, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table: Provided, That for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years.
younger than the actual age of the insured, and such
calculations for all policies of industrial insurance shall
be made on the basis of the 1941 Standard Industrial
Mortality Table. All calculations shall be made on the
basis of the rate of interest, not exceeding three and
one-half percent per annum, specified in the policy for
calculating cash surrender values and paid-up nonfor-
feiture benefits: Provided, That in calculating the present
value of any paid-up term insurance with accompanying
pure endowment, if any, offered as a nonforfeiture bene-
fit, the rate of mortality assumed may be not more than
one hundred and thirty percent of the rates of mortality
according to such applicable table: Provided further,
That for insurance issued on a substandard 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 insurer and approved by the
commissioner.

(4a) In the case of ordinary policies issued on or after
the operative date of this subsection four-a as defined
herein, all adjusted premiums and present values referred
to in this section shall be calculated on the basis of
the Commissioners 1958 Standard Ordinary Mortality
Table and the rate of interest specified in the policy for
calculating cash surrender values and paid-up nonfor-
feiture benefits provided that such rate of interest shall
not exceed three and one-half percent per annum except
that a rate of interest not exceeding four percent per
annum may be used for policies issued on or after the
third day of June, one thousand nine hundred seventy-
four and prior to the effective date of the amendment
to this section of one thousand nine hundred seventy-
seven and a rate of interest not exceeding five and one-
half percent per annum may be used for policies issued
on or after the effective date of the amendment to this
section of one thousand nine hundred seventy-seven,
except that for any single premium whole life or endow-
ment insurance policy a rate of interest not exceeding
six and one-half percent per annum may be used: Pro-
vided, That for any category of ordinary insurance issued
on female risks, adjusted premiums and present values
may be calculated according to an age not more than
six years younger than the actual age of the insured:

Provided, however, That in calculating the present value
of any paid-up term insurance with accompanying pure
endowment, if any, offered as a nonforfeiture benefit,
the rates of mortality assumed may be not more than
those shown in the Commissioners 1958 Extended Term
Insurance Table: Provided further, That for insurance
issued on a substandard 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.

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

(4b) In the case of industrial policies issued on or
after the operative date of this subsection four-b as
defined herein, all adjusted premiums and present values
referred to in this section shall be calculated on the
basis of the Commissioners 1961 Standard Industrial
Mortality Table and the rate of interest specified in the
policy for calculating cash surrender values and paid-up
nonforfeiture benefits provided that such rate of interest
shall not exceed three and one-half percent per annum
except that a rate of interest not exceeding four percent
per annum may be used for policies issued on or after
the third day of June, one thousand nine hundred sev-
enty-four and prior to the effective date of the amend-
ment to this section of one thousand nine hundred
seventy-seven and a rate of interest not exceeding five
and one-half percent per annum may be used for policies issued on or after the effective date of the amendment to this section of one thousand nine hundred seventy-seven, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent per annum may be used: Provided, That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table: Provided, however, That for insurance issued on a substandard 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.

After the thirty-first day of May, one thousand nine hundred sixty-five, any company may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before the first day of January, one thousand nine hundred sixty-eight. After the filing of such notice, then upon such specified date (which shall be the operative date of this subsection for such company), this subsection shall become operative with respect to the industrial policies thereafter issued by such company. If a company makes no such election, the operative date of this subsection for such company shall be the first day of January, one thousand nine hundred sixty-eight.

(5) Any cash surrender value and any paid-up nonforfeiture 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 two, three, four, four-a and four-b 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 paid to provide such addi-
tions. Notwithstanding the provisions of subsection two,
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 re-
versionary or deferred reversionary annuity benefits,
(d) as term insurance benefits provided by a rider or
supplemental policy provision to which, if issued as a
separate policy, this subsection would not apply, (e) as
term insurance on the life of a child or on the lives of
children provided in a policy on the life of a parent of
the child, if such term insurance expires before the
child's age is twenty-six, is uniform in amount after the
child's age is one, and has not become paid up by reason
of the death of a parent of the child, and (f) as other
policy benefits additional to life insurance and endow-
ment benefits, and premiums for all such additional
benefits, shall be disregarded in ascertaining cash sur-
rrender values and nonforfeiture benefits required by this
section, and no such additional benefits shall be required
to be included in any paid-up nonforfeiture benefits.

(6) This section shall not apply to any reinsurance,
group insurance, pure endowment, annuity or reversion-
ary annuity contract, nor to any term policy of uniform
amount, or renewal thereof, of fifteen years or less ex-
piring 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 subsections
four, four-a and four-b, is less than the adjusted premium
so calculated on a policy issued at the same age and for
the same initial amount of insurance for a term defined
as follows—for ages at issue fifty and under, the term
shall be fifteen years, thereafter, the terms shall decrease
one year for each year of age beyond fifty, nor to any
policy which shall be delivered outside this state through
an agent or other representative of the insurer issuing
the policy.

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

2 (2) This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

3 (3) In the case of contracts issued on or after the operative date of this section as defined in subsection (12), no contract of annuity, except as stated in subsection (2), shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract:

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

5 (b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (5), (6), (8) and (10). The company shall reserve the right to defer the payment of
such cash surrender benefit for a period of six months after demand therefor with surrender of the contract;

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits; and

(d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

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

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

(a) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such
time at a rate of interest of three percent per annum of
percentages of the net considerations (as hereinafter de-
defined) paid prior to such time, decreased by the sum
of:
(i) Any prior withdrawals from or partial surrenders
of the contract accumulated at a rate of interest of three
percent per annum; and
(ii) The amount of any indebtedness to the company on
the contract, including interest due and accrued; and
increased by any existing additional amounts credited by
the company to the contract.

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

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

(1) The portion of the net consideration for the first
contract year to be accumulated shall be the sum of
sixty-five percent of the net consideration for the first
contract year plus twenty-two and one-half percent of the
excess of the net consideration for the first contract year
over the lesser of the net considerations for the second and third contract years.

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

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

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

(6) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from consideration paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.
(7) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on a basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

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

(9) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(10) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled
considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(11) For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (5), (6), (7), (8) and (10), additional benefits payable (a) in the event of total and permanent disability, (b) as reversionary annuity or deferred reversionary annuity benefits, or (c) as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(12) After the effective date of this section, 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 the second anniversary of the effective date of this section. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be the second anniversary of the 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

Chairman House Committee

Originated in the Senate.

To take effect from passage.

J. Pepler, Jr.
Clerk of the Senate

D.A. Blankenship
Clerk of the House of Delegates

W. Bethel Jr.
President of the Senate

Donald L. Zopp
Speaker House of Delegates

The within __________ approved this the 15

day of __________, 1977.

________________________
Governor