STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 2045 By: Stanislawski of the Senate

and

Grau of the House

COMMITTEE SUBSTITUTE

An Act relating to insurance; amending 36 O.S. 2011, Section 1510, which relates to the valuation of certain insurance policies; defining terms; providing the applicability of certain provisions; updating references; providing minimum standard of valuation for accident and health policies after certain date; providing method to determine operative date of valuation manual; providing operative date for changes to valuation manual; specifying the contents that must be included in the valuation manual; allowing commissioner to adopt rules in the absence of certain requirements; authorizing the commissioner to hire an actuary to examine a company in certain circumstances; requiring principle-based valuation for certain contracts and policies; requiring companies using principle based valuation to establish certain policies and procedures; requiring filing of certain report with the commissioner; requiring submission certain information prescribed by valuation manual; allowing commissioner to exempt product from certain requirements if certain requirements are met; providing that certain section shall prevail if there is a conflict; amending 36 O.S. 2011, Section 4061, which relates to reserves and related actuarial items; defining terms; updating internal references; requiring submission of certain actuarial opinion to the commissioner after certain date; requiring certain actuarial opinion to be accompanied by a memorandum; providing requirements for certain actuarial opinion; defining confidential information; declaring certain memorandum, opinion and other documents and information to be confidential; providing that certain information is not subject to Open Records Act; stating that commissioner shall not be compelled to testify in certain situations; allowing commissioner to share confidential information in certain circumstances; allowing commissioner to receive certain information and documents; authorizing commissioner to enter into certain sharing agreements; providing that disclosure to commissioner does not constitute a waiver of any privilege; providing that certain documents may be subject to subpoena; allowing for release of certain information upon receiving consent; providing that publicly volunteered information shall not be confidential; amending 36 O.S. 2011, Section 4029, which relates to nonforfeiture provisions in life insurance policies; providing definition for certain term; updating internal references; providing minimum nonforfeiture standards after certain operative date; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2011, Section 1510, is amended to read as follows:

Section 1510. A. ~~1.~~ Definitions. For the purposes of this section the following definitions shall apply on or after the operative date of the valuation manual:

1. "Accident and health insurance" means 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. "Company" means an entity which:

a. 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

b. 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;

3. "Deposit-type contract" means contracts that do not incorporate mortality or morbidity risks and as may be specified in the valuation manual;

4. "Life insurance" means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual;

5. "NAIC" means the National Association of Insurance Commissioners;

6. "Policyholder behavior" means 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;

7. "Principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with subsection Q of this section as specified in the valuation manual;

8. "Tail risk" means 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; and

9. "Valuation manual" means the manual of valuation instructions adopted by the NAIC as specified in this section or as subsequently amended.

B. Reserve Valuation.

1. Policies and Contracts Issued Prior to the Operative Date of the Valuation Manual.

(a) The Insurance Commissioner shall annually make calculations of all outstanding policies, additions thereto, unpaid dividends, annuity and pure endowment contracts and all other obligations of every life insurance corporation doing business in this state issued prior to the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the Insurance 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 section.

(b) The provisions set forth in subsections C, D, E, F, G, H, J, K, L, M, N and O of this section shall apply to all policies and contracts, as appropriate, subject to this section issued prior to the operative date of the valuation manual and the provisions set forth in subsections P and Q of this section shall not apply to any such policies and contracts.

2. Policies and Contracts Issued On and After the Operative Date of the Valuation Manual.

(a) The Insurance Commissioner shall annually make calculations of all outstanding policies, additions thereto, unpaid dividends, annuity and pure endowment contracts, accident and health contracts, deposit-type contracts, and all other obligations of every company doing business in this state 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 Insurance 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 section.

(b) The provisions set forth in subsections P and Q of this section shall apply to all policies and contracts issued on or after the operative date of the valuation manual.

C. 1. ~~All valuations~~ Valuations made by the Insurance Commissioner shall be made upon the net premium basis. In the case of alien insurers, such valuation shall be limited to its United States business. The legal minimum standard for valuation of contracts issued before the first day of January, 1910, shall be the Actuaries or Combined Experience Table of Mortality, with interest at four percent (4%) per annum, and for valuation of contracts issued on or after said date and before June 6, 1949, shall be the American Experience Table of Mortality, or the American Men Table of Mortality, with interest at three and one-half percent (3 1/2%) per annum. Except as otherwise provided policies issued on or after the operative date of paragraph 4 of subsection ~~G~~ I of Section 4029 of this title, policies issued on or after June 6, 1949, shall be valued, collectively as to all such policies or severally as to policies of any plan or form at the option of the company according to the American Experience Table of Mortality, the American Men

Table of Mortality, the Commissioners 1941 Standard Ordinary Mortality Table or on and after July 1, 1962, the Commissioners 1958 Standard Ordinary Mortality Table for policies of ordinary insurance, and the Standard Industrial Mortality Table (1907), or the 1941 Standard Industrial Mortality Table or the Commissioners 1961 Standard Industrial Mortality Table for policies of industrial insurance, with interest at not more than three and one-half percent (3 1/2%) per annum, or four percent (4%) per annum in the case of policies issued on or after April 11, 1974, and prior to March 17, 1978, and four and one-half percent (4 1/2%) per annum for policies issued on or after March 17, 1978; provided, however, that policies issued to substandard risks or other special classes may be valued according to such other mortality tables, with interest at not more than three and one-half percent (3 1/2%) per annum, or four percent (4%) per annum in the case of policies issued on or after April 11, 1974, and prior to March 17, 1978, and four and one-half percent (4 1/2%) per annum for policies issued on or after March 17, 1978, as may be approved by the Insurance Commissioner.

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

3. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the Group Annuity Mortality Table for 1951, any modification of such table approved by the Commissioner, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

4. The mortality table used in determining the minimum standard for the valuation of ordinary life insurance policies issued on or after the operative date of paragraph 4 of subsection ~~G~~ I of Section 4029 of this title shall be (i) the Commissioners 1980 Standard Ordinary Mortality Table, or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or (iii) any ordinary mortality table, adopted after 1980 by the ~~National Association of Insurance Commissioners~~ NAIC, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such policies.

5. Except as provided in subsection ~~B~~ D of this section, the minimum standard ~~for the~~ of valuation ~~of all~~ for individual annuity and pure endowment contracts issued on or after the operative date of this section and for ~~all~~ annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts shall be the Commissioner's reserve valuation

methods defined in subsections ~~E~~ G and ~~F~~ H of this section and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued prior to August 29, 1977, excluding any disability and accidental death benefit in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the Commissioner, and six percent (6%) interest for single premium immediate annuity contracts, and four percent (4%) interest for all other individual annuity and pure endowment contracts~~;~~,

(b) For individual single premium immediate annuity contracts issued on or after August 29, 1977, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 1980 by the ~~National Association of Insurance Commissioners~~ NAIC that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the Commissioner, and seven and one-half percent (7 1/2%) interest~~;~~,

(c) For individual annuity and pure endowment contracts issued on or after August 29, 1977, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 1980 by the ~~National Association of Insurance Commissioners~~ NAIC that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the Commissioner, and five and one-half percent (5 1/2%) interest for single premium deferred annuity and pure endowment contracts and four and one-half percent (4 1/2%) interest for all other such individual annuity and pure endowment contracts~~;~~,

(d) For all annuities and pure endowments purchased prior to August 29, 1977, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any modification of this table approved by the Commissioner, and six percent (6%) interest~~;~~, and

(e) For all annuities and pure endowments purchased on or after August 29, 1977, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table or any group annuity mortality table adopted after 1980 by the ~~National Association of Insurance Commissioners~~ 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 (7 1/2%) interest.

After June 14, 1973, any company may file with the Commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1985, which shall be the operative date of this section for such company, provided, a company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no such election, the operative date of this section for such company shall be January 1, 1985.

~~B.~~ D. 1. The interest rates used in determining the minimum standard for the valuation of all life insurance policies issued in a particular calendar year on or after the operative date of paragraph 4 of subsection ~~G~~ I of Section 4029 of this title shall be the calendar year statutory valuation interest rates as defined in this section.

2. The interest rates used in determining the minimum standard valuation of ~~all~~ individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1985, and ~~all~~ annuities and pure endowments purchased in a particular calendar year on or after January 1, 1985, under group annuity and pure endowment contracts shall be the calendar year statutory valuation interest rates as defined in this section.

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

(a) For life insurance,

$$I = .03 + W\ (Ra - .03) + (W/2)\ (Rb - .09)$$

where Ra is the lesser of R and .09, Rb 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~~.~~,

(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 R 1 is the lesser of R and .09, R 2 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 subparagraph (b) of this paragraph, the formula for life insurance stated in subparagraph (a) of this paragraph shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten (10) years and the formula for single premium immediate annuities stated in subparagraph (b) of this paragraph shall apply to annuities and guaranteed interest contracts with guarantee duration of ten (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 subparagraph (b) of this paragraph shall apply~~.~~, and

(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 subparagraph (b) of this paragraph 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 (1/2 of 1%), the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980, using the reference interest rate defined for 1979, and shall be determined for each subsequent calendar year.

~~D.~~ F. 1. The weighting factors referred to in the formulas stated above are given in the following table:

(a) 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

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 subparagraph (b) of this paragraph, shall be as specified in tables (1), (2) and (3) below, according to the rules and definitions in (4) and (5) below:

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

Guarantee Duration	Weighting Factor for Plan Type

(Years)	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

~~Plan Type~~

~~A B C~~

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

Plan Type		
A	B	C
.15	.25	.05

~~Plan Type~~

~~A B C~~

(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 (1) year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which

do not guarantee interest rates on considerations received more than twelve (12) months beyond the valuation date, the factors shown in (1) or derived in (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 twenty (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 (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without such adjustment but in installments over five (5) years or more, or (3) as an immediate life annuity, or (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only (1) with adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without such adjustment but in installments over five (5) years or more, or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five (5) years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five (5) years either (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

2. 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 shall 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.

~~E.~~ G. 1. The reference interest rate referred to above shall be defined as follows:

(a) For ~~all~~ life insurance, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average -- Monthly Average Corporates, as published by Moody's Investors Service, Inc.,

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve (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.,

(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 subparagraph (b) of this paragraph, with guarantee duration in excess of ten (10) years, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (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.,

(d) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subparagraph (b) of this paragraph, with guarantee duration of ten (10) years or less, the average over a period of twelve (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.,

(e) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve (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., and

(f) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in subparagraph (b) of this paragraph, the average over a period of twelve (12) months, ending on

June 30 of the calendar year of the change in the fund, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

~~F.~~ H. In the event that the Moody's Corporate Bond Yield Average - Monthly Average Corporates is no longer published by Moody's Investors Service, Inc., or in the event that the ~~National Association of Insurance Commissioners~~ NAIC determines that the Moody's Corporate Bond Yield Average - Monthly Average Corporates as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the ~~National Association of Insurance Commissioners~~ NAIC and approved by regulation promulgated by the Commissioner, may be substituted.

~~G.~~ I. The Commissioner may vary the standards of interest and mortality in particular cases of invalid life and other extra hazards and value policies in groups, use approximate averages for fractions of a year and otherwise, and accept the valuation of the Department of Insurance of any other state or country, if made upon a basis and according to standards not lower than herein required or authorized, in place of the valuation herein required.

~~H.~~ J. If in any contract year the gross premium charged by any ~~life insurance~~ company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in computing the reserve liability thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract, but using the minimum 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 subsection are those standards stated in this section.

Provided that for any life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess, and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection shall be applied as if the method actually used in calculating the reserve for such policy were the method described in paragraph 2 of subsection ~~J~~ L of this section, ignoring subparagraph (c) of that paragraph. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with paragraph 2 of subsection ~~J~~ L of this section, including subparagraph (c) of that paragraph, and the minimum reserve calculated in accordance with this subsection.

~~I.~~ K. Term Insurance.

Policies issued by life insurance companies doing business in this state may provide for not more than one (1) year preliminary term insurance, purchased by the whole or part of the premium to be received during the first policy year, under the conditions prescribed in this section.

~~J.~~ L. Reserves.

1. Reserves on policies of ordinary insurance which are valued in accordance with the American Experience Table of Mortality, or the American Men Table of Mortality, and policies of industrial insurance which are valued in accordance with the Standard Industrial Mortality Table (1907), which are issued on or after June 6, 1949, may be computed as follows: If the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than twenty (20) years from the date of the policy or under an endowment preliminary term policy, exceeds that charged for life insurance, under twenty-year payment life preliminary term policies of the same company, the reserve thereon at the end of any year, including the

first, shall not be less than the reserve on a twenty-payment life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium payment period equal to the difference between the value at the end of such period of such a twenty-payment life preliminary term policy and the full reserve at such time of such a limited payment life or endowment policy. The premium payment period is the period during which premiums are concurrently payable under such twenty-payment life preliminary term policy and such limited payment life or endowment policy. Any policy valued in accordance with this paragraph shall specify the mortality table, rate of interest, and method used in calculating the reserves on the policy.

2. Reserves on policies of ordinary insurance which are valued in accordance with the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1958 Standard Ordinary Mortality Table, or the Commissioners 1980 Standard Ordinary Mortality Table, policies of industrial insurance which are valued in accordance with the 1941 Standard Industrial Mortality Table or the Commissioners 1961 Standard Industrial Mortality Table and policies valued in accordance with any substandard mortality table approved by the Commissioner pursuant to this section, issued on or after June 6, 1949, may be computed in accordance with the Commissioners Reserve

Valuation method, defined as follows: Reserves for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of subparagraph (a) over subparagraph (b) as follows:

(a) a net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at the age one (1) year higher than the age at issue of such policy,

(b) a net one-year term premium for such benefits provided for in the first policy year, and

(c) provided that for any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subsection ~~H~~ J of this section, be the greater of the reserve as of such policy anniversary calculated as described in this paragraph and the reserve as of such policy anniversary calculated as described in subparagraph (a) of this paragraph, but with (i) the value defined in subparagraph (a) of that paragraph being reduced by fifteen percent (15%) of the amount of such excess first-year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment, and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison, the mortality and interest bases stated in this section shall be used.

Reserves for life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums shall be calculated by a method consistent with the principles of paragraph 2 of this subsection, provided that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums. All modified net premiums and present values referred to in this section, except those based on sex-distinct mortality tables, may be calculated according to an age not more than six (6) years younger than the actual age of the insured in the case of any category of ordinary policies issued on female risks.

~~K.~~ M. 1. Reserves on policies of any category may be computed, at the option of the company, according to any valuation standard which produces greater aggregate reserves than those computed according to the minimum standard provided in this section.

2. In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections ~~A~~ C, ~~G~~ I, ~~H~~ J, ~~I~~ K, and ~~L~~ N of this section, the reserves which are held under any such plan must:

(a) be appropriate in relation to the benefits and the pattern of premiums for that plan, and

(b) be computed by a method which is consistent with the principles of this Standard Valuation Law,

as determined by regulations promulgated by the Commissioner.

~~L.~~ N. 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.

Reserves according to the Commissioners Annuity Reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

O. 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 paragraph 2 of subsection B of this section. For accident and health insurance contracts issued prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the commissioner by rule.

P. Valuation Manual for Policies Issued On or After the Operative Date of the Valuation Manual.

1. For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is

<u>the minimum standard of valuation required under paragraph 2 of subsection B of this section, except as provided under paragraphs 5 or 7 of this subsection.</u>

<u>2. 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:</u>

<u>a.</u> <u>the valuation manual has been adopted by the NAIC by an affirmative vote of at least forty-two members, or three-fourths of the members voting, whichever is greater,</u>

<u>b.</u> <u>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 seventy-five percent (75%) 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, and</u>

<u>c.</u> <u>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 forty-two of the following fifty-five jurisdictions: the fifty states of the United States, American Samoa,</u>

the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

3. 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 all of the following have occurred:

a. the change to the valuation manual has been adopted by the NAIC by an affirmative vote representing:

(1) at least three-fourths (3/4) of the members of the NAIC voting, but not less than a majority of the total membership, and

(2) members of the NAIC representing jurisdictions totaling greater than seventy-five percent (75%) of the direct premiums written as reported in the following annual statements most recently available prior to the vote in division (1) of this subparagraph: life, accident and health annual statements; health annual statements; or fraternal annual statements, and

b. the valuation manual becomes effective pursuant to order adopted by the commissioner.

4. The valuation manual must specify all of the following:

a. minimum valuation standards for and definitions of the policies or contracts subject to paragraph 2 of subsection B of this section. Such minimum valuation standards shall be:

(1) the commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to paragraph 2 of subsection B of this section,

(2) the commissioner's annuity reserve valuation method for annuity contracts subject to paragraph 2 of subsection B of this section, and

(3) minimum reserves for all other policies or contracts subject to paragraph 2 of subsection B of this section,

b. which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in paragraph 1 of subsection Q of this section and the minimum valuation standards consistent with those requirements,

c. for policies and contracts subject to a principle-based valuation under subsection Q of this section:

(1) requirements for the format of reports to the commissioner under subparagraph (c) of paragraph 2 of subsection Q of this section and which shall include information necessary to determine if the

valuation is appropriate and in compliance with this section,

(2) assumptions shall be prescribed for risks over which the company does not have significant control or influence, and

(3) procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures,

d. for policies not subject to a principle-based valuation under subsection Q of this section, the minimum valuation standard shall either

(1) be consistent with the minimum standard of valuation prior to the operative date of the valuation manual, or

(2) 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,

e. 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, and

f. the data and form of the data required under subsection R of this section, with whom the data must be submitted, and may specify other requirements, including data analyses and reporting of analyses.

5. 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 subsection, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the commissioner by regulation.

6. 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 section. The commissioner may rely upon the opinion, regarding provisions contained within this section, of a qualified actuary engaged by the commissioner of another state, district or territory of the United States. As used in this paragraph, the term "engage" includes employment and contracting.

7. 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 section; and the company shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted pursuant to rule.

Q. Requirements of a Principle-Based Valuation.

1. 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:

a. 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,

b. 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,

c. incorporate assumptions that are derived in one of the following manners:

(1) the assumption is prescribed in the valuation manual,

(2) for assumptions that are not prescribed, the assumptions shall:

(i) be established utilizing the company's available experience, to the extent it is relevant and statistically credible, or

(ii) to the extent that company data is not available, relevant, or statistically credible, be established utilizing other relevant, statistically credible experience, and

d. provide margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

2. A company using a principle-based valuation for one or more policies or contracts subject to this subsection as specified in the valuation manual shall:

a. establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual,

b. 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. Such 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, and

c. develop, and file with the commissioner upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

3. A principle-based valuation may include a prescribed formulaic reserve component.

R. 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.

~~M.~~ S. When the actual funds of any life insurance company doing business in this state, exclusive of its capital, are not of a net cash value equal to its liabilities including the net value of its policies according to the basis and minimum standards prescribed or authorized by the laws of this state, it shall be the duty of the Insurance Commissioner to give notice to such company and its agents to discontinue issuing new policies within this state, until such time as its funds have become equal to its liabilities as aforesaid. Any officer or agent who, after such notice has been given, issues or delivers a new policy from and on behalf of such company before its funds have become equal to its liabilities, as aforesaid, shall forfeit to the state for each offense a sum not less than One Hundred Dollars ($100.00) nor more than Five Thousand Dollars ($5,000.00) for each occurrence.

T. Exemption.

1. The Commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in Oklahoma from the requirements of subsection P of this section provided:

a. the Commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing, and

b. 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.

2. A domestic company that is licensed and doing business in Oklahoma is exempt from the requirements of subsection P provided:

a. if the company is a member of a group of life insurers, the group has combined ordinary life premiums of less than One Billion Dollars ($1,000,000,000.00),

b. the company has an RBC ratio of at least four hundred and fifty percent (450%) of authorized control level RBC, and

c. the appointed actuary has provided an unqualified opinion on the reserves in accordance with subsections A and B of Section 4061 of this title.

3. For purposes of subsection 2 above, ordinary life premiums are measured as direct plus reinsurance assumed from an unaffiliated company from the prior calendar year annual statement.

4. For any company that is exempt or is granted an exemption under this section, subsections B and C of Section 4061 of this title and subsections C, D, E, F, G, H, J, K, L, M, N and O of this section shall be applicable. With respect to any company applying this exemption, any reference to subsection P found in subsections B

and C of Section 4061 and subsections C, D, E, F, G, H, J, K, L, M, N and O of this section not be applicable.

U. Conflict of law.

If any provision of law is inconsistent with the provisions of this section, this section shall prevail.

SECTION 2. AMENDATORY 36 O.S. 2011, Section 4061, is amended to read as follows:

Section 4061. A. ~~Beginning January 1, 1998, every~~ Definitions. For the purposes of this section, the following definitions shall apply on or after the operative date of the valuation manual:

1. "Accident and health insurance" means 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" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in this section;

3. "Company" means an entity which:

a. 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

b. 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" means contracts that do not incorporate mortality or morbidity risks and as may be specified in the valuation manual;

5. "Life insurance" means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual;

6. "NAIC" means the National Association of Insurance Commissioners;

7. "Principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with subsection Q of Section 1510 of this title as specified in the valuation manual;

8. "Qualified actuary" means 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; and

9. "Valuation manual" means the manual of valuation instructions adopted by the NAIC as specified in Section 1510 of this title or as subsequently amended.

B. Actuarial Opinion Beginning January 1, 1998, and Prior to the Operative Date of the Valuation Manual.

1. Every life insurance company doing business in this state shall annually, and quarterly if required by the Insurance Commissioner, 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 Insurance Commissioner by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported accounts and comply with applicable laws of this state. The Commissioner by rule shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

~~B. 1. Beginning January 1, 1998, every~~

2. a. Every life insurance company, except as exempted by or pursuant to rule, shall also annually, and quarterly if required by the Insurance Commissioner, include in the opinion required by ~~subsection A of this section~~ paragraph 1 of this subsection, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by rule, 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.

~~2.~~

b. The Commissioner may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this section.

~~C.~~ 3. Each opinion required by ~~subsection B of this section~~ paragraph 2 of this subsection shall be accompanied by a memorandum, in form and substance acceptable to the Commissioner as specified by rule, prepared to support each actuarial opinion. If the insurance company fails to provide a supporting memorandum at the request of the Commissioner within a period specified by rule, or the Commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rules or is otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the Commissioner.

~~D.~~ 4. Every opinion shall be governed by the following provisions:

~~1. The~~

a. the opinion shall be submitted with the annual statement and quarterly statement, if a quarterly statement is required by the Commissioner, reflecting the valuation of such reserve liabilities for each year~~;~~,

~~2. The~~

b. the opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the Commissioner as specified by rule~~;~~,

~~3. The~~

c. the opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the Commissioner may by rule prescribe~~;~~,

~~4. In~~

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~~;~~,

~~5. Except~~

e. except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurance company and the Commissioner, for any act, error, omission, decision or conduct with respect to the actuary's opinion~~;~~, and

~~6. Disciplinary~~

f. disciplinary action by the Commissioner against the company or the qualified actuary shall be defined in rules by the Commissioner.

~~E. 1.~~

5. a. Any memorandum in support of the opinion, and any other material provided by the company to the Commissioner in connection therewith, shall be kept confidential by the Commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by rules promulgated hereunder; provided, however, that the memorandum or

other material may otherwise be released by the Commissioner as follows:

~~a.~~

(1) with the written consent of the company, or

~~b.~~

(2) 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.

~~2.~~

b. 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.

~~F.~~ 6. 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 rules promulgated by the Insurance Commissioner.

C. Actuarial Opinion of Reserves after the Operative Date of the Valuation Manual.

1. 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, and quarterly if required by the Insurance Commissioner, submit the opinion of the appointed 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 which satisfy contractual provisions, are consistent with prior reported accounts 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. Every life insurance company with outstanding life insurance contracts, accident 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, and quarterly if required by the Insurance Commissioner, include in the opinion required by paragraph 1 of this subsection, an opinion of the same appointed 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. Each opinion required by paragraph 2 of this subsection shall be accompanied by a memorandum, in form and substance as specified in the valuation manual, and acceptable to the Commissioner, prepared to support each actuarial opinion. If the insurance company fails to provide a supporting memorandum at the request of the Commissioner within a period specified in 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 such supporting memorandum as is required by the Commissioner.

4. Every opinion 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 and quarterly statement, if a quarterly statement is required by the Commissioner, 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 paragraph 2 of this subsection, 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 appointed actuary shall not be liable for damages to any person, other than the insurance company and the Commissioner, for any act, error, omission, decision or conduct with respect to the appointed actuary's opinion, and

g. disciplinary action by the Commissioner against the company or the appointed actuary shall be defined in rules by the Commissioner.

D. Confidentiality.

1. For purposes of this subsection "confidential information" means:

a. a memorandum in support of an opinion submitted under this section 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,

b. 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 paragraph 6 of subsection P of Section 1510 of this title; provided, however, that if an examination report or other material prepared in connection with an examination made under Sections 309.1 through 309.7 of this title is not held as private and confidential information under Sections 309.1 through 309.7 of this title, an examination report or other material prepared in connection with an examination made under paragraph 6 of subsection P of Section 1510 of this title shall not be "Confidential Information" to the same extent as if such examination report or other material had been prepared under Sections 309.1 through 309.7 of this title,

c. 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 subparagraph (b) of paragraph 2 of subsection Q of Section 1510 of this title 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,

d. any principle-based valuation report developed under subparagraph (c) of paragraph 2 of subsection Q of Section 1510 of this title 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, and

e. any documents, materials, data and other information submitted by a company under subsection R of Section 1510 of this title, 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 include 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.

2. Privilege for, and Confidentiality of, Confidential Information.

a. except as provided in this subsection, a company's Confidential Information is confidential by law and privileged, and shall not be subject to Oklahoma Open Records Act, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action; provided, however, that 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,

b. 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,

c. in order to assist in the performance of the commissioner's duties, the commissioner may share Confidential Information:

(1) with other state, federal and international regulatory agencies and with the NAIC and its affiliates and subsidiaries,

(2) in the case of Confidential Information specified in subparagraphs (a) and (d) of paragraph 1 of this subsection, 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, and

(3) in the case of (1) and (2), provided that such recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data and other information in the same manner and to the same extent as required for the commissioner.

d. 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 or 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,

e. the commissioner may enter into agreements governing sharing and use of information consistent with paragraph 2 of this subsection,

f. 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 subparagraph (c) of paragraph 2 of this subsection,

g. a privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under paragraph 2 of this subsection shall be available and enforced in any proceeding in, and in any court of, this state,

h. in this subsection "regulatory agency", "law enforcement agency" and the "NAIC" include, but are not limited to, their employees, agents, consultants and contractors.

3. Notwithstanding paragraph 2 of this subsection, any Confidential Information specified in subparagraphs a and d of paragraph 1 of this subsection:

a. 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 this section or principle-based valuation report developed under subparagraph c of paragraph 2 of subsection Q of Section 1510 of this title by reason of an action required by Section 1510 of this title or by rules promulgated hereunder,

b. may otherwise be released by the commissioner with the written consent of the company, and

c. once any portion of a memorandum in support of an opinion submitted under this section or a principle-based valuation report developed under subparagraph c of paragraph 2 of subsection Q of Section 1510 of this title is 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.

SECTION 3. AMENDATORY 36 O.S. 2011, Section 4029, is amended to read as follows:

Section 4029. A. Definitions. The term "operative date of the valuation manual" means the January 1 of the first calendar year that the valuation manual, as defined in the Section 1510 of this title, is effective.

B. No policy of life insurance, except as set forth in subsection ~~L~~ M of this section, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified and are essentially in compliance with subsection ~~K~~ L of this section:

1. That in the event of default in any premium payment, after premiums have been paid for at least three (3) full years, the insurer will grant, upon proper request not later than sixty (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 hereinafter specified. In lieu of such stipulated paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty (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 sixty (60) days after the due date of any premium payment in default after premiums have been paid for at least three (3) full years in the case of ordinary insurance, or five (5) 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 hereinafter specified.

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 sixty (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 thirty (30) days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

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 twenty (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. 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; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a 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.~~ C. Any of the provisions or portions thereof set forth in paragraphs 1 through 6 of subsection ~~A~~ B of this section which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six (6) months after demand therefor with surrender of the policy.

~~C.~~ D. Cash surrender value: The policy must comply with the requirements of one of the following paragraphs:

1. 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 subsection ~~A~~ B of this section, shall be at least equal to the reserve on the policy at date of default and on any paid-up additions thereto, less a sum of not more than two and one-half percent (2 1/2%) of the amount insured by the policy and of the paid-up additions thereto, if any, and less any existing indebtedness to the company on or secured by the policy; the reserve on such policy to be computed in accordance with the mortality table and the rate of interest specified in the policy for the calculation of the cash value and by the net level premium method of valuation unless a modified net premium method of valuation be specified in the policy. No cash surrender value shall be required in policies of term insurance of twenty (20) years or less.

2. 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 subsection ~~A~~ B of this section, shall be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits

which would have been provided for by the policy, including any existing paid-up additions if there had been no default over the sum of (i) the then present value of the adjusted premiums as defined in subsections ~~F~~ G, ~~G~~ H and ~~H~~ I of this section, corresponding to premiums which would have fallen due on and after such anniversary, and (ii) the amount of any indebtedness to the insurer on account of or secured by the policy.

3. Provided, however, that for any policy issued on or after the operative date of paragraph 4 of subsection ~~H~~ I of this section 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 paragraph 2 of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph 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 such paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

4. Provided, further, that for any family policy issued on or after the operative date of paragraph 4 of subsection ~~H~~ I of this section 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 seventy-one (71) years, the cash surrender value referred to in paragraph 2 of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

5. Any cash surrender value available within thirty (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 subsection ~~A~~ B, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy. The method described in paragraphs 2, 3, 4 and 5 of this subsection may be referred to as the Standard Nonforfeiture Value Method.

~~D.~~ E. Notification to policyholder of cash surrender value: Within three (3) months after default of any premium payment on any life insurance policy which has a cash surrender value, the insurer shall notify the policyholder in writing of the cash surrender value and of the policyholder's options as to the application of the cash surrender value as provided in the policy.

~~E.~~ F. 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 section in the absence of the condition that premiums shall have been paid for at least a specified period.

~~F.~~ G. The adjusted premium: This subsection shall not apply to policies issued on or after the operative date of paragraph 4 of subsection ~~H~~ I of this section as defined therein. Except as provided in paragraph 2 of subsection ~~G~~ H of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

(i) the then present value of the future guaranteed benefits provided for by the policy;

(ii) two percent (2%) of the amount of the insurance if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with the duration of the policy;

(iii) forty percent (40%) of the adjusted premium for the first policy year; and

(iv) twenty-five percent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less, provided, however, that in applying the percentages specified in clauses (iii) and (iv) above, no adjusted premiums shall be deemed to exceed four percent (4%) of the amount of insurance or uniform amount equivalent thereto.

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.

~~G.~~ H. 1. This subsection shall not apply to policies issued on or after the operative date of paragraph 4 of subsection ~~H~~ I of this section as defined therein. In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purpose of subsection ~~F~~ G of this section shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten (10) years, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten (10) years were the amount provided by such policy at age ten (10) years.

2. The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in subsection ~~F~~ G of this section and paragraph 1 of this subsection except that, for the purposes of clauses (ii), (iii) and (iv) of subsection ~~F~~ G of this section, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount

determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

~~H.~~ I. 1. This paragraph shall not apply to policies issued on or after the operative date of paragraph 4 of this subsection as defined therein. For policies which comply with the requirements of paragraph 2 of subsection ~~C~~ D of this section and except as otherwise provided in paragraphs 2 and 3 of this subsection, all adjusted premiums and present values referred to in this section shall for policies of ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three (3) 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 (3 1/2%) 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 one hundred thirty percent (130%) of the rates of mortality according to such applicable table, provided further that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the Insurance Commissioner.

2. This paragraph shall not apply to ordinary policies issued on or after the operative date of paragraph 4 of this subsection as defined therein. In the case of ordinary policies which comply with the requirements of paragraph 2 of subsection ~~C~~ D of this section issued on or after July 1, 1962, all adjusted premiums and present values referred to in this section may be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed three and one-half percent (3 1/2%) per annum except that a rate of interest not exceeding four percent (4%) per annum may be used for policies issued on or after April 11, 1974, and prior to March 17, 1978, and rate of interest not exceeding five and one-half percent (5 1/2%) per annum may be used for policies issued on or after March 17, 1978, and 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 six (6) years younger than the actual age of the insured. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure

endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the Commissioner.

3. This paragraph shall not apply to industrial policies issued on or after the operative date of paragraph 4 of this subsection as defined therein. In the case of industrial policies, which comply with the requirements of paragraph 2 of subsection ~~C~~ D of this section, all adjusted premiums and present values referred to in this section may be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half percent (3 1/2%) per annum except that a rate of interest not exceeding four percent (4%) per annum may be used for policies issued on or after April 11, 1974, and prior to March 17, 1978, and a rate of interest not exceeding five and one-half percent (5 1/2%) per annum may be used for policies issued on or after March 17, 1978. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture

benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 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 company and approved by the Commissioner.

4. (a) This paragraph shall apply to all policies issued on or after the operative date of this paragraph as defined herein. Except as provided in subparagraph (g) of this paragraph, 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 amounts payable as extra premiums to cover impairments or special hazards 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 (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) one percent (1%) 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 ten (10) policy years; and (iii) one hundred twenty-five percent (125%) of the nonforfeiture net level premium as hereinafter defined. Provided, however, that in applying the percentage specified in (iii) above no nonforfeiture net level premium shall be deemed to exceed four percent (4%) 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 ten (10) policy years. The date of issue of a policy for the purpose of this paragraph 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 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 subparagraph (g) of this paragraph, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, 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

(A) the sum of

(i) the then present value of the then future guaranteed benefits provided for by the policy and

(ii) the additional expense allowance, if any, over

(B) 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

(i) one percent (1%) of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten (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 ten (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; and

(ii) one hundred twenty-five percent (125%) 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 (A) by (B) where

(A) equals the sum of

(i) the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one 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

(B) equals the present value of an annuity of one 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 provisions of this paragraph 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, such 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 such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(h) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of (i) the Commissioners 1980 Standard Ordinary Mortality Table or (ii) at the election of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-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 paragraph for policies issued in that calendar year. Provided, however, that:

(i) 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 paragraph, for policies issued in the immediately preceding calendar year,

(ii) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection ~~A~~ B of this section, 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,

(iii) 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,

(iv) 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,

(v) 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,

(vi) ~~Any~~ ~~ordinary~~ For policies issued prior to the operative date of the valuation manual, any Commissioners Standard mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, 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 Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table.

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 rule any Commissioners Standard mortality table adopted by the National Association of Insurance Commissioners 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, and

(vii) ~~Any~~ For policies issued prior to the operative date of the valuation manual, any Commissioners Standard industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, 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.

For policies issued on or after the operative date of the valuation manual the valuation manual shall provide the Commissioner's 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 Commissioner's Standard industrial mortality table adopted by the National Association of Insurance Commissioners 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 below:

(i) ~~The~~ For policies issued prior to the operative date of valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five percent (125%) of the calendar year statutory valuation interest rate for such policy as defined in the Standard Valuation Law, rounded to the nearest one-fourth of one percent (1/4 of 1%); provided, however, that the nonforfeiture interest rate shall not be less than four percent (4%), and

(ii) 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 in this code 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) Any insurer may file with the Commissioner a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1989, which specified date shall be the operative date of this paragraph for such insurer. If an insurer makes no such election, the operative date of this paragraph for such insurer shall be January 1, 1989.

~~I.~~ J. 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 then 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 subsections ~~A~~ B through ~~H~~ I of this section:

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 subsections ~~A~~ B through ~~H~~ I ~~herein~~ of this section;

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.

~~J.~~ K. Calculation of Values: 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, except in the case of industrial insurance proportionate increases in value may be calculated on the basis of quarter-year payments. All values referred to in subsections ~~C, E, F, G and~~ ~~H~~ D, F, G, H and I of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide such additions. Notwithstanding the provisions of subsection ~~C~~ D of this section, additional benefits payable (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 section 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 twenty-six (26) years, is uniform in amount after the child's age is one (1) year, and has not become paid up by reason of the death of a parent of the child, and (6) as other policy benefits additional to life insurance and endorsement benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

~~K.~~ L. This subsection, in addition to all other applicable subsections of this section, shall apply to all policies issued on or after January 1, 1986. 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 (2/10 of 1%) 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 ten (10) policy years, from the sum of (a) the greater of zero and the basic cash value hereinafter specified and (b) the present value of any existing paid-up additions less the amount of any indebtedness to the insurer under the policy.

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 hereinafter defined, 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 subsection ~~C or G~~ D or H of this section, whichever is applicable, shall be the same as are the effects specified in subsection ~~C or G~~ D or H of this section, whichever is applicable on the cash surrender values defined in that subsection.

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 subsection ~~F or H~~ G or I of this section, whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage:

1. Must be the same percentage for each policy year between the second policy anniversary and the later of (i) the fifth policy anniversary and (ii) 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 (2/10 of 1%) 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 ten (10) policy years; and

2. Must be such that no percentage after the later of the two policy anniversaries specified in the preceding paragraph 1 may apply to fewer than five (5) consecutive policy years.

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 subsection ~~F or H~~ G or I of this section, whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

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 subsections of this section. The cash surrender values referred to in this subsection shall include any endowment benefits provided for by the policy.

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 subsections ~~A, B, C and J~~ B, C, D and K and paragraph 4 of subsection ~~H~~ I of this section. The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed as items (1) through (6) in subsection ~~J~~ K of this section shall conform with the principles of this subsection.

~~L.~~ M. 1. This section shall not apply to any of the following:

a. reinsurance,

b. group insurance,

c. pure endowment,

d. annuity or reversionary annuity contract,

e. except as provided in paragraph 1 of subsection ~~C~~ D of this section, term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty (20) years or less expiring before age seventy-one (71) years, for which uniform premiums are payable during the entire term of the policy,

f. except as provided in paragraph 1 of subsection ~~C~~ D of this section, term policy of decreasing amount which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in subsections ~~F~~ G, ~~G~~ H and ~~H~~ I of this section, 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 for a term defined as follows: For ages at issue fifty (50) years and under the term shall be twenty (20) years. Thereafter the term shall decrease one

(1) year for each year of increase in the age at issue beyond age fifty (50) years; and

g. 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 subsections ~~C, E, F, G and H~~ D, F, G, H and I of this section, exceeds two and one-half percent (2 1/2%) of the amount of insurance at the beginning of the same policy year.

2. For purposes of determining the applicability of this act, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

SECTION 4. This act shall become effective November 1, 2014.

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