HB552

164284-3

By Representatives Johnson (K), Hill (M), Faulkner and Williams (JD)

RFD: Insurance

First Read: 23-APR-15

ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

To add Article 3 to Chapter 15 of Title 27, Code of Alabama 1975, and to add Chapter 36A of Title 27, Code of Alabama 1975, relating to the State Insurance Code and the regulation of insurance by the State Insurance Department; to further provide for the regulation of life insurance by reenacting with changes and recodifying the Standard Nonforfeiture Law for Life Insurance to provide consistent minimum cash value requirements for various new life insurance products, to provide a more appropriate allowance for acquisition expenses, to remove the exemption for group life insurance products, to reenact with changes the Standard Valuation Law to make the law substantially similar to the model Standard Valuation Law of the National Association of Insurance Commissioners; and to repeal Sections 27-15-28 and 27-36-7, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Article 3 is added to Chapter 15 of Title 27, Code of Alabama 1975, to read as follows:

Article 3. Standard Nonforfeiture Law for Life Insurance.

§27-15-70. Title. This article shall be known as the Standard Nonforfeiture Law for Life Insurance.

§27-15-71. Definitions. For the purposes of this article, the following terms shall have the following meanings:

(1) NAIC. The National Association of Insurance Commissioners.

(2) OPERATIVE DATE OF THE VALUATION MANUAL. The January 1 of the first calendar year that the valuation manual as defined in Chapter 36A is effective.

§27-15-72. Nonforfeiture Benefits.

(a) In the case of policies issued on or after January 1, 1972, no policy of life insurance, except as set forth in Section 27-15-82, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which, in the opinion of the commissioner, are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements specified in this section and are essentially in compliance with Section 27-15-81:

(1) That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be specified in this article. In lieu of such stipulated paid-up nonforfeiture benefit, the insurer may substitute,

upon proper request not later than 60 days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(2) That, upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be specified in this article.

(3) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default.

(4) That, if the policy shall have become paid up by completion of all premium payments, or if it is continued under any paid-up nonforfeiture benefit which became effective on, or after, the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of such amount as may be specified in this article.

(5) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

(6) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance laws of this state; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; and a statement of the method to be used in calculating the cash surrender

value, and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

(b) Any of the provisions, or portions thereof, set forth in subdivisions (1) through (6) of subsection (a) which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

(c) The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

§27-15-73. Computation of Cash Surrender Value.

(a) Any cash surrender value available under the policy in the event of default in the premium payment due on any policy anniversary, whether or not required by Section 27-15-72, shall be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions if there had been no default, over the sum of:

(1) The then present value of the adjusted premium as defined in Sections 27-15-75, 27-15-76, 27-15-77, and 27-15-78, corresponding to premiums which would have fallen due on and after such anniversary.

(2) The amount of any indebtedness to the insurer on account of or secured by the policy.

(b) Provided, however, that for any policy issued on or after the operative date of Section 27-15-78, as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in subsection (a) shall be an amount not less than the sum of the cash surrender value as defined in subsection (a) for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in subsection (a) for a policy which provides only the benefits otherwise provided by the rider or supplemental policy provision.

(c) Provided, further, that for any family policy issued on or after the operative date of Section 27-15-78, as defined therein, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age 71, the cash surrender value referred to in subsection (a) shall be an amount not less than the sum of the cash surrender value as defined in subsection (a) for an otherwise similar policy issued at the same age without term insurance on the life of the spouse and the cash surrender value as defined in subsection (a) for a policy which provides only the benefits otherwise provided by term insurance on the life of the spouse.

(d) Any cash surrender value available within 30 days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefits, whether or not required by Section 27-15-72, shall be an amount not less than the present value, on the anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

§27-15-74. Computation of Paid-Up Nonforfeiture Benefits. Any paid-up nonforfeiture benefit available under the policy in the event of default in the premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this article in the absence of the condition that premiums shall have been paid for at least a specified period.

§27-15-75. Calculation of Adjusted Premiums.

(a)(1) This section shall not apply to policies issued on or after the operative date of Section 27-15-78, as defined therein. Except as provided in subsection (c), the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

a. The then present value of the future guaranteed benefits provided for by the policy.

b. Two percent of the amount of the insurance if the insurance be uniform in amount, or of the equivalent uniform amount, as defined in this article, if the amount of insurance varies with the duration of the policy.

c. Forty percent of the adjusted premium for the first policy year.

d. Twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

(2) Provided, however, that in applying the percentages specified in paragraphs c. and d. of subdivision (1), no adjusted premiums shall be deemed to exceed four percent of the amount of insurance or level amount equivalent. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

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

(c) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to: (i) The adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (ii) the adjusted premiums for such term insurance. The foregoing items (i) and (ii) are to be calculated separately and as specified in subsections (a) and (b) except that, for the purposes of paragraphs b., c., and d. of subdivision (1) of subsection (a), the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in subdivision (2) of subsection (a) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in item (i).

(d) Except as otherwise provided in Sections 27-15-76 and 27-15-77, all adjusted premiums and present values referred to in this article for all policies of ordinary insurance, shall be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to any age not more than three years younger than the actual age of the insured and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than 130 percent of the rates of mortality according to the applicable table. Provided, further, that for insurance issued on a substandard basis, the calculation of any adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

§27-15-76. Calculation of Adjusted Premiums – Ordinary Policies.

(a) This section shall not apply to ordinary policies issued on or after the operative date of Section 27-15-78, as defined therein.

(b) In the case of ordinary policies issued on or after the operative date of this section, all adjusted premiums and present values referred to in this article shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table, provided that, for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured and provided that, for any category of ordinary insurance issued on female risks on or after July 30, 1979, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured.

(c) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed in the case of ordinary policies may not be more than those shown in the Commissioners 1958 Extended Term Insurance Table.

(d) For insurance issued on a substandard basis, the calculation of any adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

§27-15-77. Calculation of Adjusted Premiums – Industrial Policies.

(a) This section shall not apply to industrial policies to be issued on or after the operative date of Section 27-15-78, as defined therein.

(b) The adjusted premiums and present values referred to in this article for all policies of industrial insurance shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; provided, that such rate of interest shall not exceed three and one-half percent per annum; provided further, that a rate of interest not exceeding four percent per annum may be used for policies issued on or after August 23, 1976, and prior to July 30, 1979, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after July 30, 1979; provided, however, that, in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed in the case of industrial policies, may not be more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table; provided further, that, for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

§27-15-78. Calculations of Adjusted Premiums by the Nonforfeiture Net Level Premium Method.

(a) This section shall apply to all policies issued on or after the operative date of this section as defined herein. Except as provided in subsection (g), the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of:

(1) The then present value of the future guaranteed benefits provided for by the policy.

(2) One percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years.

(3) One hundred twenty-five percent of the nonforfeiture net level premium, as hereinafter defined; provided, however, that in applying the percentage specified in this subdivision, no nonforfeiture net level premium shall be deemed to exceed four percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

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

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

(d) Except as otherwise provided in subsection (g), the recalculated future adjusted premiums for any such policy shall be the uniform percentage of the respective future premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of the sum of (1) the then present value of the then future guaranteed benefits provided for by the policy and (2) the additional expense allowance, if any, over the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(e) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of:

(1) One percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first 10 policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy.

(2) One hundred twenty-five percent of the increase, if positive, in the nonforfeiture net level premium.

(f) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (1) by (2) where (1) equals the sum of (i) the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one percent per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred and (ii) the present value of the increase in future guaranteed benefits provided for by the policy, and (2) equals the present value of an annuity of one percent per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(g) Notwithstanding any other provision of this section to the contrary, in the case of a policy issued on a substandard basis, which provides reduced graded amounts of insurance, so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis, which provides higher uniform amounts of insurance, adjusted premiums, and present values for the substandard policy may be calculated as if it were issued to provide the higher uniform amounts of insurance on the standard basis.

(h) All adjusted premiums and present values referred to in this article shall, for all policies of ordinary insurance, be calculated on the basis of the Commissioners 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with 10-year select mortality factors; shall, for all policies of industrial insurance, be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table; and shall, for all policies issued in a particular calendar year, be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this section, for policies issued in that calendar year; provided, however, that:

(1) At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this section, for policies issued in the immediately preceding calendar year.

(2) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by Section 27-15-72, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(3) An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including any paid-up additions, under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(4) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

(5) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

(6)a. For policies issued prior to the operative date of the valuation manual, any Commissioners Standard ordinary mortality tables, adopted after 1980 by the NAIC, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without 10-year select mortality factors or for the Commissioners 1980 Extended Term Insurance Table.

b. For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. If the commissioner approves by regulation any Commissioners Standard ordinary mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(7)a. For policies issued prior to the operative date of the valuation manual, any Commissioners Standard industrial mortality tables, adopted after 1980 by the NAIC, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.

b. For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. If the commissioner approves by regulation any Commissioners Standard industrial mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(i) The nonforfeiture interest rate is defined as follows:

(1) For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125 percent of the calendar year statutory

valuation interest rate for such policy as defined in the standard valuation law, rounded to the nearest one-quarter of one percent, provided, however, that the nonforfeiture interest rate shall not be less than four percent.

(2) For policies issued on and after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.

(j) Notwithstanding any other provision of this title to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

(k) After the effective date of this section, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1989, which shall be the operative date of this section for the insurer. If an insurer makes no such election, the operative date of this section for the insurer shall be January 1, 1989.

§27-15-79. Nonforfeiture Benefits for 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 insurer based on the estimates of future experience, or, in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in Section 27-15-72, 27-15-73, 27-15-74, 27-15-75, 27-15-76, 27-15-77, or 27-15-78, then:

(1) The commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by Section 27-15-72, 27-15-73, 27-15-74, 27-15-75, 27-15-76, 27-15-77, or 27-15-78.

(2) The commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds.

(3) The cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this standard nonforfeiture law for life insurance, as determined by regulations promulgated by the commissioner.

§27-15-80. Proration of Values; Net Value of Paid-up Additions. Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in Sections 27-15-73, 27-15-74, 27-15-75, 27-15-76, 27-15-77, and 27-15-78 may be calculated on the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall not be less than the amounts used to provide such additions. Notwithstanding the provisions of Section 27-15-73, additional benefits payable as follows shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this article, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits:

(1) In the event of death or dismemberment by accident or accidental means.

(2) In the event of total and permanent disability.

(3) As reversionary annuity or deferred reversionary annuity benefits.

(4) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this article would not apply.

(5) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26, is uniform in amount after the child's age is one and has not become paid-up by reason of the death of the parent of the child.

(6) As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits.

§27-15-81. Consistency of Progression of Cash Surrender Values with Increasing Policy Duration.

(a) This section, in addition to all other applicable sections of this article, shall apply to all policies issued on or after January 1, 1985. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years, from the sum of:

(1) The greater of zero and the basic cash value hereinafter specified.

(2) The present value of any existing paid-up additions, less the amount of any indebtedness to the insurer on account of or secured by the policy.

(b) The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the insurer, if there had been no default, less the then present value of the nonforfeiture factors, as defined in this article, corresponding to premiums which would have fallen due on and after such anniversary; provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in Section 27-15-73 or 27-15-75, whichever is applicable, shall be the same as are the effects specified in Section 27-15-73 or 27-15-75, whichever is applicable, on the cash surrender values defined in that section.

(c) The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in Section 27-15-75 or 27-15-78, whichever is applicable. Except as is required by subsection (d), the percentage:

(1) Must be the same percentage for each policy year between the second policy anniversary and the later of:

a. The fifth policy anniversary.

b. The first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years.

(2) Must be such that no percentage after the later of the two policy anniversaries specified in subdivision (1) may apply to fewer than five consecutive policy years.

(d) Provided, that no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in Section 27-15-78, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

(e) All adjusted premiums and present values referred to in this section shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other sections of this article. The cash surrender values referred to in this section shall include any endowment benefits provided for by the policy.

(f) Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment, shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in Sections 27-15-72, 27-15-73, 27-15-74, 27-15-78, and 27-15-80. The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed in subdivisions (1) through (6) of Section 27-15-80 shall conform with the principles of this section.

§27-15-82. Exceptions. This article shall not apply to any of the following:

(1) Reinsurance.

(2) Group insurance.

(3) Pure endowment.

(4) Annuity or reversionary annuity contract.

(5) Variable life insurance contract.

(6) A term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of 20 years or less, expiring before age 71, for which uniform premiums are payable during the entire term of the policy.

(7) A term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in Sections 27-15-75, 27-15-76, 27-15-77, and 27-15-78, is less than the adjusted premium so calculated on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of 20 years or less, expiring before age 71, for which uniform premiums are payable during the entire term of the policy.

(8) A policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in Sections 27-15-73, 27-15-74, 27-15-75, 27-15-76, 27-15-77, and 27-15-78, exceeds two and one-half percent of the amount of insurance at the beginning of the same policy year.

(9) Benefits provided in the form of funeral or monument merchandise and services under burial policies, except to the extent provided in Section 27-17-13.

§27-15-83. For purposes of determining the applicability of this article, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

Section 2. Chapter 36A is added to Title 27, beginning with Section 27-36A-1 Code of Alabama 1975, to read as follows:

Chapter 36A. Standard Valuation Law.

§27-36A-1. Title.

This chapter shall be known as the Standard Valuation Law.

§27-36A-2. Definitions.

For purposes of this chapter, the following definitions shall apply on or after the operative date of the valuation manual:

(1) ACCIDENT AND HEALTH INSURANCE. Contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

(2) APPOINTED ACTUARY. A qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in subsection (b) of Section 27-36A-4.

(3) COMPANY. An entity, which (i) has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and has at least one such policy in force or on claim or (ii) has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this state.

(4) DEPOSIT-TYPE CONTRACT. A contract that does not incorporate mortality or morbidity risks and as may be specified in the valuation manual.

(5) LIFE INSURANCE. Contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.

(6) NAIC. The National Association of Insurance Commissioners.

(7) POLICYHOLDER BEHAVIOR. Any action a policyholder, contract holder, or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this section including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(8) PRINCIPLE-BASED VALUATION. A reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with Section 27-36A-16 as specified in the valuation manual.

(9) QUALIFIED ACTUARY. An individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(10) TAIL RISK. A risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(11) VALUATION MANUAL. The manual of valuation instructions adopted by the NAIC as specified in this chapter or as subsequently amended.

§27-36A-3. Reserve Valuation.

(a) Policies and contracts issued prior to the operative date of the valuation manual.

(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state issued on or after January 1, 1972, and prior to the operative date of the valuation manual. In calculating reserves, the commissioner

may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required of any foreign or alien insurer, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when valuation complies with the minimum standard provided in this chapter.

(2) The provisions set forth in Sections 27-36A-5, 27-36A-6, 27-36A-7, 27-36A-8, 27-36A-9, 27-36A-10, 27-36A-11, 27-36A-12, 27-36A-13, and 27-36A-14 shall apply to all policies and contracts, as appropriate, subject to this chapter issued on or after January 1, 1972, and prior to the operative date of the valuation manual and the provisions set forth in Sections 27-36A-15 and 27-36A-16 shall not apply to any such policies and contracts.

(3) The minimum standard for the valuation of policies and contracts issued prior to January 1, 1972, shall be that provided by the laws in effect immediately prior to that date.

(b) Policies and contracts issued on or after the operative date of the valuation manual.

(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In

lieu of the valuation of the reserves required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this chapter.

(2) The provisions set forth in Sections 27-36A-15 and 27-36A-16 shall apply to all policies and contracts issued on or after the operative date of the valuation manual.

§27-36A-4. Actuarial Opinion of Reserves.

(a) Actuarial Opinion prior to the Operative Date of the Valuation Manual.

(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 items deemed to be necessary to its scope.

(2) Actuarial analysis of reserves and assets supporting reserves.

a. Every life insurance company, except as exempted pursuant to regulation, shall also annually include in the opinion required by subdivision (1) 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 investment earnings on the assets and the considerations anticipated 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 higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this section.

(3) Requirement for opinion under subdivision (2). Each opinion required by subdivision (2) 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 company fails to provide a supporting memorandum at the request of the commissioner within a period specified by regulation, or the commissioner determines that the supporting memorandum provided by the company fails to meet the standards prescribed by the regulation 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 the actuary shall prepare the supporting memorandum as is required by the commissioner.

(4) Requirement for all opinions subject to subsection (a). Every opinion subject to subsection (a) shall be governed by the following provisions:

a. The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1996.

b. The opinion shall apply to all business in force including individual and group health insurance plans. The form and substance shall comply with regulation of the commissioner.

c. The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on any 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 the regulation.

f. Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person, other than the 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 by regulation of the commissioner.

h. Except as provided in paragraphs l., m., and n., documents, materials, or other information in the possession or control of the Department of Insurance that are a memorandum in support of the opinion, and any other material included by the company to the commissioner in connection with the memorandum, shall be confidential by law and privileged, shall not be subject to any open records, freedom of information, sunshine or other public record disclosure laws, and shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private or civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

i. Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to paragraph h.

j. In order to assist in the performance of the commissioner's duties, the commissioner:

1. May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to paragraph h. with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information.

2. May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

3. May enter into agreements governing sharing and use of information consistent with paragraphs h., i., and j.

k. No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in paragraph j.

l. A memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this section or by regulations promulgated hereunder.

m. 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.

n. 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.

(b) Actuarial opinion of reserves after the operative date of the valuation manual.

(1) General. Every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and subject to regulation by the commissioner shall annually submit the opinion of the qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The valuation manual will prescribe the specifics of this opinion including any items deemed to be necessary to its scope.

(2) Actuarial analysis of reserves and assets supporting reserves. Every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and subject to regulation by the commissioner, except as exempted in the valuation manual, shall also annually include in the opinion required by subdivision (1) an opinion of the same actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, 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 investment earnings on the assets and the considerations anticipated 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.

(3) Requirements for opinions subject to subdivision (2). Each opinion required by subdivision (2) shall be governed by the following provisions:

a. A memorandum, in form and substance as specified in the valuation manual, and acceptable to the commissioner, shall be prepared to support each actuarial opinion.

b. If the company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual or the commissioner determines that the supporting memorandum provided by the company fails to meet the standards prescribed by the valuation manual 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 the supporting memorandum required by the commissioner.

(4) Requirement for all opinions subject to subsection (b). Every opinion subject to subsection (b) shall be governed by the following provisions:

a. The opinion shall be in form and substance as specified in the valuation manual and acceptable to the commissioner.

b. The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.

c. The opinion shall apply to all policies and contracts subject to subdivision (2), plus other actuarial liabilities as may be specified in the valuation manual.

d. The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board or its successor, and on such additional standards as may be prescribed in the valuation manual.

e. 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.

f. Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person, other than the 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.

§27-36A-5. Computation of Minimum Standard.

(a) Except as provided in Sections 27-36A-6, 27-36A-7 and 27-36A-14, the minimum standard for the valuation of all the policies and contracts issued prior to May 28, 1996, shall be that provided by the laws in effect immediately prior to May 28, 1996.

(b) Except as otherwise provided in Sections 27-36A-6, 27-36A-7, and 27-36A-14, the minimum standard for the valuation of all policies and contracts issued on or after May 28, 1996, shall be the commissioners reserve valuation method defined in Sections 27-36A-8, 27-36A-9, 27-36A-12, and 27-36A-14, 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 August 23, 1976, four percent interest for the policies issued prior to July 30, 1979, and five and one-half percent interest for single premium life insurance policies and four and one-half percent interest for all other policies issued on or after July 30, 1979, and the following tables:

(1) For ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies: The Commissioners 1958 Standard Ordinary Mortality Table for the policies issued on or after the operative date of Section 27-15-76 and prior to the operative date of Section 27-15-78, provided that for any category of 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 policies issued on or after the operative date of Section 27-15-78, any of the following:

a. The Commissioners 1980 Standard Ordinary Mortality Table.

b. At the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with 10-year select mortality factors.

c. Any ordinary mortality table, adopted after 1980 by the NAIC, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for the policies.

(2) For industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies: The Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table adopted after 1980 by the NAIC that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for the policies.

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

(4) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies: The Group Annuity Mortality Table For 1951, any modification of the 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 January 1, 1972, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of 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 1980 by the NAIC that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for the policies; for policies or contracts issued prior to January 1, 1972, either of the tables or, at the option of the company, the Class (3) Disability Table (1926). Any table shall, for active lives, be combined with a mortality table permitted for calculating the reserve for life insurance policies.

(6) For accidental death benefits in or supplementary to policies issued on or after January 1, 1972: The 1959 Accidental Death Benefits Table or any accidental death benefits table adopted after 1980 by the NAIC that is approved by regulation promulgated by the commissioner for use

in determining the minimum standard of valuation for the policies; for policies issued prior to January 1, 1972, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

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

§27-36A-6. Computation of Minimum Standard for Annuities.

(a) Except as provided in Section 27-36A-7, the minimum standard of valuation for individual and group annuity and pure endowment contracts issued on or after May 28, 1996, shall be the commissioners reserve valuation methods defined in Sections 27-36A-8 and 27-36A-9 and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts issued prior to July 30, 1979, excluding any disability and accidental death benefits in the 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 July 30, 1979, excluding any disability and accidental death benefits in the contracts: The

1971 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 1980 by the NAIC that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for the 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 July 30, 1979, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in the contracts: The 1971 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 1980 by the NAIC that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for the 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 individual annuity and pure endowment contracts.

(4) For annuities and pure endowments purchased prior to July 30, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under the contracts: The 1971 Group Annuity Mortality Table or any modification of this table approved by the commissioner, and six percent interest.

(5) For annuities and pure endowments purchased on or after July 30, 1979, under group annuity and pure endowment

contracts, excluding any disability and accidental death benefits purchased under the contracts: The 1971 Group Annuity Mortality Table or any group annuity mortality table adopted after 1980 by the NAIC 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.

(b) After August 23, 1976, any company may file with the commissioner a written notice of its election to comply with this section after a specified date but before January 1, 1980, which shall be the operative date of this section for that company. If a company makes no election, the operative date of this section for that company shall be January 1, 1980.

§ 27-36A-7. Computation of Minimum Standard by Calendar Year of Issue.

(a) The interest rates used in determining the minimum standard for the valuation of the following shall be the calendar year statutory valuation interest rates as defined in this section:

(1) Life insurance policies issued in a particular calendar year, on or after the operative date of Section 27-15-78.

(2) Individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982.

(3) Annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts.

(4) The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts.

(b) Calendar year statutory valuation interest rates.

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

a. For life insurance:

$$I = .03 + W (R1 - .03) + W/2 (R2 - .09)$$

b. 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:

$$I = .03 + W (R - .03)$$

where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate defined in this section, and W is the weighting factor defined in this section.

c. 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 paragraph b., the formula for life insurance stated in paragraph a. shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for single premium immediate annuities stated in paragraph b. shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less.

d. 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 paragraph b. shall apply.

e. 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 paragraph b. shall apply.

(2) 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 the 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 1980, using the reference interest rate defined for 1979, and shall be

determined for each subsequent calendar year regardless of when Section 27-15-78 becomes operative.

(c) Weighting factors.

(1) The weighting factors referred to in the formulas stated in subsection (b) are given in the following tables:

a.1. Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less:	.50
More than 10, but not more than 20:	.45
More than 20:	.35

2. 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.

b. 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

c. Weighting factors for other annuities and for guaranteed interest contracts, except as stated in paragraph b., shall be as specified in subparagraphs 1., 2., and 3., according to the rules and definitions in subparagraphs 4., 5., and 6.:

1. For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

2. For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in paragraph 1. increased by:

	Plan Type	
A	B	C
.15	.25	.05

3. 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 12 months beyond the valuation date, the factors shown in subparagraph 1. or derived in subparagraph 2. increased by:

	Plan Type	
A	B	C
.05	.05	.05

4. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement

options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

5. Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only (i) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the company, or (ii) without the adjustment but in installments over five years or more, or (iii) as an immediate life annuity, or (iv) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only (i) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the company, or (ii) without the adjustment but in installments over five years or more or (iii) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without the adjustment in a single sum or installments over less than five years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either (i) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the company or (ii) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

6. 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.

(d) Reference interest rate. The reference interest rate referred to in subsection (b) shall be defined as follows:

(1) For life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 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.

(2) 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 12 months, ending on June 30 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.

(3) 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 subdivision (2), with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 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.

(4) 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 subdivision (2), with guarantee duration of 10 years or less,

the average over a period of 12 months, ending on June 30 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.

(5) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 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.

(6) 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 subdivision (2), the average over a period of 12 months, ending on June 30 of the calendar year of the change in fund, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(e) Alternative Method for Determining Reference Interest Rates. 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 NAIC 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, adopted by the NAIC and approved by regulation promulgated by the commissioner, may be substituted.

§ 27-36A-8. Reserve Valuation Method - Life Insurance and Endowment Benefits.

(a) Except as otherwise provided in Sections 27-36A-9, 27-36A-12, and 27-36A-14, 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 the future guaranteed benefits provided for by the policies over the then present value of any future modified net premiums therefor. The modified net premiums for a policy shall be the uniform percentage of the respective contract premiums for the benefits, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all modified net premiums shall be equal to the sum of the then present value of the 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 the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one percent per annum payable on the first and each subsequent anniversary of the policy on which a premium falls due; however, the net level

annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of the policy.

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

(b) For a life insurance policy issued on or after January 1, 1985, 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 the excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, the reserve according to the commissioner's reserve valuation method on the 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 the excess premium shall, except as otherwise provided in Section 27-36A-12, be the greater of the reserve as of the policy anniversary calculated as described in subsection (a) and the reserve as of the policy anniversary calculated as described in subsection (a), but with (i) the value defined in subdivision (1) of subsection (a) being reduced by 15 percent of the amount of 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 the date as an endowment, and (iv) the cash surrender value provided on the date being considered as an endowment benefit. In making the above comparison, the mortality and interest bases stated in Sections 27-36A-5 and 27-36A-7 shall be used.

(c) Reserves according to the commissioners reserve valuation method shall be calculated by a method consistent with the principles of subsections (a) and (b) for all of the following:

(1) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums.

(2) Group annuity and pure endowment contracts purchased under a retirement plan or a plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended.

(3) Disability and accidental death benefits in all policies and contracts.

(4) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts.

§27-36A-9. Reserve Valuation Method - Annuity and Pure Endowment Benefits.

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

(b) Reserves according to the commissioner's annuity reserves method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in the 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 the 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 the contract, that become payable prior to the end of the 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 the contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

§27-36A-10. Minimum Reserves.

(a) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after January 1, 1972, be less than the aggregate reserves calculated in accordance with the methods set forth in Sections 27-36A-8, 27-36A-9, 27-36A-12, and 27-36A-13 and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies.

(b) 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 Section 27-36A-4.

§27-36A-11. Optional Reserve Calculation.

(a) Reserves for policies and contracts issued prior to January 1, 1972, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all policies and contracts than the minimum reserves required by the laws in effect immediately prior to that date.

(b) Reserves for any category of policies, contracts, or benefits issued on or after January 1, 1972, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for the category than those calculated according to the minimum standard provided in this chapter, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(c) A company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in this chapter, with the approval of the commissioner, may adopt any lower standard of valuation, but not lower than the minimum provided in this chapter; provided that, for the purposes of this section, the holding of additional reserves previously determined by the qualified actuary to be necessary to render the opinion required by Section 27-36A-4 shall not be deemed to be the adoption of a higher standard of valuation.

§27-36A-12. Reserve Calculation - Valuation Net Premium Exceeding the Gross Premium Charged.

(a) If in any contract year the gross premium charged by a company on a policy or contract issued on or after January 1, 1972, is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon, but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the 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 the policy or contract, or the reserve calculated by the method actually used for the 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 Sections 27-36A-5 and 27-36A-7.

(b) For a life insurance policy issued on or after January 1, 1985, 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 the excess, and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than excess premium, the provisions of subsection (a) shall be applied as if the method actually used in calculating the reserve for the policy were the method described in Section 27-36A-8, but ignoring subsection (b) of Section 27-36A-8. The minimum reserve at each policy anniversary of the policy shall be the greater of the minimum reserve calculated in accordance with Section 27-36A-8, including subsection (b) of Section 27-36A-8, and the minimum reserve calculated in accordance with this section.

§27-36A-13. 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 company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of a nature that the minimum reserves cannot be determined by the methods described in Sections 27-36A-8, 27-36A-9, and 27-36A-12, the reserves which are held under any plan shall comply with both of the following:

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

(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.

§27-36A-14. Minimum Standard for Accident and Health Insurance Contracts.

(a) For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection (b) of Section 27-36A-3.

(b) For disability, accident and sickness, and accident and health insurance contracts issued on or after January 1, 1972, and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the commissioner by regulation.

§27-36A-15. Valuation Manual for Policies Issued On or After the Operative Date of the Valuation Manual.

(a) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection (b) of Section 27-36A-3, except as provided under subsection (e) or (g) of this section, Section 27-36A-19, or Section 27-36A-20.

(b) The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred:

(1) The valuation manual has been adopted by the NAIC by an affirmative vote of at least 42 members, or three-fourths of the members voting, whichever is greater.

(2) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than 75 percent of the direct premiums written as reported in the following annual statements submitted for 2008: Life, accident and health annual statements; health annual statements; or fraternal annual statements.

(3) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least 42 of the following 55 jurisdictions: The 50 states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

(c) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when both of the following have occurred:

(1) The change to the valuation manual has been adopted by the NAIC by an affirmative vote representing both of the following:

a. At least three-fourths of the members of the NAIC voting, but not less than a majority of the total membership.

b. Members of the NAIC representing jurisdictions totaling greater than 75 percent of the direct premiums written as reported in the following annual statements most recently available prior to the vote in paragraph a.: Life, accident, and health annual statements; health annual statements; or fraternal annual statements.

(2) The <u>change to the</u> valuation manual becomes effective pursuant to a regulation adopted by the commissioner.

(d) The valuation manual must specify all of the following:

(1) Minimum valuation standards for and definitions of the policies or contracts subject to subsection (b) of Section 27-36A-3. The minimum valuation standards shall be:

a. The commissioners reserve valuation method for life insurance contracts, other than annuity contracts, subject to subsection (b) of Section 27-36A-3.

b. The commissioners annuity reserve valuation method for annuity contracts subject to subsection (b) of Section 27-36A-3.

c. Minimum reserves for all other policies or contracts subject to subsection (b) of Section 27-36A-3.

(2) Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in subsection (a) of Section 27-36A-16 and the minimum valuation standards consistent with those requirements.

(3) For policies and contracts subject to a principle-based valuation under Section 27-36A-16:

a. Requirements for the format of reports to the commissioner under subdivision (3) of subsection (b) of Section 27-36A-16 and which shall include information necessary to determine if the valuation is appropriate and in compliance with this chapter.

b. Assumptions shall be prescribed for risks over which the company does not have significant control or influence.

c. Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures.

(4) For policies not subject to a principle-based valuation under Section 27-36A-16 the minimum valuation standard shall either:

a. Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual.

b. Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.

(5) Other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules, and internal controls.

(6) The data and form of the data required under Section 27-36A-17, with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.

(e) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with this section, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the commissioner by regulation.

(f) The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this chapter. The commissioner may rely upon the opinion, regarding provisions contained within this chapter, of a qualified actuary engaged by the commissioner of another state, district, or territory of the

United States. As used in this subsection, the term "engage" includes employment and contracting.

(g) The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary in order to comply with the requirements of the valuation manual or this chapter; and the company shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted pursuant to this title.

§27-36A-16. Requirements of a Principle-Based Valuation.

(a) A company must establish reserves using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:

(1) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For polices or contracts with significant tail risk, reflects conditions appropriately adverse to quantify the tail risk.

(2) Incorporate assumptions, risk analysis methods and financial models, and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process,

while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods.

(3) Incorporate assumptions that are derived in one of the following manners:

a. The assumption is prescribed in the valuation manual.

b. For assumptions that are not prescribed, the assumptions shall either:

1. Be established utilizing the company's available experience, to the extent it is relevant and statistically credible.

2. To the extent that company data is not available, relevant, or statistically credible, be established utilizing other relevant, statistically credible experience.

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

(b) A company using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual shall:

(1) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual.

(2) Provide to the commissioner and the board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. The controls shall be designed to assure that all

material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year.

(3) Develop, and file with the commissioner upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

(c) A principle-based valuation may include a prescribed formulaic reserve component.

§27-36A-17. Experience Reporting for Policies In Force On or After the Operative Date of the Valuation Manual. A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

§27-36A-18. Confidentiality.

(a) For purposes of this section, "confidential information" shall mean all of the following:

(1) A memorandum in support of an opinion submitted under Section 27-36A-4 and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such memorandum.

(2) All documents, materials, and other information, including, but not limited to, all working papers, and copies

thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in the course of an examination made under subsection (f) of Section 27-36A-15; provided, however, that if an examination report or other material prepared in connection with an examination made under Chapter 2 is not held as private and confidential information under Section 27-2-24, an examination report or other material prepared in connection with an examination made under subsection (f) of Section 27-36A-15 shall not be "confidential information" to the same extent as if such examination report or other material had been prepared under Chapter 2.

(3) Any reports, documents, materials, and other information developed by a company in support of, or in connection with, an annual certification by the company under subdivision (2) of subsection (b) of Section 27-36A-16 evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such reports, documents, materials, and other information.

(4) Any principle-based valuation report developed under subdivision (3) of subsection (b) of Section 27-36A-16 and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the

commissioner or any other person in connection with such report.

(5) Any documents, materials, data, and other information submitted by a company under Section 27-36A-17, collectively "experience data," and any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data, in each case that includes any potentially company-identifying or personally identifiable information, that is provided to or obtained by the commissioner, together with any "experience data," the "experience materials," and any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such experience materials.

(b) Privilege for, and Confidentiality of, Confidential Information.

(1) Except as provided in this section, a company's confidential information is confidential by law and privileged, shall not be subject to any open records, freedom of information, sunshine or other public record disclosure laws, and shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the confidential information in the furtherance of any

regulatory or legal action brought against the company as a part of the commissioner's official duties.

(2) Neither the commissioner nor any person who received confidential information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential information.

(3) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential information (i) with other state, federal, and international regulatory agencies and with the NAIC and its affiliates and subsidiaries and (ii) in the case of confidential information specified in subdivisions (1) and (4) of subsection (a) of Section 27-36A-18 only, with the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials; in the case of (i) and (ii), provided that the recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of the documents, materials, data, and other information in the same manner and to the same extent as required for the commissioner.

(4) The commissioner may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the NAIC and its affiliates and

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

(5) The commissioner may enter into agreements governing sharing and use of information consistent with this subsection.

(6) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subdivision (3).

(7) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subsection shall be available and enforced in any proceeding in, and in any court of, this state.

(8) In this section, the terms "regulatory agency," "law enforcement agency," and the "NAIC" include, but are not limited to, their employees, agents, consultants, and contractors.

(c) Notwithstanding subsection (b), any confidential information specified in subdivisions (1) and (4) of subsection (a) of Section 27-36A-18:

(1) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under Section 27-36A-4 or principle-based valuation report developed under subdivision (3) of subsection (b) of Section 27-36A-16 by reason of an action required by this chapter or by regulations promulgated hereunder.

(2) May otherwise be released by the commissioner with the written consent of the company.

(3) Once any portion of a memorandum in support of an opinion submitted under Section 27-36A-4 or a principle-based valuation report developed under subdivision (3) of subsection (b) of Section 27-36A-16 is <u>expressly</u> cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential.

§27-36A-19. Single State Exemption.

(a) The commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in the State of Alabama from the requirements of Section 27-36A-15 provided:

(1) The commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing.

(2) The company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the commissioner and promulgated by regulation.

(b) For any company granted an exemption under this section, Sections 27-36A-4, 27-36A-5, 27-36A-6, 27-36A-7, 27-36A-8, 27-36A-9, 27-36A-10, 27-36A-11, 27-36A-12, 27-36A-13, and 27-36A-14 shall be applicable. With respect to any company applying this exemption, any reference to Section 27-36A-15 found in Sections 27-36A-4, 27-36A-5, 27-36A-6, 27-36A-7, 27-36A-8, 27-36A-9, 27-36A-10, 27-36A-11, 27-36A-12, 27-36A-13, and 27-36A-14 shall not be applicable.

§27-36A-20. Small company alternative valuation.

(a) A company subject to ~~the requirements of Sections 27-36A-15 and 27-36A-16~~ <u>these requirements</u> may hold reserves based on the mortality and interest rates defined by the valuation manual for net premium reserves and using the methodology defined in ~~Sections 27-36A-8, 27-36A-10, 27-36A-11, 27-36A-12, and 27-36A-13,~~ <u>the applicable sections for the affected policies or contracts</u> as they apply to ordinary life insurance<u>, accident and health insurance contracts, credit life contracts, group life contracts, annuities, or deposit-type contracts in this state</u> in lieu of the reserves required by Sections 27-36A-15 and 27-36A-16, provided all of the following conditions have been met:

(1) The company has less than three hundred million dollars ($300,000,000) of ordinary life premium.

(2) If the company is a member of a group of life insurers, group has combined ordinary life premium of less than six hundred million dollars ($600,000,000).

(3) The company reported Total Adjusted Capital of at least 450 percent of Authorized Control Level Risk Capital in the risk-based capital report for the prior calendar year.

(4) The appointed actuary was provided an unqualified opinion on the reserves in accordance with Section 27-36A-4 for the prior calendar year.

(5) The company has provided a certification by a qualified actuary that any universal life policy with a secondary guarantee issued after the operative date of the valuation manual meets the definition of a non-material secondary guarantee universal life product as defined in the valuation manual.

(b) For purposes of subdivisions (1) and (2) of subsection (a), ordinary life premium is measured as direct premium plus reinsurance assumed from an unaffiliated company, as reported in the prior calendar year annual statement.

(c) An Alabama-domiciled company intending to calculate reserves as described in this section must file a statement with the commissioner prior to July 1 of each year certifying that these conditions are met for the current calendar year based on premiums and other values from the prior financial statements. The commissioner may reject the statement prior to September 1 if the commissioner specifically identifies risk in the affected policies that requires a principle-based valuation and require the company to comply with the valuation manual requirements for life insurance reserves.

(d) A company that reports reserves using the alternative valuation shall also be exempt from the principle-based reserves corporate governance requirements, certification of effectiveness of principle-based reserves internal controls, and a principle-based reserves valuation report.

Section 3. All laws or parts of laws which conflict with this act are repealed. Sections 27-15-28 and 27-36-7, Code of Alabama 1975, are expressly repealed.

Section 4. This act shall be effective January 1, 2016.

House of Representatives

Read for the first time and referred to the House of Representatives committee on Insurance 23-APR-15

Read for the second time and placed on the calendar.................... .... 07-MAY-15

Read for the third time and passed as amended......................... .... 26-MAY-15

Yeas 100, Nays 0, Abstains 0

Jeff Woodard
Clerk