

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 755

Introduced by Gloor, 35.

Read first time January 09, 2014

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend sections 44-403, 44-404,
2 44-407.23, 44-407.24, 44-407.26, and 44-408, Reissue
3 Revised Statutes of Nebraska; to adopt the Standard
4 Valuation Act; to change and eliminate provisions
5 relating to valuation of reserves; to provide for
6 applicability of provisions; to harmonize provisions; to
7 repeal the original sections; and to outright repeal
8 section 44-402, Reissue Revised Statutes of Nebraska.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 12 of this act shall be known
2 and may be cited as the Standard Valuation Act.

3 Sec. 2. Except as provided in sections 5, 6, and 7 of
4 this act, the Standard Valuation Act applies to those policies and
5 contracts issued on or after the operative date of the valuation
6 manual designated in subsection (2) of section 8 of this act.

7 Sec. 3. For the purposes of the Standard Valuation Act:

8 (1) Accident and health insurance means a contract that
9 incorporates morbidity risk and provides protection against economic
10 loss resulting from accident, sickness, or medical conditions and as
11 may be specified in the valuation manual;

12 (2) Appointed actuary means a qualified actuary who is
13 appointed in accordance with the valuation manual to prepare the
14 actuarial opinion required in sections 44-421 to 44-425 and section 5
15 of this act;

16 (3) Company means an entity which has (a) written,
17 issued, or reinsured life insurance contracts, accident and health
18 insurance contracts, or deposit-type contracts in this state and has
19 at least one such policy in force or on claim or (b) written, issued,
20 or reinsured life insurance contracts, accident and health insurance
21 contracts, or deposit-type contracts in any state and is required to
22 hold a certificate of authority to write life insurance, accident and
23 health insurance, or deposit-type contracts in this state;

24 (4) Deposit-type contract means a contract that does not
25 incorporate mortality or morbidity risks and as may be specified in

1 the valuation manual;

2 (5) Director means the Director of Insurance;

3 (6) Life insurance means a contract that incorporates
4 mortality risk, including annuity and pure endowment contracts, and
5 as may be specified in the valuation manual;

6 (7) Policyholder behavior means any action a
7 policyholder, a contract holder, or any other person with the right
8 to elect options, such as a certificate holder, may take under a
9 policy or contract subject to the act including, but not limited to,
10 lapse, withdrawal, transfer, deposit, premium payment, loan,
11 annuitization, or benefit elections prescribed by the policy or
12 contract but excluding events of mortality or morbidity that result
13 in benefits prescribed in their essential aspects by the terms of the
14 policy or contract;

15 (8) Principle-based valuation means a reserve valuation
16 that uses one or more methods or one or more assumptions determined
17 by the insurer and is required to comply with section 9 of this act
18 as specified in the valuation manual;

19 (9) Qualified actuary means an individual who is
20 qualified to sign the applicable statement of actuarial opinion in
21 accordance with the American Academy of Actuaries qualification
22 standards for actuaries signing such statements and who meets the
23 requirements specified in the valuation manual;

24 (10) Reserves means reserve liabilities;

25 (11) Tail risk means a risk that occurs either when the

1 frequency of low probability events is higher than expected under a
2 normal probability distribution or when there are observed events of
3 very significant size or magnitude; and

4 (12) Valuation manual means the valuation manual
5 prescribed by the director which conforms substantially to the
6 valuation manual developed and adopted by the National Association of
7 Insurance Commissioners.

8 Sec. 4. The director shall annually value, or cause to be
9 valued, the reserves for all outstanding life insurance contracts,
10 annuity and pure endowment contracts, accident and health contracts,
11 and deposit-type contracts of every company issued on or after the
12 operative date of the valuation manual. In lieu of the valuation of
13 the reserves required of a foreign or alien company, the director may
14 accept a valuation made, or caused to be made, by the insurance
15 supervisory official of any state or other jurisdiction when the
16 valuation complies with the minimum standard provided in the Standard
17 Valuation Act.

18 Sec. 5. (1) Every company with outstanding life insurance
19 contracts, accident and health insurance contracts, or deposit-type
20 contracts in this state and subject to regulation by the director
21 shall annually submit the opinion of the appointed actuary as to
22 whether the reserves and related actuarial items held in support of
23 the policies and contracts are computed appropriately, are based on
24 assumptions that satisfy contractual provisions, are consistent with
25 prior reported amounts, and comply with applicable laws of this

1 state. The valuation manual shall prescribe the specifics of this
2 opinion including any items deemed to be necessary to its scope.

3 (2) Every company with outstanding life insurance
4 contracts, accident and health insurance contracts, or deposit-type
5 contracts in this state and subject to regulation by the director,
6 except as exempted in the valuation manual, shall also annually
7 include in the opinion required by subsection (1) of this section an
8 opinion of the same appointed actuary as to whether the reserves and
9 related actuarial items held in support of the policies and contracts
10 specified in the valuation manual, when considered in light of the
11 assets held by the company with respect to the reserves and related
12 actuarial items, including, but not limited to, the investment
13 earnings on the assets and the considerations anticipated to be
14 received and retained under the policies and contracts, make adequate
15 provision for the company's obligations under the policies and
16 contracts, including, but not limited to, the benefits under and
17 expenses associated with the policies and contracts.

18 (3) Each opinion required by subsection (2) of this
19 section shall be governed by the following provisions:

20 (a) A memorandum, in form and substance as specified in
21 the valuation manual, and acceptable to the director, shall be
22 prepared to support each actuarial opinion; and

23 (b) If the company fails to provide a supporting
24 memorandum at the request of the director within a period specified
25 in the valuation manual or the director determines that the

1 supporting memorandum provided by the company fails to meet the
2 standards prescribed by the valuation manual or is otherwise
3 unacceptable to the director, the director may engage a qualified
4 actuary at the expense of the company to review the opinion and the
5 basis for the opinion and prepare the supporting memorandum required
6 by the director.

7 (4) Every opinion shall be governed by the following
8 provisions:

9 (a) The opinion shall be in form and substance as
10 specified in the valuation manual and acceptable to the director;

11 (b) The opinion shall be submitted with the annual
12 statement reflecting the valuation of the reserve liabilities for
13 each year ending on or after the operative date of the valuation
14 manual;

15 (c) The opinion shall apply to all policies and contracts
16 subject to subsection (2) of this section, plus other actuarial
17 liabilities as may be specified in the valuation manual;

18 (d) The opinion shall be based on standards adopted from
19 time to time by the Actuarial Standards Board or its successor and on
20 such additional standards as may be prescribed in the valuation
21 manual;

22 (e) In the case of an opinion required to be submitted by
23 a foreign or alien company, the director may accept the opinion filed
24 by that company with the insurance supervisory official of another
25 state if the director determines that the opinion reasonably meets

1 the requirements applicable to a company domiciled in this state;

2 (f) Except in cases of fraud or willful misconduct, the
3 appointed actuary shall not be liable for damages to any person other
4 than the insurance company and the director for any act, error,
5 omission, decision, or conduct with respect to the appointed
6 actuary's opinion; and

7 (g) Disciplinary action by the director against the
8 company or the appointed actuary shall be as set forth in rules and
9 regulations adopted and promulgated by the director.

10 (5)(a) Documents, materials, or other information in the
11 possession or control of the director that are a memorandum in
12 support of the opinion and any other material provided by the company
13 to the director in connection with the memorandum shall be
14 confidential by law and privileged, shall not be a public record
15 subject to disclosure by the director pursuant to sections 84-712 to
16 84-712.09, shall not be subject to subpoena, and shall not be subject
17 to discovery or admissible in evidence in any private civil action.
18 The director may use the documents, materials, or other information
19 in the furtherance of any regulatory or legal action brought as a
20 part of the director's official duties. Neither the director nor any
21 person who received documents, materials, or other information while
22 acting under the authority of the director shall be permitted or
23 required to testify in any private civil action concerning any
24 confidential documents, materials, or other information.

25 (b) In order to assist in the performance of the

1 director's duties, the director:

2 (i) May share documents, materials, or other information,
3 including the confidential and privileged documents, materials, or
4 information with other state, federal, and international regulatory
5 agencies, with the National Association of Insurance Commissioners
6 and its affiliates and subsidiaries, and with state, federal, and
7 international law enforcement authorities if the recipient agrees to
8 maintain the confidentiality and privileged status of the document,
9 material, or other information; and

10 (ii) May receive documents, materials, or other
11 information, including otherwise confidential and privileged
12 documents, materials, or other information, from the National
13 Association of Insurance Commissioners and its affiliates and
14 subsidiaries and from regulatory and law enforcement officials of
15 other foreign or domestic jurisdictions, and shall maintain as
16 confidential or privileged any document, material, or other
17 information received with notice or the understanding that it is
18 confidential or privileged under the laws of the jurisdiction that is
19 the source of the document, material, or other information.

20 (c) No waiver of any applicable privilege or claim of
21 confidentiality in the documents, materials, or other information
22 shall occur as a result of disclosure to the director under this
23 section or as a result of sharing information pursuant to this
24 subsection.

25 (d) A memorandum in support of the opinion, and any other

1 material provided by the company to the director in connection with
2 the memorandum, may be subject to subpoena for the purpose of
3 defending an action seeking damages from the actuary submitting the
4 memorandum by reason of an action required by this section or by
5 rules and regulations.

6 (e) The memorandum or other material may otherwise be
7 released by the director with the written consent of the company or
8 to the American Academy of Actuaries pursuant to a request stating
9 that the memorandum or other material is required for the purpose of
10 professional disciplinary proceedings and setting forth procedures
11 satisfactory to the director for preserving the confidentiality of
12 the memorandum or other material.

13 (f) Once any portion of the confidential memorandum is
14 cited by the company in its marketing or is cited before a
15 governmental agency other than a state insurance department or is
16 released by the company to the news media, all portions of the
17 confidential memorandum shall be no longer confidential.

18 Sec. 6. For accident and health insurance contracts
19 issued on or after the operative date of the valuation manual
20 designated in subsection (2) of section 8 of this act, the standard
21 prescribed in the valuation manual is the minimum standard of
22 valuation required under section 4 of this act. For disability and
23 sickness and accident insurance contracts issued on or after the
24 operative date defined in section 44-407.07 and prior to the
25 operative date of the valuation manual, the minimum standard of

1 valuation is the standard adopted and promulgated by the director by
2 rule and regulation.

3 Sec. 7. Section 44-404, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~44-404~~ (1) This section shall apply to only those
6 policies and contracts issued on or after the operative date defined
7 in section 44-407.07 (the Standard Nonforfeiture Law for Life
8 Insurance), except as otherwise provided in ~~subdivision (b)~~
9 subsection (3) of this section for all annuities and pure endowments
10 purchased on or after the operative date of such ~~subdivision (b)~~
11 subsection (3) under group annuity and pure endowment contracts
12 issued prior to such operative date defined in section 44-407.07.
13 This section shall apply to all policies and contracts prior to the
14 operative date of the valuation manual designated in subsection (2)
15 of section 8 of this act, and sections 8 and 9 of this act shall not
16 apply to any such policies and contracts.

17 ~~(a) (2)~~ Except as otherwise provided in ~~subdivisions (b)~~
18 ~~and (c) subsections (3) and (4)~~ of this section, the minimum standard
19 for the valuation of all such policies and contracts issued prior to
20 August 30, 1981, shall be that provided by the laws in effect
21 immediately prior to such date. Except as otherwise provided in
22 ~~subdivisions (b) and (c) subsections (3) and (4)~~ of this section, the
23 minimum standard for the valuation of all such policies and contracts
24 shall be the Commissioners Reserve Valuation Methods defined in
25 ~~subdivisions (d), (e), and (h) subsections (5), (6), and (9)~~ of this

1 section; five percent interest for group annuity and pure endowment
2 contracts and three and one-half percent interest for all other such
3 policies and contracts, or in the cases of policies and contracts,
4 other than annuity and pure endowment contracts, issued on or after
5 September 2, 1973, four percent interest for such policies issued
6 prior to August 24, 1979, and four and one-half percent interest for
7 such policies issued on or after August 24, 1979; and the following
8 tables: ~~(i)-(a)~~ (a) For all ordinary policies of life insurance issued on
9 the standard basis, excluding any disability and accidental death
10 benefits in such policies, ~~the~~ Commissioners 1941 Standard Ordinary
11 Mortality Table for such policies issued prior to the operative date
12 of section 44-407.08 (Standard Nonforfeiture Law for Life Insurance),
13 the Commissioners 1958 Standard Ordinary Mortality Table for such
14 policies issued on or after such operative date and prior to the
15 operative date of section 44-407.24, except ~~;~~ ~~Provided,~~ that for any
16 category of such policies issued on female risks, all modified net
17 premiums and present values referred to in this section may be
18 calculated according to an age not more than six years younger than
19 the actual age of the insured; and for such policies on or after the
20 operative date of section 44-407.24 ~~(a)-(i)~~ (i) the Commissioners 1980
21 Standard Ordinary Mortality Table, or ~~(b)-(ii)~~ (ii) at the election of the
22 company for any one or more specified plans of life insurance, the
23 Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year
24 Select Mortality Factors, or ~~(c)-(iii)~~ (iii) any ordinary mortality table,
25 adopted after 1980 by the National Association of Insurance

1 Commissioners, that is approved by regulation promulgated by the
2 Department of Insurance for use in determining the minimum standard
3 of valuation for such policies; ~~(ii)~~ (b) for all industrial life
4 insurance policies issued on the standard basis, excluding any
5 disability and accidental death benefits in such policies, the 1941
6 Standard Industrial Mortality Table for such policies issued prior to
7 the operative date of section 44-407.09 (Standard Nonforfeiture Law
8 for Life Insurance), and for such policies issued on or after such
9 operative date, the Commissioners 1961 Standard Industrial Mortality
10 Table or any industrial mortality table, adopted after 1980 by the
11 National Association of Insurance Commissioners, that is approved by
12 regulation promulgated by the Department of Insurance for use in
13 determining the minimum standard of valuation for such policies;
14 ~~(iii)~~ (c) for individual annuity and pure endowment contracts,
15 excluding any disability and accidental death benefits in such
16 policies, the 1937 Standard Annuity Mortality Table, or at the option
17 of the company, the Annuity Mortality Table for 1949, Ultimate, or
18 any modification of either of these tables approved by the Department
19 of Insurance; ~~(iv)~~ (d) for group annuity and pure endowment
20 contracts, excluding any disability and accidental death benefits in
21 such policies, the Group Annuity Mortality Table for 1951, any
22 modification of such table approved by the Department of Insurance,
23 or, at the option of the company, any of the tables or modifications
24 of tables specified for individual annuity and pure endowment
25 contracts; ~~(v)~~ (e) for total and permanent disability benefits in or

1 supplementary to ordinary policies or contracts—for policies or
2 contracts issued on or after January 1, 1966, the tables of Period 2
3 disablement rates and the 1930 to 1950 termination rates of the 1952
4 Disability Study of the Society of Actuaries, with due regard to the
5 type of benefit, or any tables of disablement rates and termination
6 rates, adopted after 1980 by the National Association of Insurance
7 Commissioners, that are approved by regulation promulgated by the
8 Department of Insurance for use in determining the minimum standard
9 of valuation for such policies; for policies or contracts issued on
10 or after January 1, 1961, and prior to January 1, 1966, either such
11 tables or, at the option of the company, the Class (3) Disability
12 Table (1926); and for policies issued prior to January 1, 1961, the
13 Class (3) Disability Table (1926). Any such table shall, for active
14 lives, be combined with a mortality table permitted for calculating
15 the reserves for life insurance policies; ~~(vi)~~ (f) for accidental
16 death benefits in or supplementary to policies—for policies issued on
17 or after January 1, 1966, the 1959 Accidental Death Benefits Table;
18 for policies issued on or after January 1, 1961, and prior to January
19 1, 1966, either such table or, at the option of the company, the
20 Inter-Company Double Indemnity Mortality Table; and for policies
21 issued prior to January 1, 1961, the Inter-Company Double Indemnity
22 Mortality Table. Either table shall be combined with a mortality
23 table permitted for calculating the reserves for life insurance
24 policies; and ~~(vii)~~ (g) for group life insurance, life insurance
25 issued on the substandard basis and other special benefits—such

1 tables as may be approved by the Department of Insurance.

2 ~~(b)-(3)~~ Except as provided in ~~subdivision (e)~~ subsection
3 (4) of this section, the minimum standard for the valuation of all
4 individual annuity and pure endowment contracts issued on or after
5 the operative date of this subdivision, as defined herein, and for
6 all annuities and pure endowments purchased on or after such
7 operative date under group annuity and pure endowment contracts,
8 shall be the Commissioners Reserve Valuation Methods defined in
9 ~~subdivisions (d) and (e)~~ subsections (5) and (6) of this section and
10 the following tables and interest rates:

11 ~~(i)-(a)~~ For individual annuity and pure endowment
12 contracts issued prior to August 24, 1979, excluding any disability
13 and accidental death benefits in such contracts—the 1971 Individual
14 Annuity Mortality Table, or any modification of this table approved
15 by the Department of Insurance, and six percent interest for single
16 premium immediate annuity contracts, and four percent interest for
17 all other individual annuity and pure endowment contracts;

18 ~~(ii)-(b)~~ For individual single premium immediate annuity
19 contracts issued on or after August 24, 1979, excluding any
20 disability and accidental death benefits in such contracts—the 1971
21 Individual Annuity Mortality Table, or any individual annuity
22 mortality table, adopted after 1980 by the National Association of
23 Insurance Commissioners, that is approved by regulation promulgated
24 by the Department of Insurance for use in determining the minimum
25 standard of valuation for such contracts, or any modification of

1 these tables approved by the director, and seven and one-half percent
2 interest;

3 ~~(iii)~~—(c) For individual annuity and pure endowment
4 contracts issued on or after August 24, 1979, other than single
5 premium immediate annuity contracts, excluding any disability and
6 accidental death benefits in such contracts—the 1971 Individual
7 Annuity Table, or any individual annuity mortality table, adopted
8 after 1980 by the National Association of Insurance Commissioners,
9 that is approved by regulation promulgated by the Department of
10 Insurance for use in determining the minimum standard of valuation
11 for such contracts, or any modification of these tables approved by
12 the director, and five and one-half percent interest for single
13 premium deferred annuity and pure endowment contracts and four and
14 one-half percent interest for all other such individual annuity and
15 pure endowment contracts;

16 ~~(iv)~~—(d) For all annuities and pure endowments purchased
17 prior to August 24, 1979, under group annuity and pure endowment
18 contracts, excluding any disability and accidental death benefits
19 purchased under such contracts—the 1971 Group Annuity Mortality
20 Table, or any modification of this table approved by the Department
21 of Insurance, and six percent interest; and

22 ~~(v)~~—(e) For all annuities and pure endowments purchased
23 on or after August 24, 1979, under group annuity and pure endowment
24 contracts, excluding any disability and accidental death benefits
25 purchased under such contracts—the 1971 Group Annuity Mortality

1 Table, or any group annuity mortality table, adopted after 1980 by
2 the National Association of Insurance Commissioners, that is approved
3 by regulation promulgated by the Department of Insurance for use in
4 determining the minimum standard of valuation for such annuities and
5 pure endowments, or any modification of these tables approved by the
6 director, and seven and one-half percent interest.

7 ~~(c)-(4)(a)~~ The calendar year statutory valuation interest
8 rates as defined in this ~~subdivision~~ subsection shall be used in
9 determining the minimum standard for the valuation of all life
10 insurance policies issued in a particular calendar year, on or after
11 the operative date of section 44-407.02; all individual annuity and
12 pure endowment contracts issued in a particular calendar year on or
13 after January 1 of the calendar year next following August 30, 1981;
14 all annuities and pure endowments purchased in a particular calendar
15 year on or after January 1 of the calendar year next following August
16 30, 1981, under group annuity and pure endowment contracts; and the
17 net increase, if any, in a particular calendar year after January 1
18 of the calendar year next following August 30, 1981, in amounts held
19 under guaranteed interest contracts.

20 (b)(i) The calendar year statutory valuation interest
21 rates shall be determined as provided in ~~this paragraph~~ subdivision
22 (4)(b)(i) of this section and the results rounded to the nearer one-
23 quarter of one percent: ~~(i)-(A)~~ For life insurance, the calendar year
24 statutory valuation interest rate shall be equal to the sum of ~~(a)~~
25 (I) three percent; ~~(b)-(II)~~ the weighting factor defined in this

1 ~~subdivision~~subsection multiplied by the difference between (1) the
2 lesser of the reference interest rate defined in this ~~subdivision~~
3 subsection and nine percent, and (2) three percent; and (c) ~~(III)~~
4 one-half the weighting factor defined in this ~~subdivision~~subsection
5 multiplied by the difference between (1) the greater of the reference
6 interest rate defined in this ~~subdivision~~subsection and nine
7 percent, and (2) nine percent. (ii) ~~(B)~~ For single premium immediate
8 annuities and for annuity benefits involving life contingencies
9 arising from other annuities with cash settlement options and from
10 guaranteed interest contracts with cash settlement options, the
11 calendar year statutory valuation interest rates shall be equal to
12 the sum of (a) ~~(I)~~ three percent and (b) ~~(II)~~ the weighting factor
13 defined in this ~~subdivision~~subsection multiplied by the difference
14 between (1) the reference interest rate defined in this ~~subdivision~~
15 subsection and (2) three percent. (iii) ~~(C)~~ For other annuities with
16 cash settlement options and guaranteed interest contracts with cash
17 settlement options, valued on an issue-year basis, except as stated
18 in ~~(ii) above, subdivision (4)(b)(i)(B) of this section,~~ the formula
19 for life insurance in ~~(i) above subdivision (4)(b)(i)(A) of this~~
20 section shall apply to annuities and guaranteed interest contracts
21 with guarantee durations in excess of ten years, and the formula for
22 single premium immediate annuities in ~~(ii) above subdivision (4)(b)~~
23 (i)(B) of this section shall apply to annuities and guaranteed
24 interest contracts with guarantee duration of ten years or less. (iv)
25 ~~(D)~~ For other annuities with no cash settlement options and for

1 guaranteed interest contracts with no cash settlement options, the
2 formula for single premium immediate annuities in ~~(ii) above~~
3 subdivision (4)(b)(i)(B) of this section shall apply. ~~(v) (E)~~ For
4 other annuities with cash settlement options and guaranteed interest
5 contracts with cash settlement options, valued on a change in fund
6 basis, the formula for single premium immediate annuities in ~~(ii)~~
7 above subdivision (4)(b)(i)(B) of this section shall apply. ~~(vi) (F)~~
8 However, if the calendar year statutory valuation interest rate for
9 any life insurance policies issued in any calendar year determined
10 without reference to this sentence differs from the corresponding
11 actual rate for similar policies issued in the immediately preceding
12 calendar year by less than one-half of one percent, the calendar year
13 statutory valuation interest rate for such life insurance policies
14 shall be equal to the corresponding actual rate for the immediately
15 preceding calendar year. For purposes of applying the immediately
16 preceding sentence, the calendar year statutory valuation interest
17 rate for life insurance policies issued in a calendar year shall be
18 determined for 1980 (using the reference interest rate defined for
19 1979) and shall be determined for each subsequent calendar year
20 regardless of when section 44-407.24 becomes operative.

21 (ii) The weighting factors referred to in the formulas
22 stated in this ~~subdivision~~ subsection are as follows: ~~(i) (A)~~ For
23 life insurance, with a guarantee duration of ten years or less, the
24 weighting factor is .50; with a guarantee duration of more than ten
25 years but not more than twenty years, the weighting factor is .45;

1 and with a guarantee duration of more than twenty years, the
2 weighting factor is .35. For life insurance, the guarantee duration
3 is the maximum number of years the life insurance can remain in force
4 on a basis guaranteed in the policy or under options to convert to
5 plans of life insurance with premium rates or nonforfeiture values or
6 both which are guaranteed in the original policy. ~~(ii)~~—(B) The
7 weighting factor for single premium immediate annuities and for
8 annuity benefits involving life contingencies arising from other
9 annuities with cash settlement options and guaranteed interest
10 contracts with cash settlement options is .80. ~~(iii)~~—(C) The
11 weighting factors for other annuities and for guaranteed interest
12 contracts, except as stated in ~~(ii) above, subdivision (4)(b)(ii)(B)~~
13 of this section, are as follows, according to plan type as defined in
14 this subdivision: ~~(a)~~—(I) For annuities and guaranteed interest
15 contracts valued on an issue-year basis with a guarantee duration of
16 five years or less, the weighting factor is .80 for plan type A, .60
17 for plan type B, and .50 for plan type C; with a guarantee duration
18 of more than five years but not more than ten years, the weighting
19 factor is .75 for plan type A, .60 for plan type B, and .50 for plan
20 type C; with a guarantee duration of more than ten years but not more
21 than twenty years, the weighting factor is .65 for plan type A, .50
22 for plan type B, and .45 for plan type C; and with more than twenty
23 years guarantee duration the weighting factor is .45 for plan type
24 A, .35 for plan type B, and .35 for plan type C. ~~(b)~~—(II) For
25 annuities and guaranteed interest contracts valued on an issue-year

1 basis (other than those with no cash settlement options) which do not
2 guarantee interest on considerations received more than one year
3 after issue or purchase, the weighting factors are the factors shown
4 in ~~(iii)(a) above~~ subdivision (4)(b)(ii)(C)(I) of this section
5 increased by .05 for all plan types. ~~(e)-(III)~~ For annuities and
6 guaranteed interest contracts valued on a change in fund basis, the
7 weighting factors are the factors as computed in ~~(iii)(b) above~~
8 subdivision (4)(b)(ii)(C)(II) of this section increased by .10 for
9 plan type A, increased by .20 for plan type B, and not increased for
10 plan type C. ~~(d)-(IV)~~ For annuities and guaranteed interest contracts
11 valued on a change in fund basis which do not guarantee interest
12 rates on considerations received more than twelve months beyond the
13 valuation date, the weighting factors are the factors as computed in
14 ~~(iii)(c) above~~ subdivision (4)(b)(ii)(C)(III) of this section
15 increased by .05 for all plan types. For other annuities with cash
16 settlement options and guaranteed interest contracts with cash
17 settlement options, the guarantee duration is the number of years for
18 which the contract guarantees interest rates in excess of the
19 calendar year statutory valuation interest rate for life insurance
20 policies with guarantee duration in excess of twenty years. For other
21 annuities with no cash settlement options and for guaranteed interest
22 contracts with no cash settlement options, the guarantee duration is
23 the number of years from the date of issue or date of purchase to the
24 date annuity benefits are scheduled to commence.

25 (c) Plan types used in this ~~subdivision~~ subsection are

1 defined as follows: Under plan type A, at any time a policyholder may
2 withdraw funds only with an adjustment to reflect changes in interest
3 rates or asset values since receipt of the funds by the insurance
4 company, without such an adjustment but in installments over five
5 years or more, or as an immediate life annuity, or no withdrawal may
6 be permitted. Under plan type B, before expiration of the interest
7 rate guarantee, a policyholder may withdraw funds only with an
8 adjustment to reflect changes in interest rates or asset values since
9 receipt of the funds by the insurance company or without such an
10 adjustment but in installments over five years or more, or no
11 withdrawal may be permitted. At the end of interest rate guarantee,
12 funds may be withdrawn without such adjustment in a single sum or
13 installments over less than five years. Under plan type C, a
14 policyholder may withdraw funds before expiration of the interest
15 rate guarantee in a single sum or installments over less than five
16 years either without an adjustment to reflect changes in interest
17 rates or asset values since receipt of the funds by the insurance
18 company, or subject only to a fixed surrender charge stipulated in
19 the contract as a percentage of the fund.

20 (d) A company may elect to value guaranteed interest
21 contracts with cash settlement options and annuities with cash
22 settlement options on either an issue-year basis or on a change in
23 fund basis. Guaranteed interest contracts with no cash settlement
24 options and other annuities with no cash settlement options must be
25 valued on an issue-year basis. As used in this ~~subdivision,~~

1 subsection, an issue-year basis of valuation refers to a valuation
2 basis under which the interest rate used to determine the minimum
3 valuation standard for the entire duration of the annuity or
4 guaranteed interest contract is the calendar year valuation interest
5 rate for the year of issue or year of purchase of the annuity or
6 guaranteed interest contract, and the change in fund basis of
7 valuation refers to a valuation basis under which the interest rate
8 used to determine the minimum valuation standard applicable to each
9 change in the fund held under the annuity or guaranteed interest
10 contract is the calendar year valuation interest rate for the year of
11 the change in the fund.

12 (e) The reference interest rate referred to in this
13 ~~subdivision~~ subsection shall be defined as follows: (i) For all life
14 insurance, the lesser of the average over a period of thirty-six
15 months and the average over a period of twelve months, ending on June
16 30 of the calendar year next preceding the year of issue, of the
17 reference monthly average as defined in this ~~subdivision~~ subsection.
18 (ii) For single premium immediate annuities and for annuity benefits
19 involving life contingencies arising from other annuities with cash
20 settlement options and guaranteed interest contracts with cash
21 settlement options, the average over a period of twelve months,
22 ending on June 30 of the calendar year of issue or year of purchase,
23 of the reference monthly average as defined in this ~~subdivision~~ subsection.
24 subsection. (iii) For other annuities with cash settlement options
25 and guaranteed interest contracts with cash settlement options,

1 valued on a year of issue basis, except as stated in ~~(ii) above,~~
2 subdivision (4)(e)(ii) of this section, with guarantee duration in
3 excess of ten years the lesser of the average over a period of
4 thirty-six months and the average over a period of twelve months,
5 ending on June 30 of the calendar year of issue or purchase, of the
6 reference monthly average as defined in this ~~subdivision.~~ subsection.

7 (iv) For other annuities with cash settlement options and guaranteed
8 interest contracts with cash settlement options, valued on a year of
9 issue basis, except as stated in ~~(ii) above,~~ subdivision (4)(e)(ii)
10 of this section, with guarantee duration of ten years or less, the
11 average over a period of twelve months, ending on June 30 of the
12 calendar year of issue or purchase, of the reference monthly average
13 as defined in this ~~subdivision.~~ subsection. (v) For other annuities
14 with no cash settlement options and for guaranteed interest contracts
15 with no cash settlement options, the average over a period of twelve
16 months, ending on June 30 of the calendar year of issue or purchase,
17 of the reference monthly average as defined in this ~~subdivision.~~
18 subsection. (vi) For other annuities with cash settlement options and
19 guaranteed interest contracts with cash settlement options, valued on
20 a change in fund basis, except as stated in ~~(ii) above,~~ subdivision
21 (4)(e)(ii) of this section, the average over a period of twelve
22 months, ending on June 30 of the calendar year of the change in the
23 fund, of the reference monthly average as defined in this
24 ~~subdivision.~~ subsection.

25 (f) The reference monthly average referred to in this

1 ~~subdivision~~ subsection shall mean a monthly bond yield average which
2 is published by a national financial statistical organization,
3 recognized by the National Association of Insurance Commissioners, in
4 current general use in the insurance industry, and designated by the
5 Director of Insurance. In the event that the National Association of
6 Insurance Commissioners determines that an alternative method for
7 determination of the reference interest rate is necessary, an
8 alternative method, which is adopted by the National Association of
9 Insurance Commissioners and approved by regulation promulgated by the
10 Department of Insurance, may be substituted.

11 ~~(d)~~ (5)(a) Except as otherwise provided in ~~subdivisions~~
12 ~~(e) and (h)~~ subsections (6) and (9) of this section and section 6 of
13 this act, reserves according to the Commissioners Reserve Valuation
14 Methods, for the life insurance and endowment benefits of policies
15 providing for a uniform amount of insurance and requiring the payment
16 of uniform premiums shall be the excess, if any, of the present
17 value, at the date of valuation, of such future guaranteed benefits
18 provided for by such policies, over the then present value of any
19 future modified net premiums therefor. The modified net premiums for
20 any such policy shall be such uniform percentage of the respective
21 contract premiums for such benefits that the present value, at the
22 date of issue of the policy, of all such modified net premiums shall
23 be equal to the sum of the then present value of such benefits
24 provided for by the policy and the excess of (i) over (ii), as
25 follows: (i) A net level annual premium equal to the present value,

1 at the date of issue, of such benefits provided for after the first
2 policy year, divided by the present value, at the date of issue, of
3 an annuity of one per annum payable on the first and each subsequent
4 anniversary of such policy on which a premium falls due, except +
5 ~~Provided,~~ that such net level annual premium shall not exceed the net
6 level annual premium on the nineteen year premium whole life plan for
7 insurance of the same amount at an age one year higher than the age
8 at issue of such policy; (ii) a net one year term premium for such
9 benefits provided for in the first policy year.

10 (b) For any life insurance policy issued on or after
11 January 1 of the fourth calendar year commencing after August 30,
12 1981, for which the contract premium in the first policy year exceeds
13 that of the second year and for which no comparable additional
14 benefit is provided in the first year for such excess and which
15 provides an endowment benefit or a cash surrender value or a
16 combination thereof in an amount greater than such excess premium,
17 the reserve according to the Commissioners Reserve Valuation Methods
18 as of any policy anniversary occurring on or before the assumed
19 ending date defined herein as the first policy anniversary on which
20 the sum of any endowment benefit and any cash surrender value then
21 available is greater than such excess premium shall, except as
22 otherwise provided in ~~subdivision (h)~~ subsection (9) of this section,
23 be the greater of the reserve as of such policy anniversary
24 calculated as described in ~~the preceding paragraph,~~ subdivision (5)
25 (a) of this section, and the reserve as of such policy anniversary

1 calculated as described in ~~the preceding paragraph subdivision (5)(a)~~
2 of this section but with (i) the net level annual premium calculated
3 as described in ~~the preceding paragraph subdivision (5)(a) of this~~
4 section being reduced by fifteen percent of the amount of such excess
5 first year premium, (ii) all present values of benefits and premiums
6 being determined without reference to premiums or benefits provided
7 for by the policy after the assumed ending date, (iii) the policy
8 being assumed to mature on such date as an endowment, and (iv) the
9 cash surrender value provided on such date being considered as an
10 endowment benefit. In making the above comparison the mortality and
11 interest bases stated in ~~subdivisions (a) and (c)~~ subsections (2) and
12 (4) of this section shall be used.

13 (c) Reserves according to the Commissioners Reserve
14 Valuation Methods for (i) life insurance policies providing for a
15 varying amount of insurance or requiring the payment of varying
16 premiums, (ii) group annuity and pure endowment contracts purchased
17 under a retirement plan or plan of deferred compensation, established
18 or maintained by an employer, including a partnership, limited
19 liability company, or sole proprietorship, or by an employee
20 organization, or by both, other than a plan providing individual
21 retirement accounts or individual retirement annuities under section
22 408 of the Internal Revenue Code, (iii) disability and accidental
23 death benefits in all policies and contracts, and (iv) all other
24 benefits, except life insurance and endowment benefits in life
25 insurance policies and benefits provided by all other annuity and

1 pure endowment contracts, shall be calculated by a method consistent
2 with the principles of this ~~subdivision, subsection,~~ except that any
3 extra premiums charged because of impairments or special hazards
4 shall be disregarded in the determination of modified net premiums.

5 ~~(e)~~ (6) This ~~subdivision~~ subsection shall apply to all
6 annuity and pure endowment contracts other than group annuity and
7 pure endowment contracts purchased under a retirement plan or plan of
8 deferred compensation, established or maintained by an employer,
9 including a partnership, limited liability company, or sole
10 proprietorship, or by an employee organization, or by both, other
11 than a plan providing individual retirement accounts or individual
12 retirement annuities under section 408 of the Internal Revenue Code.

13 Reserves according to the commissioners annuity reserve
14 method for benefits under annuity or pure endowment contracts,
15 excluding any disability and accidental death benefits in such
16 contracts, shall be the greatest of the respective excesses of the
17 present values, at the date of valuation, of the future guaranteed
18 benefits, including guaranteed nonforfeiture benefits, provided for
19 by such contracts at the end of each respective contract year, over
20 the present value, at the date of valuation, of any future valuation
21 considerations derived from future gross considerations, required by
22 the terms of such contract, that become payable prior to the end of
23 such respective contract year. The future guaranteed benefits shall
24 be determined by using the mortality table, if any, and the interest
25 rate, or rates, specified in such contracts for determining

1 guaranteed benefits. The valuation considerations shall be the
2 portions of the respective gross considerations applied under the
3 terms of such contracts to determine nonforfeiture values.

4 ~~(f)---(7)(a)~~ In no event shall a company's aggregate
5 reserves for all life insurance policies, excluding disability and
6 accidental death benefits, be less than the aggregate reserves
7 calculated in accordance with the methods set forth in ~~subdivisions~~
8 ~~(d), (e), (h), and (i)~~ subsections (5), (6), (9), and (10) of this
9 section and the mortality table or tables and rate or rates of
10 interest used in calculating nonforfeiture benefits for such
11 policies.

12 (b) In no event shall the aggregate reserves for all
13 policies, contracts, and benefits be less than the aggregate reserves
14 determined by the appointed actuary to be necessary to render the
15 opinion required by sections 44-420 to 44-427.

16 ~~(g)---(8)(a)~~ Reserves for all policies and contracts issued
17 prior to August 30, 1981, may be calculated, at the option of the
18 company, according to any standards which produce greater aggregate
19 reserves for all such policies and contracts than the minimum
20 reserves required by the laws in effect immediately prior to such
21 date.

22 (b) Reserves for any category of policies, contracts, or
23 benefits as established by the Department of Insurance, may be
24 calculated, at the option of the company, according to any standards
25 which produce greater aggregate reserves for such category than those

1 calculated according to the minimum standard ~~herein~~ provided under
2 the Standard Valuation Act, but the rate or rates of interest used
3 for policies and contracts, other than annuity and pure endowment
4 contracts, shall not be ~~higher~~ greater than the corresponding rate or
5 rates of interest used in calculating any nonforfeiture benefits
6 provided for therein.

7 (c) A company which adopts at any time a standard of
8 valuation producing greater aggregate reserves than those calculated
9 according to the minimum standard provided under the Standard
10 Valuation Act may adopt a lower standard of valuation with the
11 approval of the director, but not lower than the minimum standard
12 provided under the act. For the purposes of this subdivision, the
13 holding of additional reserves previously determined by the appointed
14 actuary to be necessary to render the opinion required by section 5
15 of this act shall not be deemed to be the adoption of a higher
16 standard of valuation.

17 ~~(h)~~ (9) If in any contract year the gross premium charged
18 by any life insurance company on any policy or contract is less than
19 the valuation net premium for the policy or contract calculated by
20 the method used in calculating the reserve thereon but using the
21 minimum valuation standards of mortality and rate of interest, the
22 minimum reserve required for such policy or contract shall be the
23 greater of either the reserve calculated according to the mortality
24 table, rate of interest, and method actually used for such policy or
25 contract, or the reserve calculated by the method actually used for

1 such policy or contract, but using the minimum valuation standards of
2 mortality and rate of interest and replacing the valuation net
3 premium by the actual gross premium in each contract year for which
4 the valuation net premium exceeds the actual gross premium. The
5 minimum valuation standards of mortality and rate of interest
6 referred to in this ~~subdivision~~ subsection are those standards stated
7 in ~~subdivisions (a) and (c)~~ subsections (2) and (4) of this section.

8 For any life insurance policy issued on or after January
9 1 of the fourth calendar year commencing after August 30, 1981, for
10 which the gross premium in the first policy year exceeds that of the
11 second year and for which no comparable additional benefit is
12 provided in the first year for such excess and which provides an
13 endowment benefit or a cash surrender value or a combination thereof
14 in an amount greater than such excess premium, the foregoing
15 provisions of this ~~subdivision~~ subsection shall be applied as if the
16 method actually used in calculating the reserve for such policy were
17 the method described in ~~subdivision (d)~~ subsection (5) of this
18 section, ignoring ~~the second paragraph of subdivision (d)~~ subdivision
19 (5)(b) of this section. The minimum reserve at each policy
20 anniversary of such a policy shall be the greater of the minimum
21 reserve calculated in accordance with ~~subdivision (d)~~ subsection (5)
22 of this section, including ~~the second paragraph of that subdivision,~~
23 subdivision (5)(b) of this section, and the minimum reserve
24 calculated in accordance with this ~~subdivision.~~ subsection.

25 ~~(i)-(10)~~ In the case of any plan of life insurance which

1 provides for future premium determination, the amounts of which are
2 to be determined by the insurance company based on then estimates of
3 future experience, or in the case of any plan of life insurance or
4 annuity which is of such a nature that the minimum reserves cannot be
5 determined by the methods described in ~~subdivisions (d), (e), and (h)~~
6 subsections (5), (6), and (9) of this section, the reserves which are
7 held under any such plan must ~~(i)-(a)~~ be appropriate in relation to
8 the benefits and the pattern of premiums for that plan, and ~~(ii)-(b)~~
9 be computed by a method which is consistent with the principles of
10 this section as determined by regulations promulgated by the
11 Department of Insurance.

12 Sec. 8. (1) For policies issued on or after the operative
13 date of the valuation manual designated in subsection (2) of this
14 section, the standard prescribed in the valuation manual is the
15 minimum standard of valuation required under section 5 of this act
16 except as provided under subsections (5) and (7) of this section.

17 (2) The director shall prescribe the valuation manual no
18 later than July 1, 2017. The director shall designate the operative
19 date of the valuation manual as of January 1 after the date on which
20 the director prescribes the valuation manual.

21 (3) Unless a change in the valuation manual specifies a
22 later effective date, the changes adopted by the director to the
23 valuation manual shall be effective on January 1 following the
24 adoption of the change by the director.

25 (4) The valuation manual must specify all of the

1 following:

2 (a) Minimum valuation standards for and definitions of
3 the policies or contracts subject to section 4 of this act. Such
4 minimum valuation standards shall be:

5 (i) The director's reserve valuation method for life
6 insurance contracts, other than annuity contracts, subject to section
7 4 of this act;

8 (ii) The director's annuity reserve valuation method for
9 annuity contracts subject to section 4 of this act; and

10 (iii) Minimum reserves for all other policies or
11 contracts subject to section 4 of this act;

12 (b) Which policies or contracts or types of policies or
13 contracts that are subject to the requirements of a principle-based
14 valuation in subsection (1) of section 9 of this act and the minimum
15 valuation standards consistent with those requirements;

16 (c) For policies and contracts subject to a principle-
17 based valuation under section 9 of this act:

18 (i) Requirements for the format of reports to the
19 director under subdivision (2)(c) of section 9 of this act which
20 shall include information necessary to determine if the valuation is
21 appropriate and in compliance with the Standard Valuation Act;

22 (ii) Assumptions shall be prescribed for risks over which
23 the company does not have significant control or influence; and

24 (iii) Procedures for corporate governance and oversight
25 of the actuarial function, and a process for appropriate waiver or

1 modification of such procedures.

2 (d) For policies not subject to a principle-based
3 valuation under section 9 of this act, the minimum valuation standard
4 shall either:

5 (i) Be consistent with the minimum standard of valuation
6 prior to the operative date of the valuation manual designated in
7 subsection (2) of this section; or

8 (ii) Develop reserves that quantify the benefits and
9 guarantees, and the funding, associated with the contracts and their
10 risks at a level of conservatism that reflects conditions that
11 include unfavorable events that have a reasonable probability of
12 occurring.

13 (e) Other requirements, including, but not limited to,
14 those relating to reserve methods, models for measuring risk,
15 generation of economic scenarios, assumptions, margins, use of
16 company experience, risk measurement, disclosure, certifications,
17 reports, actuarial opinions and memorandums, transition rules, and
18 internal controls; and

19 (f) The data and form of the data required under section
20 10 of this act and with whom the data must be submitted.

21 The valuation manual may specify other requirements,
22 including data analyses and reporting of analyses.

23 (5) In the absence of a specific valuation requirement or
24 if a specific valuation requirement in the valuation manual is not,
25 in the opinion of the director, in compliance with the act, then the

1 company shall, with respect to such requirements, comply with minimum
2 valuation standards prescribed by the director by rule and
3 regulation.

4 (6) The director may employ or contract with a qualified
5 actuary, at the expense of the company, to perform an actuarial
6 examination of the company and opine on the appropriateness of any
7 reserve assumption or method used by the company or to review and
8 opine on a company's compliance with any requirement set forth in the
9 act. The director may rely upon the opinion, regarding provisions
10 contained within the act, of a qualified actuary engaged by the
11 insurance commissioner of another state, district, or territory of
12 the United States.

13 (7) The director may require a company to change any
14 assumption or method that in the opinion of the director is necessary
15 in order to comply with the requirements of the valuation manual or
16 the act and the company shall adjust the reserves as required by the
17 director. The director may take other disciplinary action pursuant to
18 law.

19 Sec. 9. (1) A company must establish reserves using a
20 principle-based valuation that meets the following conditions for
21 policies or contracts as specified in the valuation manual;

22 (a) Quantify the benefits and guarantees, and the
23 funding, associated with the contracts and their risks at a level of
24 conservatism that reflects conditions that include unfavorable events
25 that have a reasonable probability of occurring during the lifetime

1 of the contracts. For policies or contracts with significant tail
2 risk, reflects conditions appropriately adverse to quantify the tail
3 risk;

4 (b) Incorporate assumptions, risk analysis methods, and
5 financial models and management techniques that are consistent with,
6 but not necessarily identical to, those utilized within the company's
7 overall risk assessment process, while recognizing potential
8 differences in financial reporting structures and any prescribed
9 assumptions or methods;

10 (c) Incorporate assumptions that are derived in one of
11 the following manners:

12 (i) The assumption is prescribed in the valuation manual;

13 or

14 (ii) For assumptions that are not prescribed, the
15 assumptions shall:

16 (A) Be established utilizing the company's available
17 experience, to the extent it is relevant and statistically credible;

18 or

19 (B) To the extent that company data is not available,
20 relevant, or statistically credible, be established utilizing other
21 relevant, statistically credible experience; and

22 (d) Provide margins for uncertainty including adverse
23 deviation and estimation error, such that the greater the uncertainty
24 the larger the margin and resulting reserve.

25 (2) A company using a principle-based valuation for one

1 or more policies or contracts subject to this section as specified in
2 the valuation manual shall:

3 (a) Establish procedures for corporate governance and
4 oversight of the actuarial valuation function consistent with those
5 described in the valuation manual;

6 (b) Provide to the director and the board of directors an
7 annual certification of the effectiveness of the internal controls
8 with respect to the principle-based valuation. Such controls shall be
9 designed to assure that all material risks inherent in the
10 liabilities and associated assets subject to such valuation are
11 included in the valuation and that valuations are made in accordance
12 with the valuation manual. The certification shall be based on the
13 controls in place as of the end of the preceding calendar year; and

14 (c) Develop, and file with the director upon request, a
15 principle-based valuation report that complies with standards
16 prescribed in the valuation manual.

17 (3) A principle-based valuation may include a prescribed
18 formulaic reserve component.

19 Sec. 10. A company shall submit mortality, morbidity,
20 policyholder behavior, or expense experience and other data as
21 prescribed in the valuation manual.

22 Sec. 11. (1) For purposes of this section, confidential
23 information means:

24 (a) A memorandum in support of an opinion submitted under
25 section 5 of this act and any other documents, materials, and other

1 information, including, but not limited to, all working papers, and
2 copies thereof, created, produced, or obtained by or disclosed to the
3 director or any other person in connection with such memorandum;

4 (b) All documents, materials, and other information,
5 including, but not limited to, all working papers, and copies
6 thereof, created, produced, or obtained by or disclosed to the
7 director or any other person in the course of an examination made
8 under subsection (6) of section 8 of this act except that if an
9 examination report or other material prepared in connection with an
10 examination made under the Insurers Examination Act is not held as
11 private and confidential information under the act, an examination
12 report or other material prepared in connection with an examination
13 made under subsection (6) of section 8 of this act shall not be
14 confidential information to the same extent as if such examination
15 report or other material had been prepared under the Insurers
16 Examination Act;

17 (c) Any reports, documents, materials, and other
18 information developed by a company in support of, or in connection
19 with, an annual certification by the company under subdivision (2)(b)
20 of section 9 of this act evaluating the effectiveness of the
21 company's internal controls with respect to a principle-based
22 valuation and any other documents, materials, and other information,
23 including, but not limited to, all working papers, and copies
24 thereof, created, produced, or obtained by or disclosed to the
25 director or any other person in connection with such reports,

1 documents, materials, and other information;

2 (d) Any principle-based valuation report developed under
3 subdivision (2)(c) of section 9 of this act and any other documents,
4 materials, and other information, including, but not limited to, all
5 working papers, and copies thereof, created, produced, or obtained by
6 or disclosed to the director or any other person in connection with
7 such report; and

8 (e) Any data, documents, materials, and other information
9 submitted by a company under section 10 of this act, known as
10 experience data, and any other data, documents, materials, and
11 information, including, but not limited to, all working papers, and
12 copies thereof, created or produced in connection with such
13 experience data, known as experience materials, in each case that
14 includes any potentially company-identifying or personally
15 identifiable information, that is provided to or obtained by the
16 director and any other documents, materials, data, and other
17 information, including, but not limited to, all working papers, and
18 copies thereof, created, produced or obtained by or disclosed to the
19 director or any other person in connection with such experience data
20 and experience materials.

21 (2)(a) Except as provided in this section, a company's
22 confidential information is confidential by law and privileged and
23 shall not be a public record subject to disclosure by the director
24 pursuant to sections 84-712 to 84-712.09, shall not be subject to
25 subpoena, and shall not be subject to discovery or admissible in

1 evidence in any private civil action, except that the director may
2 use the confidential information in the furtherance of any regulatory
3 or legal action brought against the company as a part of the
4 director's official duties.

5 (b) Neither the director nor any person who received
6 confidential information while acting under the authority of the
7 director shall be permitted or required to testify in any private
8 civil action concerning any confidential information.

9 (c) In order to assist in the performance of the
10 director's duties, the director may share confidential information
11 (i) with other state, federal, and international regulatory agencies
12 and with the National Association of Insurance Commissioners and its
13 affiliates and subsidiaries, and (ii) in the case of confidential
14 information specified in subdivisions (1)(a) and (b) of this section,
15 with the Actuarial Board for Counseling and Discipline or its
16 successor upon request stating that the confidential information is
17 required for the purpose of professional disciplinary proceedings.
18 The recipient must agree, and must have the legal authority to agree,
19 to maintain the confidentiality and privileged status of such data,
20 documents, materials, and other information in the same manner and to
21 the same extent as required for the director.

22 (d) The director may receive data, documents, materials,
23 and other information, including otherwise confidential and
24 privileged data, documents, materials, or information, from the
25 National Association of Insurance Commissioners and its affiliates

1 and subsidiaries, from regulatory or law enforcement officials of
2 other foreign or domestic jurisdictions, and from the Actuarial Board
3 for Counseling and Discipline or its successor and shall maintain as
4 confidential or privileged any data, document, material, or other
5 information received with notice or the understanding that it is
6 confidential or privileged under the laws of the jurisdiction that is
7 the source of the data, document, material, or other information.

8 (e) The director may enter into agreements governing
9 sharing and use of information consistent with this subsection.

10 (f) No waiver of any applicable privilege or claim of
11 confidentiality in the confidential information shall occur as a
12 result of disclosure to the director under this section or as a
13 result of sharing as authorized in subdivision (2)(c) of this
14 section.

15 (g) A privilege established under the law of any state or
16 jurisdiction that is substantially similar to the privilege
17 established under subsection (2) of this section shall be available
18 and enforced in any proceeding in, and in any court of, this state.

19 (h) Regulatory agency, law enforcement agency, and the
20 National Association of Insurance Commissioners include employees,
21 agents, consultants, and contractors of such entities.

22 (3) Notwithstanding subsection (2) of this section, any
23 confidential information specified in subdivision (1)(a) and (d) of
24 this section:

25 (a) May be subject to subpoena for the purpose of

1 defending an action seeking damages from the appointed actuary
2 submitting the related memorandum in support of an opinion submitted
3 under section 5 of this act or principle-based valuation report
4 developed under subdivision (2)(c) of section 9 of this act by reason
5 of an action required by the Standard Valuation Act or by rule and
6 regulation;

7 (b) May otherwise be released by the director with the
8 written consent of the company; and

9 (c) Once any portion of a memorandum in support of an
10 opinion submitted under section 5 of this act or a principle-based
11 valuation report developed under subdivision (2)(c) of section 9 of
12 this act is cited by the company in its marketing or is publicly
13 volunteered to or before a governmental agency other than a state
14 insurance department or is released by the company to the news media,
15 all portions of such memorandum or report shall no longer be
16 confidential.

17 Sec. 12. (1) The director may exempt specific product
18 forms or product lines of a domestic company that is licensed and
19 doing business only in this state from the requirements of section 8
20 if:

21 (a) The director has issued an exemption in writing to
22 the company and has not subsequently revoked the exemption in
23 writing; and

24 (b) The company computes reserves using assumptions and
25 methods used prior to the operative date of the valuation manual

1 designated in subsection (2) of section 8 of this act in addition to
2 any requirements established by the director and by rule and
3 regulation.

4 (2) For any company granted an exemption under this
5 section, sections 44-420 to 44-427 and sections 6 and 7 of this act
6 shall be applicable. With respect to any company applying this
7 exemption, any reference to section 8 of this act found in such
8 sections shall not be applicable.

9 Sec. 13. Section 44-403, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 44-403 This section shall apply to only those policies
12 and contracts issued prior to the operative date defined in section
13 44-407.07 (the Standard Nonforfeiture Law for Life Insurance). All
14 such valuations made by the Department of Insurance, or by its
15 authority, shall be according to the standard of valuation adopted by
16 the company, which standard shall be stated in its annual report to
17 the department. Such standard of valuation, whether on the net level
18 premium, preliminary term, any modified preliminary term, or select
19 and ultimate reserve basis, for all such policies issued after July
20 17, 1913, shall be according to the American Experience or Actuaries'
21 Table of Mortality, with not less than three and not more than four
22 percent compound interest. When the preliminary term basis is used it
23 shall not exceed one year. Insurance against total and permanent
24 mental or physical disability resulting from accident or disease, or
25 against accidental death, combined with a policy of life insurance,

1 shall be valued on the basis of the mean reserve, being one-half of
2 the additional annual premium charged therefor. Except as otherwise
3 provided in ~~subdivision (b)~~ subsection (3) of section ~~44-404-7~~ of
4 this act for all annuities and pure endowments purchased on or after
5 the operative date of such ~~subdivision (b)~~ subsection under group
6 annuity and pure endowment contracts, the legal minimum standard for
7 the valuation of annuities shall be McClintock's Table of Mortality
8 Among Annuitants, or the American Experience Table of Mortality, with
9 compound interest at three and one-half percent per annum for
10 individual annuities and five percent per annum for group annuities,
11 but annuities deferred ten or more years, and written in connection
12 with life or term insurance, shall be valued on the same mortality
13 table from which the consideration or premiums were computed, with
14 compound interest not higher than three and one-half percent per
15 annum. The legal standard for the valuation of industrial policies
16 shall be the American Experience Table of Mortality, with compound
17 interest at not less than three nor more than three and one-half
18 percent per annum, except that ; ~~Provided~~, any life insurance company
19 may voluntarily value its industrial policies written on the weekly
20 payment plan according to the Standard Industrial Mortality Table or
21 the Substandard Industrial Mortality Table. Reserves for all such
22 policies and contracts may be calculated, at the option of the
23 company, according to any standards which produce greater aggregate
24 reserves for all such policies and contracts than the minimum
25 reserves required by this section.

1 Sec. 14. Section 44-407.23, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 44-407.23 (1) After August 24, 1979, any company may file
4 with the Department of Insurance a written notice of its election to
5 comply with the provisions of sections 44-403,~~44-404~~, and 44-407.08
6 to 44-407.23 and section 7 of this act after a specified date before
7 the second anniversary of August 24, 1979. After the filing of such
8 notice, such specified date shall be the operative date of this act
9 for such company. Annuity contracts thereafter issued by such company
10 shall comply with such sections. If a company makes no such election,
11 the operative date of this act for such company shall be the second
12 anniversary of August 24, 1979.

13 (2) After July 16, 2004, a company may elect to apply
14 sections 44-407.08 to 44-407.23 to annuity contracts on a contract-
15 form-by-contract-form basis before the second anniversary of July 16,
16 2004. In all other instances, sections 44-407.08 to 44-407.23 shall
17 become operative with respect to annuity contracts issued by the
18 company after the second anniversary of July 16, 2004.

19 (3) The director may adopt and promulgate rules and
20 regulations to carry out sections 44-407.10 to 44-407.23.

21 Sec. 15. Section 44-407.24, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 44-407.24 (1) This section shall apply to all policies
24 issued on or after the operative date of this section as defined
25 herein. Except as provided in subsection (7) of this section, the

1 adjusted premiums for any policy shall be calculated on an annual
2 basis and shall be such uniform percentage of the respective premiums
3 specified in the policy for each policy year, excluding amounts
4 payable as extra premiums to cover impairments or special hazards and
5 also excluding any uniform annual contract charge or policy fee
6 specified in the policy in a statement of the method to be used in
7 calculating the cash surrender values and paid-up nonforfeiture
8 benefits, that the present value, at the date of issue of the policy,
9 of all adjusted premiums shall be equal to the sum of (a) the then
10 present value of the future guaranteed benefits provided for by the
11 policy; (b) one percent of either the amount of insurance, if the
12 insurance be uniform in amount, or the average amount of insurance at
13 the beginning of each of the first ten policy years; and (c) one
14 hundred twenty-five percent of the nonforfeiture net level premium as
15 defined in this section. In applying the percentage specified in (c)
16 above no nonforfeiture net level premium shall be deemed to exceed
17 four percent of either the amount of insurance, if the insurance be
18 uniform in amount, or the average amount of insurance at the
19 beginning of each of the first ten policy years. The date of issue of
20 a policy for the purpose of this section shall be the date as of
21 which the rated age of the insured is determined.

22 (2) The nonforfeiture net level premium shall be equal to
23 the present value, at the date of issue of the policy, of the
24 guaranteed benefits provided for by the policy divided by the present
25 value, at the date of issue of the policy, of an annuity of one

1 percent per annum payable on the date of issue of the policy and on
2 each anniversary of such policy on which a premium falls due.

3 (3) In the case of policies which cause on a basis
4 guaranteed in the policy unscheduled changes in benefits or premiums,
5 or which provide an option for changes in benefits or premiums other
6 than a change to a new policy, the adjusted premiums and present
7 values shall initially be calculated on the assumption that future
8 benefits and premiums do not change from those stipulated at the date
9 of issue of the policy. At the time of any such change in the
10 benefits or premiums the future adjusted premium, nonforfeiture net
11 level premiums and present values shall be recalculated on the
12 assumption that future benefits and premiums do not change from those
13 stipulated by the policy immediately after the change.

14 (4) Except as otherwise provided in subsection (7) of
15 this section, the recalculated future adjusted premiums for any such
16 policy shall be such uniform percentage of the respective future
17 premiums specified in the policy for each policy year, excluding
18 amounts payable as extra premiums to cover impairments and special
19 hazards, and also excluding any uniform annual contract charge or
20 policy fee specified in the policy in a statement of the method to be
21 used in calculating the cash surrender values and paid-up
22 nonforfeiture benefits, that the present value, at the time of change
23 to the newly defined benefits or premiums, of all such future
24 adjusted premiums shall be equal to the excess of (a) the sum of (i)
25 the then present value of the then future guaranteed benefits

1 provided for by the policy and (ii) the additional expense allowance,
2 if any, over (b) the then cash surrender value, if any, or present
3 value of any paid-up nonforfeiture benefit under the policy.

4 (5) The additional expense allowance, at the time of the
5 change to the newly defined benefits or premiums, shall be the sum of
6 (a) one percent of the excess, if positive, of the average amount of
7 insurance at the beginning of each of the first ten policy years
8 subsequent to the change over the average amount of insurance prior
9 to the change at the beginning of each of the first ten policy years
10 subsequent to the time of the most recent previous change, or, if
11 there has been no previous change, the date of issue of the policy;
12 and (b) one hundred twenty-five percent of the increase, if positive,
13 in the nonforfeiture net level premium.

14 (6) The recalculated nonforfeiture net level premium
15 shall be equal to the result obtained by dividing (a) by (b), where
16 (a) equals the sum of (i) the nonforfeiture net level premium
17 applicable prior to the change times the present value of an annuity
18 of one per annum payable on each anniversary of the policy on or
19 subsequent to the date of the change on which a premium would have
20 fallen due had the change not occurred, and (ii) the present value of
21 the increase in future guaranteed benefits provided for by the
22 policy; and (b) equals the present value of an annuity of one per
23 annum payable on each anniversary of the policy on or subsequent to
24 the date of change on which a premium falls due.

25 (7) Notwithstanding any other provisions of this section

1 to the contrary, in the case of a policy issued on a substandard
2 basis which provides reduced graded amounts of insurance so that, in
3 each policy year, such policy has the same tabular mortality cost as
4 an otherwise similar policy issued on the standard basis which
5 provides higher uniform amounts of insurance, adjusted premiums and
6 present values for such substandard policy may be calculated as if it
7 were issued to provide such higher uniform amounts of insurance on
8 the standard basis.

9 (8) All adjusted premiums and present values referred to
10 in sections 44-407 to 44-409 shall for all policies of ordinary
11 insurance be calculated on the basis of (a) the Commissioners 1980
12 Standard Ordinary Mortality Table or (b) at the election of the
13 company for any one or more specified plans of life insurance, the
14 Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year
15 Select Mortality Factors; shall for all policies of industrial
16 insurance be calculated on the basis of the Commissioners 1961
17 Standard Industrial Mortality Table; and shall for all policies
18 issued in a particular calendar year be calculated on the basis of a
19 rate of interest not exceeding the nonforfeiture interest rate as
20 defined in this section for policies issued in that calendar year.

21 At the option of the company, calculations for all
22 policies issued in a particular calendar year may be made on the
23 basis of a rate of interest not exceeding the nonforfeiture interest
24 rate, as defined in this section, for policies issued in the
25 immediately preceding calendar year. Under any paid-up nonforfeiture

1 benefit, including any paid-up dividend additions, any cash surrender
2 value available whether or not required by section 44-407.01, shall
3 be calculated on the basis of the mortality table and rate of
4 interest used in determining the amount of such paid-up nonforfeiture
5 benefit and paid-up dividend additions, if any. A company may
6 calculate the amount of any guaranteed paid-up nonforfeiture benefit
7 including any paid-up additions under the policy on the basis of an
8 interest rate no lower than that specified in the policy for
9 calculating cash surrender values. In calculating the present value
10 of any paid-up term insurance with accompanying pure endowment, if
11 any, offered as a nonforfeiture benefit, the rates of mortality
12 assumed may be not more than those shown in the Commissioners 1980
13 Extended Term Insurance Table for policies of ordinary insurance and
14 not more than the Commissioners 1961 Industrial Extended Term
15 Insurance Table for policies of industrial insurance. For insurance
16 issued on a substandard basis, the calculation of any such adjusted
17 premiums and present values may be based on appropriate modifications
18 of such tables. ~~Any~~ For policies issued prior to the operative date
19 of the valuation manual designated in subsection (2) of section 8 of
20 this act, any Commissioners Standard ordinary mortality tables,
21 adopted after 1980 by the National Association of Insurance
22 Commissioners, that are approved by regulation promulgated by the
23 Department of Insurance for use in determining the minimum
24 nonforfeiture standard may be substituted for the Commissioners 1980
25 Standard Ordinary Mortality Table with or without Ten-Year Select

1 Mortality Factors or for the Commissioners 1980 Extended Term
2 Insurance Table. ~~Any~~ For policies issued on or after the operative
3 date of the valuation manual designated in subsection (2) of section
4 8 of this act, the valuation manual shall provide the Commissioners
5 Standard mortality table for use in determining the minimum
6 nonforfeiture standard that may be substituted for the Commissioners
7 1980 Standard Ordinary Mortality Table with or without Ten-Year
8 Select Mortality Factors or for the Commissioners 1980 Extended Term
9 Insurance Table. If the Department of Insurance approves by rule and
10 regulation any commissioners standard ordinary mortality table
11 adopted by the National Association of Insurance Commissioners for
12 use in determining the minimum nonforfeiture standard for policies
13 issued on or after the operative date of the valuation manual
14 designated in subsection (2) of section 8 of this act, then that
15 minimum nonforfeiture standard supersedes the minimum nonforfeiture
16 standard provided by the valuation manual. For policies issued prior
17 to the operative date of the valuation manual designated in
18 subsection (2) of section 8 of this act, any commissioners standard
19 industrial mortality tables, adopted after 1980 by the National
20 Association of Insurance Commissioners, that are approved by
21 regulation promulgated by the Department of Insurance for use in
22 determining the minimum nonforfeiture standard may be substituted for
23 the Commissioners 1961 Standard Industrial Mortality Table or the
24 Commissioners 1961 Industrial Extended Term Insurance Table. For
25 policies issued on or after the operative date of the valuation

1 manual designated in subsection (2) of section 8 of this act, the
2 valuation manual shall provide the commissioners standard mortality
3 table for use in determining the minimum nonforfeiture standard that
4 may be substituted for the Commissioners 1961 Standard Industrial
5 Mortality Table or the Commissioners 1961 Industrial Extended Term
6 Insurance Table. If the Department of Insurance approves by rule and
7 regulation any commissioners standard industrial mortality table
8 adopted by the National Association of Insurance Commissioners for
9 use in determining the minimum nonforfeiture standard for policies
10 issued on or after the operative date of the valuation manual
11 designated in subsection (2) of section 8 of this act, then that
12 minimum nonforfeiture standard supersedes the minimum nonforfeiture
13 standard provided by the valuation manual.

14 (9) The For policies issued before the operative date of
15 the valuation manual designated in subsection (2) of section 8 of
16 this act, the nonforfeiture interest rate per annum for any policy
17 issued in a particular calendar year shall be equal to one hundred
18 and twenty-five percent of the calendar year statutory valuation
19 interest rate for such policy as defined in section 44-404, 7 of this
20 act, rounded to the nearer one-quarter of one percent except that the
21 nonforfeiture interest rate shall not be less than four percent. For
22 policies issued on and after the operative date of the valuation
23 manual designated in subsection (2) of section 8 of this act, the
24 nonforfeiture interest rate per annum for any policy issued in a
25 particular calendar year shall be provided by the valuation manual.

1 (10) Notwithstanding any other provision in sections
2 ~~44-404, 44-407~~ to 44-407.06, 44-407.08, 44-407.09, and 44-407.24 to
3 44-407.26 and section 7 of this act to the contrary, any refiling of
4 nonforfeiture values or their methods of computation for any
5 previously approved policy form which involves only a change in the
6 interest rate or mortality table used to compute nonforfeiture values
7 shall not require refiling of any other provisions of that policy
8 form.

9 (11) After the effective date of this section any company
10 may file with the Department of Insurance a written notice of its
11 election to comply with the provisions of this section after a
12 specified date before January 1, 1989, which shall be the operative
13 date of this section for such company. If a company makes no such
14 election, the operative date of this section for such company shall
15 be January 1, 1989, except that the Director of Insurance may advance
16 the operative date of this section for such a company after
17 investigating and finding that (a) it is in the best interests of the
18 policyholders of such company to do so, and (b) a majority of states
19 in which such company is doing business have adopted legislation
20 similar to sections ~~44-404, 44-407~~ to 44-407.06, 44-407.08,
21 44-407.09, and 44-407.24 to 44-407.26 and section 7 of this act.

22 Sec. 16. Section 44-407.26, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 44-407.26 This section, in addition to all other
25 applicable provisions of sections ~~44-404, 44-407~~ to 44-407.06,

1 44-407.08, 44-407.09, and 44-407.24 to 44-407.26 and section 7 of
2 this act, shall apply to all policies issued on or after January 1,
3 1985. Any cash surrender value available under the policy in the
4 event of default in a premium payment due on any policy anniversary
5 shall be in an amount which does not differ by more than two-tenths
6 of one percent of either the amount of insurance, if the insurance be
7 uniform in amount, or the average amount of insurance at the
8 beginning of each of the first ten policy years, from the sum of (a)
9 the greater of zero and the basic cash value specified in this
10 section and (b) the present value of any existing paid-up additions
11 less the amount of any indebtedness to the company under the policy.

12 The basic cash value shall be equal to the present value,
13 on such anniversary, of the future guaranteed benefits which would
14 have been provided for by the policy, excluding any existing paid-up
15 additions and before deduction of any indebtedness to the company, if
16 there had been no default, less the then present value of the
17 nonforfeiture factors, as hereinafter defined, corresponding to
18 premiums which would have fallen due on and after such anniversary;
19 Provided, however, that the effects on the basic cash value of
20 supplemental life insurance or annuity benefits or of family
21 coverage, as described in section 44-407.02 or 44-407.04, whichever
22 is applicable, shall be the same as are the effects specified in
23 section 44-407.02 or 44-407.04, whichever is applicable, on the cash
24 surrender values defined in that section.

25 The nonforfeiture factor for each policy year shall be an

1 amount equal to a percentage of the adjusted premium for the policy
2 year, as defined in section 44-407.04 or 44-407.24, whichever is
3 applicable. Except as is required by the next succeeding sentence of
4 this paragraph, such percentage (a) must be the same percentage for
5 each policy year between the second policy anniversary and the later
6 of (i) the fifth policy anniversary and (ii) the first policy
7 anniversary at which there is available under the policy a cash
8 surrender value in an amount, before including any paid-up additions
9 and before deducting any indebtedness, of at least two-tenths of one
10 percent of either the amount of insurance, if the insurance be
11 uniform in amount, or the average amount of insurance at the
12 beginning of each of the first ten policy years, and (b) must be such
13 that no percentage after the later of the two policy anniversaries
14 specified in the preceding item (a) may apply to fewer than five
15 consecutive policy years. No basic cash value may be less than the
16 value which would be obtained if the adjusted premiums for the
17 policy, as defined in section 44-407.04 or 44-407.24, whichever is
18 applicable, were substituted for the nonforfeiture factors in the
19 calculation of the basic cash value.

20 All adjusted premiums and present values referred to in
21 this section shall for a particular policy be calculated on the same
22 mortality and interest bases as are used in demonstrating the
23 policy's compliance with the other sections of this Standard
24 Nonforfeiture Law for Life Insurance. The cash surrender values
25 referred to in this section shall include any endowment benefits

1 provided for by the policy.

2 Any cash surrender value available other than in the
3 event of default in a premium payment due on a policy anniversary,
4 and the amount of any paid-up nonforfeiture benefit available under
5 the policy in the event of default in a premium payment shall be
6 determined in manners consistent with the manners specified for
7 determining the analogous minimum amounts in sections 44-407.01 to
8 44-407.03, 44-407.05, and 44-407.24. The amounts of any cash
9 surrender values and of any paid-up nonforfeiture benefits granted in
10 connection with additional benefits such as those listed in section
11 44-407.05 shall conform with the principles of this section.

12 Sec. 17. Section 44-408, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 44-408 In ascertaining the condition of any life
15 insurance company, it shall be allowed as assets only such
16 investments, cash, and accounts as are authorized by the laws of this
17 state, or of the state or country in which it is organized at the
18 date of examination. There shall be charged against it as liabilities
19 in addition to the capital stock, all outstanding indebtedness of the
20 company, and the premium reserve on policies and additions thereto in
21 force, computed according to the tables of mortality and rate of
22 interest prescribed in sections ~~44-402~~ 44-402.01 to 44-407.09.

23 Sec. 18. Original sections 44-403, 44-404, 44-407.23,
24 44-407.24, 44-407.26, and 44-408, Reissue Revised Statutes of
25 Nebraska, are repealed.

1 Sec. 19. The following section is outright repealed:

2 Section 44-402, Reissue Revised Statutes of Nebraska.