

No: 1662.

APPROVED AND SIGNED BY THE GOVERNOR

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



ENROLLED

HOUSE BILL No. 1662

(By Mr. Riffle.....)



Passed February 28, 1983

In Effect Ninety Days From Passage



ENROLLED

H. B. 1662

(By MR. RIFFLE)

[Passed February 28, 1983; in effect ninety days 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; and to amend and reenact section thirty, article thirteen, chapter thirty-three of said code, all relating to the standard valuation law for life insurance policies and to the standard nonforfeiture law for life insurance policies.

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; and that section thirty, article thirteen, chapter thirty-three of said code be amended and reenacted, all to read as follows:

ARTICLE 7. ASSETS AND LIABILITIES.

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

1 (1) The commissioner shall annually value, or cause to
2 be valued, the reserve liabilities (hereinafter called reserves)
3 for all outstanding life insurance policies and annuity and
4 pure endowment contracts of every life insurer transacting
5 insurance in this state, except that in the case of an alien
6 insurer such valuation shall be limited to its United States
7 business, and may certify the amount of any such reserves,
8 specifying the mortality table or tables, rate or rates of

9 interest and method (net level premium method or other) used
10 in the calculation of such reserves.

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

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

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

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

41 Except as otherwise provided in paragraph (B), subdivision
42 (a) of subsection (3), the legal minimum standard for con-
43 tracts issued before the first day of January, in the year one
44 thousand nine hundred one, shall be actuaries' or combined
45 experience table of mortality with interest at four percent per

46 annum, and for contracts issued on or after said date shall
47 be the "American Experience Table" of mortality with interest
48 at three and one-half percent per annum, except that the
49 minimum standard for the valuation of annuities and pure
50 endowments purchased under group annuity and pure en-
51 dowment contracts shall be that provided by this subsection
52 but replacing the interest rates specified in this subsection
53 by an interest rate of five percent per annum. Policies
54 issued by insurers doing business in this state may provide
55 for not more than one-year preliminary term insurance:
56 *Provided*, That if the premium charged for term insurance
57 under a limited payment life preliminary term policy pro-
58 viding for the payment of all premiums thereof in less than
59 twenty years from the date of the policy, or under an endow-
60 ment preliminary term policy, exceeds that charged for like
61 insurance under twenty payment life preliminary term policies
62 of the same insurer, the reserve thereon at the end of any
63 year, including the first, shall not be less than the reserve
64 on a twenty payment life preliminary term policy issued in
65 in the same year and at the same age, together with an
66 amount which shall be equivalent to the accumulation of a
67 net level premium sufficient to provide for a pure endowment
68 at the end of the premium payment period, equal to the
69 difference between the value at the end of such period of
70 such a twenty payment life preliminary term policy and a
71 full reserve at such time of such a limited payment life or
72 endowment policy.

73 The commissioner may vary the standards of interest and
74 mortality in the case of alien insurers and in particular cases
75 of invalid lives and other extra hazards.

76 Reserves for all such policies and contracts may be cal-
77 culated, at the option of the insurer, according to any stan-
78 dards which produce greater aggregate reserves for all such
79 policies and contracts than the minimum reserves required
80 by this subsection.

81 (3) Except as otherwise provided in paragraphs (B) to
82 (G), subdivision (a) of this subsection, this subsection shall
83 apply to only those policies and contracts issued on or after

84 the original operative date of the Standard Nonforfeiture Law
85 (now section thirty, article thirteen of this chapter).

86 (a) (A) Except as otherwise provided in paragraphs (B)
87 to (G) of this subdivision, the minimum standard for the
88 valuation of all such policies and contracts shall be the com-
89 missioners reserve valuation methods defined in subdivisions
90 (b), (c) and (f), five percent interest for group annuity and
91 pure endowment contracts and three and one-half percent
92 interest for all other such policies and contracts, or in the
93 case of policies and contracts, other than annuity and pure
94 endowment contracts, issued on or after the third day of
95 June, one thousand nine hundred seventy-four, four per-
96 cent interest for such policies issued prior to the sixth day of
97 April, one thousand nine hundred seventy-seven, five and one-
98 half percent interest for single premium life insurance policies
99 and four and one-half percent interest for all other such
100 policies issued on or after the sixth day of April, one thousand
101 nine hundred seventy-seven, and the following tables:

102 (i) For all ordinary policies of life insurance issued on
103 the standard basis, excluding any disability and accidental
104 death benefits in such policies, — the Commissioners 1941
105 Standard Ordinary Mortality Table for such policies issued
106 prior to the operative date of subsection (4a), section thirty,
107 article thirteen of this chapter, and the Commissioners 1958
108 Standard Ordinary Mortality Table for such policies issued
109 on or after the operative date of subsection (4a), section thirty,
110 article thirteen of this chapter and prior to the operative
111 date of subsection (4c), section thirty, article thirteen of
112 this chapter: *Provided*, That for any category of such policies
113 issued on female risks all modified net premiums and present
114 values referred to in this section may be calculated according
115 to an age not more than six years younger than the actual
116 age of the insured; and for such policies issued on or after
117 the operative date of subsection (4c), section thirty, article
118 thirteen of this chapter (I) the Commissioners 1980 Standard
119 Ordinary Mortality Table or (II) at the election of the company
120 for any one or more specified plans of life insurance, the
121 Commissioners 1980 Standard Ordinary Mortality Table with
122 ten-year selection mortality factors or (III) any ordinary

123 mortality table, adopted after one thousand nine hundred
124 eighty by the National Association of Insurance Commission-
125 ers, that is approved by regulation promulgated by the com-
126 missioner for use in determining the minimum standard of
127 valuation for such policies;

128 (ii) For all industrial life insurance policies issued on
129 the standard basis, excluding any disability and accidental
130 death benefits in such policies, — the 1941 Standard Indus-
131 trial Mortality Table for such policies issued prior to the
132 operative date of subsection (4b), section thirty, article thirteen
133 of this chapter, for such policies issued on or after such
134 operative date the Commissioners 1961 Standard Industrial
135 Mortality Table or any industrial mortality table, adopted after
136 one thousand nine hundred eighty by the National Association
137 of Insurance Commissioners, that is approved by regulation
138 promulgated by the commissioner for use in determining the
139 minimum standard of valuation for such policies;

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

146 (iv) For group annuity and pure endowment contracts,
147 excluding any disability and accidental death benefits in such
148 policies, — the Group Annuity Mortality Table for 1951,
149 any modification of such table approved by the commissioner,
150 or, at the option of the company, any of the tables or modifica-
151 tion of tables specified for individual annuity and pure en-
152 dowment contracts;

153 (v) For total and permanent disability benefits in or sup-
154 plementary to ordinary policies or contracts, — for policies
155 or contracts issued on or after the first day of January, one
156 thousand nine hundred sixty-six, the tables of period two
157 disablement rates and the one thousand nine hundred thirty
158 to one thousand nine hundred fifty termination rates of the
159 one thousand nine hundred fifty-two disability study of the
160 society of actuaries, with due regard to the type of benefits or

161 any tables of disablement rates and termination rates, adopted
162 after one thousand nine hundred eighty by the National
163 Association of Insurance Commissioners, that are approved
164 by regulation promulgated by the commissioner for use in de-
165 termining the minimum standard of valuation for such policies;
166 for policies or contracts issued on or after the first day of
167 January, one thousand nine hundred sixty-one, and prior to
168 the first day of January, one thousand nine hundred sixty-
169 six, either such tables or, at the option of the company,
170 the Class (3) Disability Table (1926); and for policies
171 issued prior to the first day of January, one thousand nine
172 hundred sixty-one, the Class (3) Disability Table (1926).
173 Any such table shall, for active lives, be combined with a
174 mortality table permitted for calculating the reserves for life
175 insurance policies;

176 (vi) For accidental death benefits in or supplementary
177 to policies, —for policies issued on or after the first day of
178 January, one thousand nine hundred sixty-six, the 1959
179 Accidental Death Benefits Table or any accidental death
180 benefits table, adopted after one thousand nine hundred
181 eighty by the National Association of Insurance Commis-
182 sioners, that is approved by regulation promulgated by the
183 commissioner for use in determining the minimum standard
184 of valuation for such policies; for policies issued on or
185 after the first day of January, one thousand nine hun-
186 dred sixty-one and prior to the first day of January, one
187 thousand nine hundred sixty-six, either such table or,
188 at the option of the company, the Inter-Company
189 Double Indemnity Mortality Table; and for policies issued
190 prior to the first day of January, one thousand nine hun-
191 dred sixty-one, the Inter-Company Double Indemnity Mortality
192 Table. Either table shall be combined with a mortality table
193 permitted for calculating the reserves for life insurance policies;
194 and

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

198 (B) Except as provided in paragraphs (C) to (G), the
199 minimum standard for the valuation of all individual annuity

200 and pure endowment contracts issued on or after the operative
201 date of this paragraph (B), as defined herein, and for all
202 annuities and pure endowments purchased on or after such
203 operative date under group annuity and pure endowment
204 contracts, shall be the commissioners reserve valuation methods
205 defined in subdivisions (b) and (c) and the following tables
206 and interest rates;

207 (i) For individual annuity and pure endowment contracts
208 issued prior to the sixth day of April, one thousand nine
209 hundred seventy-seven, excluding any disability and accidental
210 death benefits in such contracts, — the 1971 Individual
211 Annuity Mortality Table, or any modification of this table
212 approved by the commissioner, and six percent interest for
213 single premium immediate annuity contracts, and four percent
214 interest for all other individual annuity and pure endowment
215 contracts;

216 (ii) For individual single premium immediate annuity
217 contracts issued on or after the sixth day of April, one
218 thousand nine hundred seventy-seven, excluding any disability
219 and accidental death benefits in such contracts, — the 1971
220 Individual Annuity Mortality Table or any individual annuity
221 mortality table, adopted after one thousand nine hundred
222 eighty by the National Association of Insurance Commission-
223 ers, that is approved by regulation promulgated by the com-
224 missioner for use in determining the minimum standard of
225 valuation for such contracts, or any modification of these
226 tables approved by the commissioner, and seven and one-half
227 percent interest;

228 (iii) For individual annuity and pure endowment contracts
229 issued on or after the sixth day of April, one thousand nine
230 hundred seventy-seven, other than single premium immediate
231 annuity contracts, excluding any disability and accidental
232 death benefits in such contracts, — the 1971 Individual An-
233 nuity Mortality Table or any individual annuity mortality
234 table adopted after one thousand nine hundred eighty by
235 the National Association of Insurance Commissioners, that
236 is approved by regulation promulgated by the commissioner
237 for use in determining the minimum standard of valuation for

238 such contracts, or any modification of these tables approved
239 by the commissioner, and five and one-half percent interest for
240 single premium deferred annuity and pure endowment con-
241 tracts, and four and one-half percent interest for all other
242 such individual annuity and pure endowment contracts;

243 (iv) For all annuities and pure endowments purchased
244 prior to the sixth day of April, one thousand nine hundred
245 seventy-seven under group annuity and pure endowment con-
246 tracts, excluding any disability and accidental death benefits
247 purchased under such contracts, — the 1971 Group Annuity
248 Mortality Table, or any modification of this table approved
249 by the commissioner, and six percent interest; and

250 (v) For all annuities and pure endowments purchased on
251 or after the sixth day of April, one thousand nine hundred
252 seventy-seven, under group annuity and pure endowment con-
253 tracts, excluding any disability and accidental death benefits
254 purchased under such contracts, — the 1971 Group Annuity
255 Mortality Table or any group annuity mortality table, adopted
256 after one thousand nine hundred eighty by the National
257 Association of Insurance Commissioners, that is approved
258 by regulation promulgated by the commissioner for use in
259 determining the minimum standard of valuation for such an-
260 nuities and pure endowments, or any modification of these
261 tables approved by the commissioner, and seven and one-half
262 percent interest.

263 After the third day of June, one thousand nine hundred
264 seventy-four, any company may file with the commissioner a
265 written notice of its election to comply with the provisions
266 of this paragraph (B) after a specified date before the first
267 day of January, one thousand nine hundred seventy-nine,
268 which shall be the operative date of this paragraph (B) for
269 such company, provided that a company may elect a dif-
270 ferent operative date for individual annuity and pure endow-
271 ment contracts from that elected for group annuity and pure
272 endowment contracts. If a company makes no such election,
273 the operative date of this paragraph (B) for such company
274 shall be the first day of January, one thousand nine hundred
275 seventy-nine.

276 (C) The interest rates used in determining the minimum
277 standard for the valuation of:

278 (i) All life insurance policies issued in a particular calendar
279 year, on or after the operative date of subsection (4c), section
280 thirty, article thirteen of this chapter:

281 (ii) All individual annuity and pure endowment contracts
282 issued in a particular calendar year on or after the first
283 day of January, one thousand nine hundred eighty-two;

284 (iii) All annuities and pure endowments purchased in a
285 particular calendar year on or after the first day of January,
286 one thousand nine hundred eighty-two, under group annuity
287 and pure endowment contracts; and

288 (iv) The net increase, if any in a particular calendar year
289 after the first day of January, one thousand nine hundred
290 eighty-two, in amounts held under guaranteed interest con-
291 tracts shall be the calendar year statutory valuation interest
292 rates as defined in this subsection.

293 (D) The calendar year statutory valuation interest rates,
294 I, shall be determined as follows and the results rounded
295 to the nearer one quarter of one percent (1/4 of 1%):

296 (i) For life insurance,

$$297 \quad I = .03 + W (R1 - .03) + W/2 (R2 - .09);$$

298 (ii) For single premium immediate annuities and for an-
299 nuity benefits involving life contingencies arising from other
300 annuities with cash settlement options and from guaranteed
301 interest contracts with cash settlement options,

$$302 \quad I = .03 + W (R - .03)$$

303 where R1 is the lesser of R and .09;

304 R2 is the greater of R and .09,

305 R is the reference interest rate defined in this section and

306 W is the weighting factor defined in this section.

307 (iii) For other annuities with cash settlement options
308 and guaranteed interest contracts with cash settlement op-

309 tions, valued on an issue year basis, except as stated in (ii)
310 above, the formula for life insurance stated in (i) above shall
311 apply to annuities and guaranteed interest contracts with
312 guarantee durations in excess of ten years and the formula for
313 single premium immediate annuities state in (ii) above shall
314 apply to annuities and guaranteed interest contracts with
315 guarantee duration of ten years or less;

316 (iv) For other annuities with no cash settlement options
317 and for guaranteed interest contracts with no cash settlement
318 options, the formula for single premium immediate annuities
319 stated in (ii) above shall apply; and

320 (v) For other annuities with cash settlement options and
321 guaranteed interest contracts with cash settlement options,
322 valued on a change in fund basis, the formula for single
323 premium immediate annuities stated in (ii) above shall apply.

324 However, if the calendar year statutory valuation interest
325 rate for any life insurance policies issued in any calendar
326 year determined without reference to this sentence differs
327 from the corresponding actual rate for similar policies issued
328 in the immediately preceding calendar year by less than one
329 half of one percent ($\frac{1}{2}$ of 1%), the calendar year statutory
330 valuation interest rate for such life insurance policies shall
331 be equal to the corresponding actual rate for the immediately
332 preceding calendar year. For purposes of applying the im-
333 mediately preceding sentence, the calendar year statutory
334 valuation interest rate for life insurance policies issued in a
335 calendar year shall be determined for one thousand nine
336 hundred eighty (using the reference interest rate defined for
337 one thousand nine hundred seventy-nine) and shall be deter-
338 mined for each subsequent calendar year regardless of when
339 subsection (4c), section thirty, article thirteen of this chapter
340 becomes operative.

341 (E) The weighting factors referred to in the formulas stated
342 above are given in the following tables:

343 (i) Weighting Factors for Life Insurance:

344	Guarantee	
345	Duration	Weighting
346	(Years)	Factors
347	<hr/>	<hr/>
348	10 or less	.50
349	More than 10, but not more than 20	.45
350	More than 20	.35

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

356 (ii) Weighting factor for single premium immediate annui-
 357 ties and for annuity benefits involving life contingencies
 358 arising from other annuities with cash settlement options and
 359 guaranteed interest contracts with cash settlement options:

360 .80

361 (iii) Weighting factors for other annuities and for guaran-
 362 teed interests contracts, except as stated in (ii) above, shall be
 363 as specified in tables (a), (b) and (c) below, according to the
 364 rules and definitions in (d), (e) and (f) below:

365 (a) For annuities and guaranteed interest contracts valued
 366 on an issue year basis:

367	Guarantee	Weighting Factor		
368	Duration	for Plan Type		
369	(Years)	A	B	C
370	<hr/>	<hr/>	<hr/>	<hr/>
371	5 or less:	.80	.60	.50
372	More than 5, but not more than 10:	.75	.60	.50
373	More than 10, but not more than 20:	.65	.50	.45
374	More than 20:	.45	.35	.35

375 (b) For annuities and guaranteed in-
 376 terest contracts valued on a change in
 377 fund basis, the factors shown in (a)
 378 above;

379 (c) For annuities and guaranteed in-

380 terest contracts valued on an issue year
381 basis (other than those with no cash
382 settlement options) which do not guar-
383 antee interest on considerations received
384 more than one year after issue or pur-
385 chase and for annuities and guaranteed
386 interest contracts valued on a change
387 in fund basis which do not guarantee
388 interest rates on considerations received
389 more than twelve months beyond the
390 valuation date, the factors shown in (a)
391 or derived in (b) increased by: .05 .05 .05

392 (d) For other annuities with cash settlement options and
393 guaranteed interest contracts with cash settlement options,
394 the guarantee duration is the number of years for which the
395 contract guarantees interest rates in excess of the calendar
396 year statutory valuation interest rate for life insurance poli-
397 cies with guarantee duration in excess of twenty years. For
398 other annuities with no cash settlement options and for
399 guaranteed interest contracts with no cash settlement options,
400 the guarantee duration is the number of years from the date
401 of issue or date of purchase to the date annuity benefits are
402 scheduled to commence;

403 (e) Plan type as used in the above tables is defined as
404 follows:

405 Plan Type A:

406 At any time policyholder may withdraw funds only (1)
407 with an adjustment to reflect changes in interest rates or
408 asset values since receipt of the funds by the insurance
409 company or (2) without such adjustment but in installments
410 over five years or more or (3) as an immediate life annuity
411 or (4) no withdrawal permitted;

412 Plan Type B:

413 Before expiration of the interest rate guarantee, policyholder
414 may withdraw funds only (1) with an adjustment to reflect
415 changes in interest rates or asset values since receipt of the
416 funds by the insurance company or (2) without such ad-

417 justment but in installments over five years or more or
418 (3) no withdrawal permitted. At the end of interest rate
419 guarantec, funds may be withdrawn without such adjustment
420 in a single sum or installments over less than five years;
421 and

422 **Plan Type C:**

423 Policyholder may withdraw funds before expiration of in-
424 terest rate guarantee in a single sum or installments over
425 less than five years either (1) without adjustment to reflect
426 changes in interest rates or asset values since receipt of the
427 funds by the insurance company or (2) subject only to a
428 fixed surrender charge stipulated in the contract as a per-
429 centage of the fund.*

430 (f) A company may elect to value guaranteed interest
431 contracts with cash settlement options and annuities with
432 cash settlement options on either an issue year basis or on
433 a change in fund basis. Guaranteed interest contracts with
434 no cash settlement options and other annuities with no cash
435 settlement options must be valued on an issue year basis.
436 As used in this subsection, an issue year basis of valuation
437 refers to a valuation basis under which the interest rate
438 used to determine the minimum valuation standard for the
439 entire duration of the annuity or guaranteed interest con-
440 tract is the calendar year valuation interest rate for the year
441 of issue or year of purchase of the annuity or guaranteed
442 interest contract, and the change in fund basis of valuation
443 refers to a valuation basis under which the interest rate
444 used to determine the minimum valuation standard applic-
445 able to each change in the fund held under the annuity or
446 guaranteed interest contract is the calendar year valuation
447 interest rate for the year of the change in the fund.

448 (F) The reference interest rate referred to in paragraph
449 (D) shall be defined as follows:

450 (i) For all life insurance, the lesser of the average over a
451 period of thirty-six months and the average over a period of
452 twelve months, ending on the thirtieth day of June of the
453 calendar year next preceding the year of issue, of Moody's

454 Corporate Bond Yield Average — Monthly Average Corpor-
455 ates, as published by Moody's Investors Service, Inc;

456 (ii) For single premium immediate annuities and for an-
457 nuity benefits involving life contingencies arising from other
458 annuities with cash settlement options and guaranteed in-
459 terest contracts with cash settlement options, the average
460 over a period of twelve months, ending on the thirtieth day
461 of June of the calendar year of issue or year of purchase,
462 of Moody's Corporate Bond Yield Average — Monthly Aver-
463 age Corporates, as published by Moody's Investors Service,
464 Inc;

465 (iii) For other annuities with cash settlement options and
466 guaranteed interest contracts with cash settlement options,
467 valued on a year of issue basis, except as stated in (ii) above,
468 with guarantee duration in excess of ten years, the lesser
469 of the average over a period of thirty-six months and the
470 average over a period of twelve months, ending on the
471 thirtieth day of June of the calendar year of the issue or
472 purchase, of Moody's Corporate Bond Yield Average —
473 Monthly Average Corporates, as published by Moody's In-
474 vestors Service, Inc;

475 (iv) For other annuities with cash settlement options and
476 guaranteed interest contracts with cash settlement options,
477 valued on a year of issue basis, except as stated in (ii) above,
478 with guarantee duration of ten years or less, the average over
479 a period of twelve months, ending on the thirtieth day of
480 June of the calendar year of issue or purchase, of Moody's
481 Corporate Bond Yield Average — Monthly Average Corpor-
482 ates, as published by Moody's Investors Service, Inc;

483 (v) For other annuities with no cash settlement options
484 for guaranteed interest contracts with no cash settlement
485 options, the average over a period of twelve months, ending
486 on the thirtieth day of June of the calendar year of issue
487 or purchase, of Moody's Corporate Bond Yield Average —
488 Monthly Average Corporates, as published by Moody's In-
489 vestors Service, Inc; and

490 (vi) For other annuities with cash settlement options
491 and guaranteed interest contracts with cash settlement op-

492 tions, valued on a change in fund basis, except as stated in
493 (ii) above, the average over a period of twelve months, end-
494 ing on the thirtieth day of June of the calendar year of the
495 change in the fund, of Moody's Corporate Bond Yield Aver-
496 age — Monthly Average Corporates, as published by Moody's
497 Investors Service, Inc.

498 (G) In the event that Moody's Corporate Bond Yield
499 Average — Monthly Average Corporates is no longer pub-
500 lished by Moody's Investors Service, Inc., or in the event that
501 the National Association of Insurance Commissioners deter-
502 mines that Moody's Corporate Bond Yield Average — Month-
503 ly Average Corporates as published by Moody's Investors
504 Service, Inc., is no longer appropriate for the determination
505 of the reference interest rate, then an alternative method for
506 determination of the reference interest rate, which is adopted
507 by the National Association of Insurance Commissioners and
508 approved by regulation promulgated by the commissioner, may
509 be substituted.

510 (b) Except as otherwise provided in subdivisions (c)
511 and (f), reserves according to the commissioner's reserve
512 valuation method, for the life insurance and endow-
513 ment benefits of policies providing for a uniform amount of
514 insurance and requiring the payment of uniform pre-
515 miums, shall be the excess, if any, of the present value,
516 at the date of valuation, of such future guaranteed bene-
517 fits provided for by such policies, over the then present
518 value of any future modified net premiums therefor.
519 The modified net premiums for any such policy shall be
520 such uniform percentage of the respective contract pre-
521 miums for such benefits that the present value, at the
522 date of issue of the policy of all such modified net pre-
523 miums shall be equal to the sum of the then present
524 value of such benefits provided for by the policy and the excess
525 of (A) over (B), as follows:

526 (A) A net level annual premium equal to the present
527 value, at the date of issue, of such benefits provided
528 for after the first policy year, divided by the present
529 value, at the date of issue, of an annuity of one per-
530 cent per annum payable on the first and each subsequent

531 anniversary of such policy on which a premium falls due:
532 *Provided*, That such net level annual premium shall not
533 exceed the net level annual premium on the nineteen-
534 year premium whole life plan for insurance of the same
535 amount at an age one year higher than the age at issue of
536 such policy;

537 (B) A net one-year term premium for such benefits pro-
538 vided for in the first policy year: *Provided*, That for any
539 life insurance policy issued on or after the first day of
540 January, one thousand nine hundred eighty-five, for which
541 the contract premium in the first policy year exceeds that
542 of the second year and for which no comparable additional
543 benefit is provided in the first year for such excess and
544 which provides an endowment benefit or a cash surrender
545 value or a combination thereof in an amount greater than
546 such excess premium, the reserve according to the com-
547 missioners reserve valuation method as of any policy anni-
548 versary occurring on or before the assumed ending date
549 defined herein as the first policy anniversary on which the
550 sum of any endowment benefit and any cash surrender value
551 then available is greater than such excess premium shall,
552 except as otherwise provided in subdivision (f), be the
553 greater of the reserve as of such policy anniversary cal-
554 culated as described in the preceding paragraph of this sub-
555 division (b) and the reserve as of such policy anniversary
556 calculated as described in that paragraph, but with (i) the
557 value defined in subparagraph (A) of that paragraph being
558 reduced by fifteen percent of the amount of such excess first
559 year premium, (ii) all present values of benefits and premiums
560 being determined without reference to premiums or benefits
561 provided for by the policy after the assumed ending date,
562 (iii) the policy being assumed to mature on such date as an
563 endowment and (iv) the cash surrender value provided on
564 such date being considered as an endowment benefit. In
565 making the above comparison the mortality and interest bases
566 stated in paragraphs (A), (C), (D), (E), (F) and (G) of sub-
567 division (a) of this subsection shall be used.

568 Reserves according to the commissioners reserve valuation
569 method for (i) life insurance policies providing for a varying

570 amount of insurance or requiring the payment of varying
571 premiums, (ii) group annuity and pure endowment contracts
572 purchased under a retirement plan or plan of deferred com-
573 pensation, established or maintained by an employer (includ-
574 ing a partnership or sole proprietorship) or by an employee
575 organization, or by both, other than a plan providing in-
576 dividual retirement accounts or individual retirement annui-
577 ties under section 408 of the Internal Revenue Code, as now
578 or hereafter amended, (iii) disability and accidental death
579 benefits in all policies and contracts and (iv) all other bene-
580 fits, except life insurance and endowment benefits in life
581 insurance policies and benefits provided by all other annuity
582 and pure endowment contracts, shall be calculated by a
583 method consistent with the principles of this subdivision (b),
584 except that any extra premiums charged because of im-
585 pairments or special hazards shall be disregarded in the
586 determination of modified net premiums.

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

596 Reserves according to the commissioners annuity reserve
597 method for benefits under annuity or pure endowment con-
598 tracts, excluding any disability and accidental death benefits
599 in such contracts, shall be the greatest of the respective
600 excesses of the present values, at the date of valuation, of
601 the future guaranteed benefits, including guaranteed non-
602 forfeiture benefits, provided for by such contracts at the end
603 of each respective contract year, over the present value, at
604 the date of valuation, of any future valuation considerations
605 derived from future gross considerations, required by the
606 terms of such contract, that become payable prior to the end
607 of such respective contract year. The future guaranteed
608 benefits shall be determined by using the mortality table, if

609 any, and the interest rate, or rates, specified in such contracts
610 for determining guaranteed benefits. The valuation consider-
611 ations are the portions of the respective gross considerations
612 applied under the terms of such contracts to determine non-
613 forfeiture values.

614 (d) In no event shall a company's aggregate reserves for
615 all life insurance policies, excluding disability and accidental
616 death benefits, be less than the aggregate reserves calculated
617 in accordance with the methods set forth in subdivisions (b),
618 (c), (f) and (g) and the mortality table or tables and rate or
619 rates of interest used in calculating nonforfeiture benefits for
620 such policies.

621 (e) Reserves for any category of policies, contracts or
622 benefits as established by the commissioner may be cal-
623 culated, at the option of the insurer, according to any
624 standards which produce greater aggregate reserves for such
625 category than those calculated according to the minimum
626 standard herein provided, but the rate or rates of interest
627 used for policies and contracts, other than annuity and pure
628 endowment contracts, shall not be higher than the corres-
629 ponding rate or rates of interest used in calculating any non-
630 forfeiture benefits provided for therein.

631 Any such company which at any time shall have adopted
632 any standard of valuation producing greater aggregate re-
633 serves than those calculated according to the minimum stan-
634 dard herein provided may, with the approval of the com-
635 missioner, adopt any lower standard of valuation, but not
636 lower than the minimum herein provided.

637 (f) If in any contract year the gross premium charged by
638 any life insurer on any policy or contract is less than the
639 valuation net premium for the policy or contract calculated
640 by the method used in calculating the reserve thereon, but
641 using the minimum valuation standards of mortality and rate
642 of interest, the minimum reserve required for such policy or
643 contract shall be the greater of either the reserve calculated
644 according to the mortality table, rate of interest, and method
645 actually used for such policy or contract, or the reserve
646 calculated by the method actually used for such policy or

647 contract but using the minimum valuation standards of
648 mortality and rate of interest and replacing the valuation
649 net premium by the actual gross premium in each contract
650 year for which the valuation net premium exceeds the actual
651 gross premium. The minimum valuation standards of mortality
652 and rate of interest referred to in this section are those stan-
653 dards stated in paragraphs (A), (C), (D), (E), (F) and (G)
654 of subdivision (a): *Provided*, That for any life insurance policy
655 issued on or after the first day of January, one thousand
656 nine hundred eighty-five, for which the gross premium in the
657 first policy year exceeds that of the second year and for
658 which no comparable additional benefit is provided in the
659 first year for such excess and which provides an endowment
660 benefit or a cash surrender value or a combination thereof
661 in an amount greater than such excess premium, the fore-
662 going provisions of this subdivision (f) shall be applied as if
663 the method actually used in calculating the reserve for such
664 policy were the method described in subdivision (b), ignoring
665 the second paragraph of subdivision (b). The minimum
666 reserve at each policy anniversary of such a policy shall be
667 the greater of the minimum reserve calculated in accordance
668 with subdivision (b), including the second paragraph of that
669 subdivision and the minimum reserve calculated in accord-
670 ance with this subdivision (f).

671 (g) In the case of any plan of life insurance which pro-
672 vides for future premium determination, the amounts of which
673 are to be determined by the insurance company based on
674 the estimates of future experience, or in the case of any plan
675 of life insurance or annuity which is of such a nature that
676 the minimum reserves cannot be determined by the methods
677 described in subdivisions (b), (c) and (f), the reserves which
678 are held under any such plan must:

679 (A) Be appropriate in relation to the benefits and the
680 pattern of premiums for the plan; and

681 (B) Be computed by a method which is consistent with the
682 principles of this standard valuation law, as determined by
683 regulations promulgated by the commissioner.

ARTICLE 13. LIFE INSURANCE.**§33-13-30. Standard nonforfeiture law for life insurance.**

1 (1) In the case of policies issued on or after the original
2 operative date of this provision, no policy of life insurance,
3 except as stated in subsection six, shall be delivered or issued
4 for delivery in this state unless it shall contain in substance
5 the following provisions, or corresponding provisions which
6 in the opinion of the commissioner are at least as favorable
7 to the defaulting or surrendering policyholder as are the
8 minimum requirements hereinafter specified and are essen-
9 tially in compliance with subsection (5a) of this law:

10 (a) That, in the event of default in any premium payment,
11 the insurer will grant, upon proper request not later than
12 sixty days after the due date of the premium in default, a
13 paid-up nonforfeiture benefit on a plan stipulated in the
14 policy, effective as of such due date, of such amount as
15 may be hereinafter specified. In lieu of such stipulated paid-
16 up nonforfeiture benefit, the insurer may substitute, upon
17 proper request not later than sixty days after the due date
18 of the premium in default, an actuarially equivalent alternative
19 paid-up nonforfeiture benefit which provides a greater amount
20 or longer period of death benefits or, if applicable, a greater
21 amount or earlier payment of endowment benefits;

22 (b) That, upon surrender of the policy within sixty days
23 after the due date of any premium payment in default after
24 premiums have been paid for at least three full years, the
25 insurer will pay, in lieu of any paid-up nonforfeiture benefit,
26 a cash surrender value of such amount as may be herein-
27 after specified;

28 (c) That a specified paid-up nonforfeiture benefit shall
29 become effective as specified in the policy unless the per-
30 son entitled to make such election elects another available
31 option not later than sixty days after the due date of the
32 premium in default;

33 (d) That, if the policy shall have become paid up by
34 completion of all premium payments or if it is continued
35 under any paid-up nonforfeiture benefit which became effec-

36 tive on or after the third policy anniversary the insurer will
37 pay, upon surrender of the policy within thirty days after
38 any policy anniversary, a cash surrender value of such amount
39 as may be hereinafter specified;

40 (e) In the case of policies which cause on a basis guaran-
41 teed in the policy unscheduled changes in benefits or premiums,
42 or which provide an option for changes in benefits or pre-
43 miums other than a change to a new policy, a statement
44 of the mortality table, interest rate and method used in
45 calculating cash surrender values and the paid-up nonfor-
46 feiture benefits available under the policy. In the case of all
47 other policies, a statement of the mortality table and interest
48 rate used in calculating the cash surrender values and the
49 paid-up nonforfeiture benefits available under the policy, to-
50 gether with a table showing the cash surrender value, if any,
51 and paid-up nonforfeiture benefits, if any, available under the
52 policy on each policy anniversary either during the first twenty
53 policy years or during the term of the policy, whichever is
54 shorter, such values and benefits to be calculated upon the
55 assumption that there are no dividends or paid-up additions
56 credited to the policy and that there is no indebtedness to the
57 insurer on the policy; and

58 (f) A statement that the cash surrender values and the
59 paid-up nonforfeiture benefits available under the policy
60 are not less than the minimum values and benefits required
61 by or pursuant to the insurance law of the state in which
62 the policy is delivered; an explanation of the manner in
63 which the cash surrender values and the paid-up nonforfeiture
64 benefits are altered by the existence of any paid-up additions
65 credited to the policy or any indebtedness to the company on
66 the policy; if a detailed statement of the method of computa-
67 tion of the values and benefits shown in the policy is not
68 stated therein a statement that such method of computation
69 has been filed with the insurance supervisory official of the
70 state in which the policy is delivered; and a statement of the
71 method to be used in calculating the cash surrender value
72 and paid-up nonforfeiture benefits available under the policy
73 on any policy anniversary beyond the last anniversary for which

74 such values and benefits are consecutively shown in the
75 policy.

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

79 The insurer shall reserve the right to defer the payment
80 of any cash surrender value for a period of thirty days after
81 demand therefor with surrender of the policy.

82 (2) Any cash surrender value available under the policy
83 in the event of default in a premium payment due on any
84 policy anniversary, whether or not required by subsection
85 one, shall be an amount not less than the excess, if any, of
86 the present value, on such anniversary, of the future guaran-
87 teed benefits which would have been provided for by the
88 policy, including any existing paid-up additions, if there
89 had been no default, over the sum of (i) the then present
90 value of the adjusted premiums as defined in subsections
91 (4), (4a), (4b) and (4c), corresponding to premiums which
92 would have fallen due on and after such anniversary, and
93 (ii) the amount of any indebtedness to the insurer on the
94 policy: *Provided*, That for any policy issued on or after the
95 operative date of subsection (4c) as defined therein, which
96 provides supplemental life insurance or annuity benefits at
97 the option of the insured and for an identifiable additional
98 premium by rider or supplemental policy provision, the cash
99 surrender value referred to in the first paragraph of this
100 subsection shall be an amount not less than the sum of the
101 cash surrender value as defined in such paragraph for an
102 otherwise similar policy issued at the same age without such
103 rider or supplemental policy provision and the cash surrender
104 value as defined in such paragraph for a policy which pro-
105 vides only the benefits otherwise provided by such rider or
106 supplemental policy provision: *Provided, however*, That for
107 any family policy issued on or after the operative date of
108 subsection (4c) as defined therein, which defines a primary
109 insured and provides term insurance on the life of the spouse
110 of the primary insured expiring before the spouse's age
111 seventy-one, the cash surrender value referred to in the
112 first paragraph of this subsection shall be an amount not

113 less than the sum of the cash surrender value as defined in
114 such paragraph for an otherwise similar policy issued at the
115 same age without such term insurance on the life of the
116 spouse and the cash surrender value as defined in such para-
117 graph for a policy which provides only the benefits otherwise
118 provided by such term insurance on the life of the spouse.

119 Any cash surrender value available within thirty days after
120 any policy anniversary under any policy paid up by comple-
121 tion of all premium payments or any policy continued under
122 any paid-up nonforfeiture benefit, whether or not required
123 by subsection (1), shall be an amount not less than the
124 present value, on such anniversary, of the future guaranteed
125 benefits provided for by the policy, including any existing
126 paid-up additions decreased by any indebtedness to the in-
127 surer on the policy.

128 (3) Any paid-up nonforfeiture benefit available under the
129 policy in the event of default in a premium payment due on
130 any policy anniversary shall be such that its present value
131 as of such anniversary shall be at least equal to the cash
132 surrender value then provided for by the policy or, if none
133 is provided for, that cash surrender value which would have
134 been required by this section in the absence of the condition
135 that premiums shall have been paid for at least a specific
136 period.

137 (4) This subsection (4) shall not apply to policies issued
138 on or after the operative date of subsection (4c) as defined
139 therein. Except as provided in the third paragraph of this
140 subsection, the adjusted premiums for any policy shall be
141 calculated on an annual basis and shall be such uniform
142 percentage of the respective premiums specified in the policy
143 for each policy year, excluding extra premiums on a sub-
144 standard policy, that the present value, at the date of issue
145 of the policy, of all such adjusted premiums shall be equal
146 to the sum of (i) the then present value of the future guaranteed
147 benefits provided for by the policy; (ii) two percent of the
148 amount of insurance, if the insurance be uniform in amount,
149 or of the equivalent uniform amount, as hereinafter defined,
150 if the amount of insurance varies with duration of the policy;
151 (iii) forty percent of the adjusted premium for the first policy

152 year; (iv) twenty-five percent of either the adjusted premium
153 for the first policy year or the adjusted premium for a whole
154 life policy of the same uniform or equivalent uniform amount
155 with uniform premiums for the whole of life issued at the
156 same age for the same amount of insurance, whichever is
157 less: *Provided*, That in applying the percentages specified
158 in (iii) and (iv) above, no adjusted premium shall be deemed
159 to exceed four percent of the amount of insurance or uniform
160 amount equivalent thereto. The date of issue of a policy for
161 the purpose of this subsection shall be the date as of which
162 the rated age of the insured is determined.

163 In the case of a policy providing an amount of insurance
164 varying with duration of the policy, the equivalent uniform
165 amount thereof for the purpose of this subsection shall be
166 deemed to be the uniform amount of insurance provided by
167 an otherwise similar policy, containing the same endowment
168 benefit or benefits, if any, issued at the same age and for
169 the same term, the amount of which does not vary with
170 duration and the benefits under which have the same present
171 value at the date of issue as the benefits under the policy:
172 *Provided*, That in the case of a policy providing a varying
173 amount of insurance issued on the life of a child under
174 age ten, the equivalent uniform amount may be computed
175 as though the amount of insurance provided by the policy
176 prior to the attainment of age ten were the amount pro-
177 vided by such policy at age ten.

178 The adjusted premiums for any policy providing term
179 insurance benefits by rider or supplemental policy provision
180 shall be equal to (a) the adjusted premiums for an otherwise
181 similar policy issued at the same age without such term
182 insurance benefits, increased, during the period for which
183 premiums for such term insurance benefits are payable, by
184 (b) the adjusted premiums for such term insurance, the
185 foregoing items (a) and (b) being calculated separately and
186 as specified in the first two paragraphs of this subsection
187 except that, for the purposes of (ii), (iii) and (iv) of the
188 first such paragraph, the amount of insurance or equivalent
189 uniform amount of insurance used in the calculation of the
190 adjusted premiums referred to in (b) shall be equal to the

191 excess of the corresponding amount determined for the entire
192 policy over the amount used in the calculation of the adjusted
193 premiums in (a).

194 Except as otherwise provided in subsections (4a) and (4b),
195 all adjusted premiums and present values referred to in
196 this section shall for all policies of ordinary insurance
197 be calculated on the basis of the Commissioners 1941
198 Standard Ordinary Mortality Table: *Provided*, That for any
199 category of ordinary insurance issued on female risks, ad-
200 justed premiums and present values may be calculated ac-
201 cording to an age not more than three years younger than
202 the actual age of the insured, and such calculations for all
203 policies of industrial insurance shall be made on the basis
204 of the 1941 Standard Industrial Mortality Table. All cal-
205 culations shall be made on the basis of the rate of interest,
206 not exceeding three and one-half percent per annum, specified
207 in the policy for calculating cash surrender values and paid-
208 up nonforfeiture benefits: *Provided, however*, That in cal-
209 culating the present value of any paid-up term insurance with
210 accompanying pure endowment, if any, offered as a nonfor-
211 feiture benefit, the rates of mortality assumed may be not
212 more than one hundred and thirty percent of the rates of
213 mortality according to such applicable table: *Provided further*,
214 That for insurance issued on a substandard basis, the cal-
215 culation of any such adjusted premiums and present values
216 may be based on such other table of mortality as may be
217 specified by the insurer and approved by the commissioner.

218 (4a) This subsection (4a) shall not apply to ordinary
219 policies issued on or after the operative date of subsection
220 (4c) as defined therein. In the case of ordinary policies
221 issued on or after the operative date of this subsection
222 (4a) as defined herein, all adjusted premiums and present
223 values referred to in this section shall be calculated on
224 the basis of the Commissioners 1958 Standard Ordinary
225 Mortality Table and the rate of interest specified in the
226 policy for calculating cash surrender values and paid-up
227 nonforfeiture benefits provided that such rate of interest
228 shall not exceed three and one-half percent per annum except
229 that a rate of interest not exceeding four percent per annum

230 may be used for policies issued on or after the third day of
231 June, one thousand nine hundred seventy-four, and prior to
232 the sixth day of April, one thousand nine hundred seventy-
233 seven, and a rate of interest not exceeding five and one-half
234 percent per annum may be used for policies issued on or after
235 the sixth day of April, one thousand nine hundred seventy-
236 seven, except that for any single premium whole life or en-
237 dowment insurance policy a rate of interest not exceeding six
238 and one-half percent per annum may be used: *Provided*, That
239 for any category of ordinary insurance issued on female risks,
240 adjusted premiums and present values may be calculated
241 according to an age not more than six years younger than the
242 actual age of the insured: *Provided, however*, That in cal-
243 culating the present value of any paid-up term insurance
244 with accompanying pure endowment, if any, offered as a
245 nonfeiture benefit, the rates of mortality assumed may be
246 not more than those shown in the Commissioners 1958 Ex-
247 tended Term Insurance Table: *Provided further*, That for
248 insurance issued on a substandard basis, the calculation of any
249 such adjusted premiums and present values may be based on
250 such other table of mortality as may be specified by the
251 company and approved by the commissioner.

252 After the third day of June, one thousand nine hundred
253 fifty-nine, any company may file with the commissioner a
254 written notice of its election to comply with the provisions
255 of this subsection after a specified date before the first
256 day of January, one thousand nine hundred sixty-six. After
257 the filing of such notice, then upon such specified date (which
258 shall be the operative date of this subsection for such com-
259 pany), this subsection shall become operative with respect
260 to the ordinary policies thereafter issued by such company.
261 If a company makes no such election, the operative date of
262 this subsection for such company shall be the first day of
263 January, one thousand nine hundred sixty-six.

264 (4b) This subsection (4b) shall not apply to industrial
265 policies issued on or after the operative date of subsection
266 (4c) as defined therein. In the case of industrial policies
267 issued on or after the operative date of this subsection (4b)
268 as defined herein, all adjusted premiums and present values

269 referred to in this section shall be calculated on the basis
270 of the Commissioners 1961 Standard Industrial Mortality
271 Table and the rate of interest specified in the policy for
272 calculating cash surrender values and paid-up nonforfeiture
273 benefits provided that such rate of interest shall not exceed
274 three and one-half percent per annum except that a rate
275 of interest not exceeding four percent per annum may be
276 used for policies issued on or after the third day of June,
277 one thousand nine hundred seventy-four, and prior to the
278 sixth day of April, one thousand nine hundred seventy-seven,
279 and a rate of interest not exceeding five and one-half percent
280 per annum may be used for policies issued on or after the
281 sixth day of April, one thousand nine hundred seventy-seven,
282 except that for any single premium whole life or endowment
283 insurance policy a rate of interest not exceeding six and
284 one-half percent per annum may be used: *Provided*, That in
285 calculating the present value of any paid-up term insurance
286 with accompanying pure endowment, if any, offered as a
287 nonforfeiture benefit, the rates of mortality assumed may be
288 not more than those shown in the Commissioners 1961
289 Industrial Extended Term Insurance Table: *Provided, however*,
290 That for insurance issued on a substandard basis, the cal-
291 culation of any such adjusted premiums and present values
292 may be based on such other table of mortality as may be
293 specified by the company and approved by the commissioner.

294 After the effective date of this subsection (4b), any com-
295 pany may file with the commissioner a written notice of its
296 election to comply with the provisions of this subsection
297 after a specified date before the first day of January, one
298 thousand nine hundred sixty-eight. After the filing of such
299 notice, then upon such specified date (which shall be the
300 operative date of this subsection for such company), this
301 subsection shall become operative with respect to the in-
302 dustrial policies thereafter issued by such company. If a
303 company makes no such election, the operative date of this
304 subsection for such company shall be the first day of January,
305 one thousand nine hundred sixty-eight.

306 (4c) (a) This subsection shall apply to all policies issued
307 on or after the operative date of this subsection (4c) as

308 defined herein. Except as provided in the seventh para-
309 graph of this subsection, the adjusted premiums for any
310 policy shall be calculated on an annual basis and shall be
311 such uniform percentage of the respective premiums specified
312 in the policy for each policy year, excluding amounts pay-
313 able as extra premiums to cover impairments or special
314 hazards and also excluding any uniform annual contract
315 charge or policy fee specified in the policy in a statement
316 of the method to be used in calculating the cash surrender
317 values and paid-up nonforfeiture benefits, that the present
318 value, at the date of issue of the policy, of all adjusted
319 premiums shall be equal to the sum of (i) the then present
320 value of the future guaranteed benefits provided for by the
321 policy; (ii) one percent of either the amount of insurance,
322 if the insurance be uniform in amount, or the average amount
323 of insurance at the beginning of each of the first ten policy
324 years; and (iii) one hundred twenty-five percent of the
325 nonforfeiture net level premium as hereinafter defined:
326 *Provided*, That in applying the percentage specified in (iii)
327 above no nonforfeiture net level premium shall be deemed to
328 exceed four percent of either the amount of insurance, if
329 the insurance be uniform in amount, or the average amount
330 of insurance at the beginning of each of the first ten policy
331 years. The date of issue of a policy for the purpose of this
332 subsection shall be the date as of which the rated age of the
333 insured is determined.

334 (b) The nonforfeiture net level premium shall be equal
335 to the present value, at the date of issue of the policy, of
336 the guaranteed benefits provided for by the policy divided
337 by the present value, at the date of issue of the policy, of
338 an annuity of one per annum payable on the date of issue of
339 the policy and on each anniversary of such policy on which
340 a premium falls due;

341 (c) In the case of policies which cause on a basis guaran-
342 teed in the policy unscheduled changes in benefits or prem-
343 iums, or which provide an option for changes in benefits
344 or premiums other than a change to a new policy, the ad-
345 justed premiums and present values shall initially be cal-
346 culated on the assumption that future benefits and premiums

347 do not change from those stipulated at the date of issue
348 of the policy. At the time of any such change in the benefits
349 or premiums the future adjusted premiums, nonforfeiture
350 net level premiums and present values shall be recalculated
351 on the assumption that future benefits and premiums do not
352 change from those stipulated by the policy immediately after
353 the change;

354 (d) Except as otherwise provided in the seventh para-
355 graph of this subsection, the recalculated future adjusted
356 premiums for any such policy shall be such uniform percentage
357 of the respective future premiums specified in the policy
358 for each policy year, excluding amounts payable as extra
359 premiums to cover impairments and special hazards, and
360 also excluding any uniform annual contract charge or policy
361 fee specified in the policy in a statement of the method to
362 be used in calculating the cash surrender values and paid-up
363 nonforfeiture benefits, that the present value, at the time
364 of change to the newly defined benefits or premiums, of
365 all such future adjusted premiums shall be equal to the excess
366 of (A) the sum of (i) the then present value of the then
367 future guaranteed benefits provided for by the policy and
368 (ii) the additional expense allowance, if any, over (B) the
369 then cash surrender value, if any, or present value of any
370 paid-up nonforfeiture benefit under the policy;

371 (e) The additional expense allowance, at the time of the
372 change to the newly defined benefits or premiums, shall be
373 the sum of (i) one percent of the excess, if positive, of
374 the average amount of insurance at the beginning of each of
375 the first ten policy years subsequent to the change over the
376 average amount of insurance prior to the change at the
377 beginning of each of the first ten policy years subsequent
378 to the time of the most recent previous change, or, if there
379 has been no previous change, the date of issue of the policy;
380 and (ii) one hundred twenty-five percent of the increase,
381 if positive, in the nonforfeiture net level premium; and

382 (f) The recalculated nonforfeiture net level premium shall
383 be equal to the result obtained by dividing (A) by (B) where:

384 (A) Equals the sum of

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

390 (ii) The present value of the increase in future guaranteed
391 benefits provided for by the policy;

392 (B) Equals the present value of an annuity of one per
393 annum payable on each anniversary of the policy on or sub-
394 sequent to the date of change on which a premium falls due.

395 (g) Notwithstanding any other provisions of this sub-
396 section to the contrary, in the case of a policy issued on
397 a substandard basis which provides reduced graded amounts
398 of insurance so that, in each policy year, such policy has
399 the same tabular mortality cost as an otherwise similar
400 policy issued on the standard basis which provides higher
401 uniform amounts of insurance, adjusted premiums and present
402 values for such substandard policy may be calculated as if
403 it were issued to provide such higher uniform amounts of
404 insurance on the standard basis; and

405 (h) All adjusted premiums and present values referred to
406 in this section shall for all policies of ordinary insurance
407 be calculated on the basis of (i) the Commissioners 1980
408 Standard Ordinary Mortality Table or (ii) at the election of
409 the company for any one or more specified plans of life
410 insurance, the Commissioners 1980 Standard Ordinary Mor-
411 tality Table with ten-year select mortality factors; shall for
412 all policies of industrial insurance be calculated on the
413 basis of the Commissioners 1961 Standard Industrial Mor-
414 tality Table; and shall for all policies issued in a particular
415 calendar year be calculated on the basis of a rate of interest
416 not exceeding the nonforfeiture interest rate as defined in
417 this subsection for policies issued in that calendar year:
418 *Provided, That:*

419 (i) At the option of the company, calculations for all
420 policies issued in a particular calendar year may be made on
421 the basis of a rate of interest not exceeding the nonforfeiture

422 interest rate, as defined in this subsection, for policies issued
423 in the immediately preceding calendar year;

424 (ii) Under any paid-up nonforfeiture benefit, including
425 any paid-up dividend additions, any cash surrender value
426 available, whether or not required by subsection (1), shall
427 be calculated on the basis of the mortality table and rate
428 of interest used in determining the amount of such paid-up
429 nonforfeiture benefit and paid-up dividend additions, if any;

430 (iii) A company may calculate the amount of any guaran-
431 teed paid-up nonforfeiture benefit including any paid-up addi-
432 tions under the policy on the basis of an interest rate no
433 lower than that specified in the policy for calculating cash
434 surrender values;

435 (iv) In calculating the present value of any paid-up term
436 insurance with accompanying pure endowment, if any, offered
437 as a nonforfeiture benefit, the rates of mortality assumed
438 may be not more than those shown in the Commissioners
439 1980 Extended Term Insurance Table for policies of ordinary
440 insurance and not more than the Commissioners 1961 In-
441 dustrial Extended Term Insurance Table for policies of in-
442 dustrial insurance;

443 (v) For insurance issued on a substandard basis, the cal-
444 culation of any such adjusted premiums and present values
445 may be based on appropriate modifications of the afore-
446 mentioned tables;

447 (vi) Any ordinary mortality tables, adopted after 1980
448 by the National Association of Insurance Commissioners, that
449 are approved by regulation promulgated by the commissioner
450 for use in determining the minimum nonforfeiture standard
451 may be substituted for the Commissioners 1980 Standard
452 Ordinary Mortality Table with or without ten-year select
453 mortality factors or for the Commissioners 1980 Extended
454 Term Insurance Table; and

455 (vii) Any industrial mortality tables, adopted after 1980
456 by the National Association of Insurance Commissioners,
457 that are approved by regulation promulgated by the com-
458 missioner for use in determining the minimum nonforfeiture

459 standard may be substituted for the Commissioners 1961
460 Standard Industrial Mortality Table or the Commissioners
461 1961 Industrial Extended Term Insurance Table.

462 (i) The nonforfeiture interest rate per annum for any
463 policy issued in a particular calendar year shall be equal
464 to one hundred and twenty-five percent of the calendar year
465 statutory valuation interest rate for such policy as defined
466 in the Standard Valuation Law, rounded to the nearer one
467 quarter of one percent ($1/4$ of 1%);

468 (j) Notwithstanding any other provision in this code to
469 the contrary, any refiling of nonforfeiture values or their
470 methods of computation for any previously approved policy
471 form which involves only a change in the interest rate or
472 mortality table used to compute nonforfeiture values shall
473 not require refiling of any other provisions of that policy
474 form; and

475 (k) After the effective date of this subsection (4c), any
476 company may file with the commissioner a written notice
477 of its election to comply with the provisions of this section
478 after a specified date before the first day of January, one
479 thousand nine hundred eighty-nine, which shall be the oper-
480 ative date of this subsection for such company. If a company
481 makes no such election, the operative date of this section
482 for such company shall be the first day of January, one
483 thousand nine hundred eighty-nine.

484 (4d) In the case of any plan of life insurance which pro-
485 vides for future premium determination, the amounts of which
486 are to be determined by the insurance company based on
487 then estimates of future experience, or in the case of any
488 plan of life insurance which is of such a nature that minimum
489 values cannot be determined by the methods described in
490 subsections (1), (2), (3), (4), (4a), (4b) and (4c) herein, then:

491 (a) The commissioner must be satisfied that the benefits
492 provided under the plan are substantially as favorable to
493 policyholders and insureds as the minimum benefits other-
494 wise required by subsections (1), (2), (3), (4), (4a), (4b) or
495 (4c) herein;

496 (b) The commissioner must be satisfied that the benefits
497 and the pattern of premiums of that plan are not such as to
498 mislead prospective policyholders or insureds; and

499 (c) The cash surrender values and paid-up nonforfeiture
500 benefits provided by such plan must not be less than the
501 minimum values and benefits required for the plan computed
502 by a method consistent with the principles of this Standard
503 Nonforfeiture Law for Life Insurance, as determined by regu-
504 lations promulgated by the commissioner.

505 (5) Any cash surrender value and any paid-up nonforfeiture
506 benefit, available under the policy in the event of default
507 in a premium payment due at any time other than on the
508 policy anniversary, shall be calculated with allowance for the
509 lapse of time and the payment of fractional premiums beyond
510 the last preceding policy anniversary. All values referred to
511 in subsections (2), (3), (4), (4a), (4b) and (4c) may be cal-
512 culated upon the assumption that any death benefit is pay-
513 able at the end of the policy year of death. The net value
514 of any paid-up additions, other than paid-up term additions,
515 shall be not less than the amounts used to provide such
516 additions. Notwithstanding the provisions of subsection two,
517 additional benefits payable (i) in the event of death or dis-
518 memberment by accident or accidental means, (ii) in the
519 event of total and permanent disability, (iii) as reversion-
520 ary annuity or deferred reversionary annuity benefits, (iv)
521 as term insurance benefits provided by a rider or sup-
522 plemental policy provision to which, if issued as a separate
523 policy, this subsection would not apply, (v) as term in-
524 surance on the life of a child or on the lives of children
525 provided in a policy on the life of a parent of the child,
526 if such term insurance expires before the child's age is
527 twenty-six, is uniform in amount after the child's age is one,
528 and has not become paid up by reason of the death of a
529 parent of the child, and (vi) as other policy benefits addi-
530 tional to life insurance and endowment benefits, and pre-
531 miums for all such additional benefits, shall be disregarded
532 in ascertaining cash surrender values and nonforfeiture bene-
533 fits required by this section, and no such additional bene-

534 fits shall be required to be included in any paid-up nonfor-
535 feiture benefits.

536 (5a) This subsection, in addition to all other applicable
537 subsections of this law, shall apply to all policies issued on or
538 after the first day of January, one thousand nine hundred
539 eighty-five. Any cash surrender value available under the policy
540 in the event of default in a premium payment due on any
541 policy anniversary shall be in an amount which does not
542 differ by more than two tenths of one percent of either the
543 amount of insurance, if the insurance be uniform in amount,
544 or the average amount of insurance at the beginning of each
545 of the first ten policy years, from the sum of (a) the
546 greater of zero and the basic cash value hereinafter specified
547 and (b) the present value of any existing paid-up additions
548 less the amount of any indebtedness to the company under the
549 policy.

550 The basic cash value shall be equal to the present
551 value, on such anniversary, of the future guaranteed bene-
552 fits which would have been provided for by the policy, ex-
553 cluding any existing paid-up additions and before deduc-
554 tion of any indebtedness to the company, if there had been
555 no default, less the then present value of the nonforfeiture
556 factors, as hereinafter defined, corresponding to premiums
557 which would have fallen due on and after such anniversary:
558 *Provided*, That the effects on the basic cash value of supple-
559 mental life insurance or annuity benefits or of family coverage,
560 as described in subsection (2) or (4), whichever is ap-
561 plicable, shall be the same as are the effect specified in sub-
562 section (2) or (4), whichever is applicable, on the cash sur-
563 render values defined in that subsection.

564 The nonforfeiture factor for each policy year shall be an
565 amount equal to a percentage of the adjusted premium for
566 the policy year, as defined in subsection (4) or (4c), which-
567 ever is applicable. Except as is required by the next suc-
568 ceeding sentence of this paragraph, such percentage:

569 (a) Must be the same percentage for each policy year
570 between the second policy anniversary and the later of (i)
571 the fifth policy anniversary and (ii) the first policy anniver-

572 sary at which there is available under the policy a cash
573 surrender value in an amount, before including any paid-
574 up additions and before deducting any indebtedness, of at
575 least two tenths of one percent of either the amount of insur-
576 ance, if the insurance be uniform in amount, or the average
577 amount of insurance at the beginning of each of the first
578 ten policy years; and

579 (b) Must be such that no percentage after the later of
580 the two policy anniversaries specified in the preceding item
581 (a) may apply to fewer than five consecutive policy years:
582 *Provided*, That no basic cash value may be less than the
583 value which would be obtained if the adjusted premiums for
584 the policy, as defined in subsection (4) or (4c), whichever
585 is applicable, were substituted for the nonforfeiture factors
586 in the calculation of the basic cash value.

587 All adjusted premiums and present values referred to in
588 this subsection shall for a particular policy be calculated
589 on the same mortality and interest bases as are used in demon-
590 strating the policy's compliance with the other sections of
591 this law. The cash surrender values referred to in this sub-
592 section shall include any endowment benefits provided for by
593 the policy.

594 Any cash surrender value available other than in the event
595 of default in a premium payment due on a policy anniversary,
596 and the amount of any paid-up nonforfeiture benefit avail-
597 able under the policy in the event of default in a premium
598 payment shall be determined in manners consistent with the
599 manners specified for determining the analogous minimum
600 amounts in subsections (1), (2), (3), (4c) and (5). The
601 amounts of any cash surrender values and of any paid-up
602 nonforfeiture benefits granted in connection with additional
603 benefits such as those listed as items (i) through (vi) in sub-
604 section (5) shall conform with the principles of this subsec-
605 section (5a).

606 (6) This section shall not apply to any of the following:

607 (a) Reinsurance;

608 (b) Group insurance;

609 (c) Pure endowment;

610 (d) Annuity or reversionary annuity contract;

611 (e) Term policy of uniform amount, which provides no
612 guaranteed nonforfeiture or endowment benefits, or renewal
613 thereof, of twenty years or less expiring before age seventy-
614 one, for which uniform premiums are payable during the
615 entire term of the policy;

616 (f) Term policy of decreasing amount, which provides no
617 guaranteed nonforfeiture or endowment benefits, on which
618 each adjusted premium, calculated as specified in subsections
619 (4), (4a), (4b) and (4c), is less than the adjusted premium
620 so calculated on a policy of uniform amount, or renewal
621 thereof, which provides no guaranteed nonforfeiture or en-
622 dowment benefits, issued at the same age and for the same
623 initial amount of insurance and for a term of twenty years or
624 less expiring before age seventy-one, or which uniform prem-
625 iums are payable during the entire term of the policy;

626 (g) Policy, which provides no guaranteed nonforfeiture
627 or endowment benefits, for which no cash surrender value,
628 if any, or present value of any paid-up nonforfeiture benefit,
629 at the beginning of any policy year, calculated as specified
630 in subsections (2), (3), (4), (4a), (4b) and (4c), exceeds two
631 and one-half percent of the amount of insurance at the be-
632 ginning of the same policy year; and

633 (h) Policy which shall be delivered outside this state
634 through an agent or other representative of the insurer issuing
635 the policy. For purposes of determining the applicability of
636 this section, the age at expiry for a joint term life insurance
637 policy shall be the age at expiry of the oldest life.

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

James L. Davis
Chairman Senate Committee

Arnold Glazer
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Todd C. Wills
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Warren F. Hobson
President of the Senate

W. W. Lee, Jr.
Speaker House of Delegates

The within *is approved* this the *10th*
day of *March*, 1983.

John R. Roper
Governor



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SECY. OF STATE