WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999

ENROLLED

SENATE BILL NO. 214

(By Senator )

PASSED March 3, 1999

In Effect from Passage
(b) Reserve valuation. – The commissioner shall annually value, or cause to be valued, the reserve liabilities (herein-after called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, and may certify the amount of any such reserves specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. In calculating such reserves, he or she 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 company, he or she 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 for all valid 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.

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

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

(2) Actuarial analysis of reserves and assets supporting such reserves.
(A) Every life insurance company, except as exempted by
or pursuant to regulation, shall also annually include in
the opinion required by subdivision (1) of this subsection,
an opinion of the same qualified actuary as to whether the
reserves and related actuarial items held in support of the
policies and contracts specified by the commissioner by
regulation, when considered in light of the assets held by
the company with respect to the reserves and related
actuarial items, including, but not limited to, the invest-
ment earnings on the assets and the considerations antici-
pated to be received and retained under the policies and
contracts, make adequate provision for the company's
obligations under the policies and contracts, including, but
not limited to, the benefits under and expenses associated
with the policies and contracts.

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

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

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

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

(4) Requirement for all opinions.—Every opinion shall be
governed by the following provisions:
(A) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the thirty-first day of December, one thousand nine hundred ninety-five.

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

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

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

(E) For the purposes of this section, "qualified actuary" means a member in good standing of the American academy of actuaries who meets the requirements set forth in such regulations.

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

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

(H) Any memorandum in support of the opinion and any other material provided by the company to the commissioner in connection therewith shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by regulations promulgated hereunder: Provided, That the
memorandum or other material may otherwise be released by the commissioner: (i) With the written consent of the company; or (ii) to the American academy of actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

(d) Computation of minimum standards. — Except as otherwise provided in subsections (e), (f) and (m) of this section, the minimum standard for the valuation of all such policies and contracts issued prior to the effective date of this section shall be that provided by the laws in effect immediately prior to such date. Except as otherwise provided in subsections (e), (f) and (m) of this section, the minimum standard for the valuation of all such policies and contracts issued on or after the effective date of this section shall be the commissioners reserve valuation methods defined in subsections (g), (h), (k) and (m) of this section, three and one-half percent interest, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after the first day of June, one thousand nine hundred seventy-four, four percent interest for such policies issued prior to the sixth day of April, 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 and after the sixth day of April, one thousand nine hundred seventy-seven, and the following tables:

(1) 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 (4a), section
thirty, article thirteen of this chapter, the commissioners
1958 standard ordinary mortality table for such policies
issued on or after the operative date of said subsection and
prior to the operative date of subsection (4c) of said
section: 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; and for such policies issued
on or after the operative date of subsection (4c), section
thirty, article thirteen of this chapter: (i) The commission-
ers 1980 standard ordinary mortality table; or (ii) at the
election of the company for any one or more specified
plans of life insurance, the commissioners 1980 standard
ordinary mortality table with ten-year select mortality
factors; or (iii) any ordinary mortality table, adopted after
the year one thousand nine hundred eighty by the national
association of insurance commissioners, that is approved
by regulation promulgated by the commissioner for use in
determining the minimum standard of valuation for such
policies.

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

(3) For individual annuity and pure endowment con-
tracts, 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 modifi-
cation of either of these tables approved by the commis-
sioner.
(4) For group annuity and pure endowment contracts, 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 modifications of tables specified for individual annuity and pure endowment contracts.

(5) For total and 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 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates adopted after the year one thousand nine hundred eighty, by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; 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) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(6) For accidental death benefits in or supplementary to policies issued on or after the first day of January, one thousand nine hundred sixty-six, the 1959 accidental death benefits table or any accidental death benefits table adopted after the year one thousand nine hundred eighty by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies, 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 for calculating the reserves for life insurance policies.

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

(e) Computation of minimum standard for annuities. — Except as provided in subsection (f) of this section, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subsection, 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 commissioner's reserve valuation methods defined in subsections (g) and (h) of this section, and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts issued prior to the sixth day of April, 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;

(2) For individual single premium immediate annuity contracts issued on or after the sixth day of April, one thousand nine hundred seventy-seven, excluding any disability and accidental death benefits in such contracts: The 1971 individual annuity mortality table or any individual annuity mortality table, adopted after the year one thousand nine hundred eighty by the national association of insurance commissioners that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such
contracts, or any modification of these tables approved by the commissioner, and seven and one-half percent interest;

(3) For individual annuity and pure endowment contracts issued on or after the sixth day of April, 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 individual annuity mortality table adopted after the year one thousand nine hundred eighty by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables 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;

(4) For all annuities and pure endowments purchased prior to the sixth day of April, 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;

(5) For all annuities and pure endowments purchased on or after the sixth day of April, 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 group annuity mortality table adopted after the year one thousand nine hundred eighty by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables 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 subsection after a specified date before the first day of January, one thousand nine hundred seventy-nine, which shall be the operative date of this subsection for such company, provided, if a company makes no such election, the operative date of this section for such company shall be the first day of January, one thousand nine hundred seventy-nine.

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

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

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

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

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

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

(2) Calendar year statutory valuation interest rates.

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

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

\[ I = 0.03 + W(R_1 - 0.03) + \frac{W}{2}(R_2 - 0.09); \]

where \( R_1 \) is the lesser of \( R \) and 0.09,

\( R_2 \) is the greater of \( R \) and 0.09,

\( R \) is the reference interest rate defined in this subsection and \( W \) is the weighting factor defined in this section;

(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subparagraph (ii) of this paragraph, the formula for life insurance stated in subparagraph (i) of this paragraph shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten years and the formula for single premium immediate annuities stated in subparagraph (ii) of this paragraph shall apply to annuities and guaranteed interest contracts with guarantee duration of ten years or less;

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

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

(B) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one half of one percent the calendar year...
statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for the year one thousand nine hundred eighty (using the reference interest rate defined for the year one thousand nine hundred seventy-nine) and shall be determined for each subsequent calendar year regardless of when subsection (4c), section thirty, article thirteen of this chapter, as amended, becomes operative.

(3) Weighting factors.

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

(i) Weighting Factors for Life Insurance:

<table>
<thead>
<tr>
<th>Guarantee Duration (Years)</th>
<th>Weighting Factors</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 or less</td>
<td>.50</td>
</tr>
<tr>
<td>More than 10, but not more than 20</td>
<td>.45</td>
</tr>
<tr>
<td>More than 20</td>
<td>.35</td>
</tr>
</tbody>
</table>

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

(ii) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options: .80;

(iii) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in subparagraph (ii) of this paragraph, shall be as specified in clauses
(I), (II) and (III) below, according to the rules and definitions in clauses (IV), (V) and (VI) below:

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

<table>
<thead>
<tr>
<th>Guarantee Duration</th>
<th>Weighting Factor for Plan Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Years)</td>
<td>A</td>
</tr>
<tr>
<td>5 or less:</td>
<td>.80</td>
</tr>
<tr>
<td>More than 5, but not more than 10:</td>
<td>.75</td>
</tr>
<tr>
<td>More than 10, but not more than 20:</td>
<td>.65</td>
</tr>
<tr>
<td>More than 20:</td>
<td>.45</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Weighting Factor for Plan Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
</tr>
<tr>
<td>.15</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Weighting Factor for Plan Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
</tr>
<tr>
<td>.05</td>
</tr>
</tbody>
</table>

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

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

472 Plan Type A:

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

479 Plan Type B:

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

489 Plan Type C:

490 Policyholder may withdraw funds before expiration of
491 interest rate guarantee in a single sum or installments over
492 less than five years either: (1) Without adjustment to
493 reflect changes in interest rates or asset values since
494 receipt of the funds by the insurance company; or (2)
495 subject only to a fixed surrender charge stipulated in the
496 contract as a percentage of the fund.
(VI) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this section, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(4) Reference interest rate.

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

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

(ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve months, ending on the thirtieth day of June of the calendar year of issue or year of purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.
(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in subparagraph (ii) of this paragraph, with guarantee duration in excess of ten years, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on the thirtieth day of June of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned Corporate Bonds, as published by Moody’s Investors Service, Inc.

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

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

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

In the event that the monthly average of the composite yield on seasoned corporate bonds is no longer published by Moody's Investors Service, Inc., or in the event that the national association of insurance commissioners determines that the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the national association of insurance commissioners and approved by regulation promulgated by the commissioner, may be substituted.

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

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

(1) 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 per annum payable on the first and each subsequent anniversary of such policy on which a 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.
(2) A net one year term premium for such benefits provided for in the first policy year. Provided, That for any life insurance policy issued on or after the first day of January, one thousand nine hundred eighty-five, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners' reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subsection (k) of this section, be the greater of the reserve as of such policy anniversary calculated as described in the preceding paragraph and the reserve as of such policy anniversary calculated as described in that paragraph, but with: (i) The value defined in subdivision (1) of that paragraph being reduced by fifteen percent of the amount of such excess first year premium; (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date; (iii) the policy being assumed to mature on such date as an endowment; and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in subsections (d) and (f) of this section shall be used.

Reserves according to the commissioners' reserve valuation method for: (i) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums; (ii) 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 (26 U.S.C. §408), 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 calculated by a method consistent with the principles of the preceding paragraphs of this section.

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

This subsection 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 (26 U.S.C. §408), as now or hereafter amended.

Reserves according to the commissioners’ annuity reserve method for benefits under annuity or pure endowment 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 determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(i) **Minimum reserves.**
(1) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the effective date of this section, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (g), (h), (k) and (l) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(2) In no event shall the aggregate reserves for all policies, contracts and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by subsection (c) of this section.

(j) Optional reserve calculation.

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

Reserves for any category of policies, contracts or benefits as established by the commissioner, issued on or after the effective date of this section, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used 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 therein.

Any such company 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: Provided, That for the purposes of this section, the holding of additional reserves previously determined by a
qualified actuary to be necessary to render the opinion
required by subsection (c) of this section shall not be
considered to be the adoption of a higher standard of
valuation.

(k) Reserve calculation — valuation net premium exceeding the gross premium charged.

If in any contract year the gross premium charged by
any life insurance company 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 stand-
dards 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 valuation 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.
The minimum valuation standards of mortality and rate of
interest referred to in this section are those standards
stated in subsections (d) and (f) of this section: Provided,
That for any life insurance policy issued on or after the
first day of January, one thousand nine hundred
eighty-five, for which the gross premium in the first policy
year exceeds that of the second year and for which no
comparable additional benefit is provided in the first year
for such excess and which provides an endowment benefit
or a cash surrender value or a combination thereof in an
amount greater than such excess premium, the foregoing
provisions of this subsection shall be applied as if the
method actually used in calculating the reserve for such
policy were the method described in subsection (g) of this
section, ignoring the second paragraph of said subsection.
The minimum reserve at each policy anniversary of such a
policy shall be the greater of the minimum reserve calcu-
lated in accordance with said subsection, including the
second paragraph of that section, and the minimum
reserve calculated in accordance with this subsection.
(l) Reserve calculation – indeterminate premium plans.

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

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

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

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

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

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

(o) Effective date.

All acts and parts of acts inconsistent with the provision of this section are hereby repealed as of the effective date of this section. This section shall take effect the first day of January, one thousand nine hundred ninety-six.
Modification of the standard valuation law for certain types of contracts.

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

(2) The legislative rule filed in the state register on the twentieth day of August, one thousand nine hundred ninety-six, (valuation of life insurance policies, 114 CSR 49) is hereby disapproved and is not authorized for promulgation: Provided, That for purposes of determining the legal effects of the aforementioned rule, this provision shall be considered to have taken effect on the thirty-first day of December, one thousand nine hundred ninety-seven. This disapproval shall in no way limit the commissioner's power to promulgate in the future a rule similar or identical to the rule here disapproved.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within... this the 17th Day of... 199...

Governor
PRESENTED TO THE
GOVERNOR
Date. 3/15/99
Time 3:00 PM