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H.482

Introduced by Committee on Commerce and Economic Development

Date:

Subject: Insurance; life; standard valuation; principle-based; nonforfeiture

Statement of purpose of bill as introduced: This bill proposes to establish a principle-based valuation for life insurance reserves and to update Vermont's standard nonforfeiture law for life insurance policies, as required for accreditation by the National Association of Insurance Commissioners.

An act relating to principle-based valuation for life insurance reserves and a standard nonforfeiture law for life insurance policies

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Standard Valuation Law for Life Insurance * * *

Sec. 1. 8 V.S.A. chapter 103 subchapter 4a is added to read:

Subchapter 4a. Standard Valuation Law

§ 3791. TITLE

This subchapter shall be known as the Standard Valuation Law.

§ 3791a. DEFINITIONS

As used in this subchapter:

(1) "Accident and health insurance" means contracts that incorporate morbidity risk and provide protection against economic loss resulting from

1 accident, sickness, or medical conditions and as may be specified in the
2 Valuation Manual.

3 (2) “Appointed actuary” means a qualified actuary who is appointed in
4 accordance with the Valuation Manual to prepare the actuarial opinion
5 required in subsection 3791c(b) of this subchapter.

6 (3) “Company” means an entity that:

7 (A) has written, issued, or reinsured life insurance contracts, accident
8 and health insurance contracts, or deposit-type contracts in this State and has at
9 least one such policy in force or on claim; or

10 (B) has written, issued, or reinsured life insurance contracts, accident
11 and health insurance contracts, or deposit-type contracts in any state and is
12 required to hold a certificate of authority to write life insurance, accident and
13 health insurance, or deposit-type contracts in this State.

14 (4) “Deposit-type contract” means contracts that do not incorporate
15 mortality or morbidity risks and as may be specified in the Valuation Manual.

16 (5) “Life insurance” means contracts that incorporate mortality risk,
17 including annuity and pure endowment contracts, and as may be specified in
18 the Valuation Manual.

19 (6) “NAIC” means the National Association of Insurance
20 Commissioners.

1 (7) “Policyholder behavior” means any action a policyholder, contract
2 holder, or any other person with the right to elect options, such as a certificate
3 holder, may take under a policy or contract subject to this subchapter
4 including, lapse, withdrawal, transfer, deposit, premium payment, loan,
5 annuitization, or benefit elections prescribed by the policy or contract but
6 excluding events of mortality or morbidity that result in benefits prescribed in
7 their essential aspects by the terms of the policy or contract.

8 (8) “Principle-based valuation” means a reserve valuation that uses one
9 or more methods or one or more assumptions determined by the insurer and is
10 required to comply with section 3791o of this subchapter as specified in the
11 Valuation Manual.

12 (9) “Qualified actuary” means an individual who is qualified to sign the
13 applicable statement of actuarial opinion in accordance with the American
14 Academy of Actuaries qualification standards for actuaries signing such
15 statements and who meets the requirements specified in the Valuation Manual.

16 (10) “Tail risk” means a risk that occurs either where the frequency of
17 low probability events is higher than expected under a normal probability
18 distribution or where there are observed events of very significant size or
19 magnitude.

1 (11) “Valuation Manual” means the manual of valuation instructions
2 adopted by the NAIC as specified in this subchapter or as subsequently
3 amended.

4 § 3791b. RESERVE VALUATION

5 (a)(1) Policies and contracts issued prior to the operative date of the
6 Valuation Manual. The Commissioner shall annually value, or cause to be
7 valued, the reserve liabilities, hereinafter called reserves, for all outstanding
8 life insurance policies and annuity and pure endowment contracts of every life
9 company doing business in this State issued on or after the effective date of
10 July 1, 1968 and prior to the operative date of the Valuation Manual. In
11 calculating reserves, the Commissioner may use group methods and
12 approximate averages for fractions of a year or otherwise. In making a
13 valuation, the Commissioner may use the Department’s actuary or employ an
14 actuary for that purpose, and the reasonable compensation and expenses of the
15 actuary, at a rate approved by the Commissioner, upon demand by the
16 Commissioner supported by an itemized statement of such compensation and
17 expenses, shall be paid by the insurer. In lieu of the valuation of the reserves
18 required of a foreign or alien company, the Commissioner may accept a
19 valuation made, or caused to be made, by the insurance supervisory official of
20 any state or other jurisdiction when the valuation complies with the minimum
21 standard provided in this subchapter.

1 (2) The provisions set forth in sections 3791d, 3791e, 3791f, 3791g,
2 3791h, 3791i, 3791j, 3791k, 3791l, and 3791m of this subchapter shall apply
3 to all policies and contracts, as appropriate, subject to this subchapter issued on
4 or after July 1, 1968 and prior to the operative date of the Valuation Manual
5 and the provisions set forth in sections 3791n and 3791o of this subchapter
6 shall not apply to any such policies and contracts.

7 (3) The minimum standard for the valuation of policies and contracts
8 issued prior to July 1, 1968 shall be that provided by the laws in effect
9 immediately prior to that date.

10 (b)(1) Policies and contracts issued on or after the operative date of the
11 Valuation Manual. The Commissioner shall annually value, or cause to be
12 valued, the reserve liabilities, hereinafter called reserves, for all outstanding
13 life insurance contracts, annuity and pure endowment contracts, accident and
14 health contracts, and deposit-type contracts of every company issued on or
15 after the operative date of the Valuation Manual. In making a valuation, the
16 Commissioner may use the Department's actuary or employ an actuary for that
17 purpose, and the reasonable compensation and expenses of the actuary, at a
18 rate approved by the Commissioner, upon demand by the Commissioner
19 supported by an itemized statement of such compensation and expenses, shall
20 be paid by the insurer. In lieu of the valuation of the reserves required of a
21 foreign or alien company, the Commissioner may accept a valuation made, or

1 caused to be made, by the insurance supervisory official of any state or other
2 jurisdiction when the valuation complies with the minimum standard provided
3 in this subchapter.

4 (2) The provisions set forth in sections 3791n and 3791o of this
5 subchapter shall apply to all policies and contracts issued on or after the
6 operative date of the Valuation Manual.

7 § 3791c. ACTUARIAL OPINION OF RESERVES

8 (a) Actuarial Opinion of Reserves after the Operative Date of the Valuation
9 Manual; General. Every company with outstanding life insurance contracts,
10 accident and health insurance contracts, or deposit-type contracts in this State
11 and subject to regulation by the Commissioner shall annually submit the
12 opinion of the appointed actuary as to whether the reserves and related
13 actuarial items held in support of the policies and contracts are computed
14 appropriately, are based on assumptions that satisfy contractual provisions, are
15 consistent with prior reported amounts, and comply with applicable laws of
16 this State. The Valuation Manual will prescribe the specifics of this opinion,
17 including any items deemed to be necessary to its scope.

18 (b) Actuarial analysis of reserves and assets supporting reserves. Every
19 company with outstanding life insurance contracts, accident and health
20 insurance contracts, or deposit-type contracts in this State and subject to
21 regulation by the Commissioner, except as exempted in the Valuation Manual,

1 shall also annually include in the opinion required by subsection (a) of this
2 section, an opinion of the same appointed actuary as to whether the reserves
3 and related actuarial items held in support of the policies and contracts
4 specified in the Valuation Manual, when considered in light of the assets held
5 by the company with respect to the reserves and related actuarial items,
6 including the investment earnings on the assets and the considerations
7 anticipated to be received and retained under the policies and contracts, make
8 adequate provision for the company's obligations under the policies and
9 contracts, including the benefits under and expenses associated with the
10 policies and contracts.

11 (c)(1) Requirements for opinions subject to this section. Each opinion
12 required by this section, in a form and substance as specified in the Valuation
13 Manual, and acceptable to the Commissioner, shall be prepared to support each
14 actuarial opinion.

15 (2) If the company fails to provide a supporting memorandum at the
16 request of the Commissioner within a period specified in the Valuation Manual
17 or the Commissioner determines that the supporting memorandum provided by
18 the company fails to meet the standards prescribed by the Valuation Manual or
19 is otherwise unacceptable to the Commissioner, the Commissioner may engage
20 a qualified actuary at the expense of the company to review the opinion and the

1 basis for the opinion and prepare the supporting memorandum required by the
2 Commissioner.

3 (d)(1) Requirement for all opinions subject to this section. Every opinion
4 shall be in form and substance as specified in the Valuation Manual and
5 acceptable to the Commissioner.

6 (2) The opinion shall be submitted with the annual statement reflecting
7 the valuation of such reserve liabilities for each year ending on or after the
8 operative date of the Valuation Manual.

9 (3) The opinion shall apply to all policies and contracts subject to
10 subsection (b) of this section, plus other actuarial liabilities as may be specified
11 in the Valuation Manual.

12 (4) The opinion shall be based on standards adopted from time to time
13 by the Actuarial Standards Board or its successor, and on such additional
14 standards as may be prescribed in the Valuation Manual.

15 (5) In the case of an opinion required to be submitted by a foreign or
16 alien company, the Commissioner may accept the opinion filed by that
17 company with the insurance supervisory official of another state if the
18 Commissioner determines that the opinion reasonably meets the requirements
19 applicable to a company domiciled in this State.

20 (6) Except in cases of fraud or willful misconduct, the appointed actuary
21 shall not be liable for damages to any person, other than the company and the

1 Commissioner, for any act, error, omission, decision, or conduct with respect
2 to the appointed actuary's opinion.

3 (7) Disciplinary action by the Commissioner against the company or the
4 appointed actuary shall be defined in rules adopted by the Commissioner.

5 § 3791d. COMPUTATION OF MINIMUM STANDARD

6 Except as provided in sections 3791e, 3791f, and 3791m of this subchapter,
7 the minimum standard for the valuation of policies and contracts issued prior
8 to the effective date of this subchapter shall be that provided by the laws in
9 effect immediately prior to that date. Except as otherwise provided in
10 sections 3791e, 3791f, and 3791m of this subchapter, the minimum standard
11 for the valuation of all policies and contracts issued on or after July 1, 1968
12 shall be the Commissioners reserve valuation methods defined in
13 sections 3791g, 3791h, 3791k, and 3791m of this subchapter, three and
14 one-half percent interest, or in the case of life insurance policies and contracts,
15 other than annuity and pure endowment contracts, issued on or after April 12,
16 1973, four percent interest for policies issued prior to January 1, 1980, five and
17 one-half percent interest for single premium life insurance policies and four
18 and one-half percent interest, and for all other policies issued on and after
19 January 1, 1980, and the following tables:

20 (1) For ordinary policies of life insurance issued on the standard basis,
21 excluding any disability and accidental death benefits in the policies: the

1 Commissioners 1941 Standard Ordinary Mortality Table for policies issued
2 prior to the operative date of section 3766 of this chapter, the Commissioners
3 1958 Standard Ordinary Mortality Table for policies issued on or after the
4 operative date of section 3766 of this chapter and prior to the operative date of
5 section 3768 of this chapter provided that for any category of policies issued
6 on female risks, all modified net premiums and present values referred to in
7 this subchapter may be calculated according to an age not more than six years
8 younger than the actual age of the insured; and for policies issued on or after
9 the operative date of section 3768 of this chapter:

10 (A) the Commissioners 1980 Standard Ordinary Mortality Table;

11 (B) at the election of the company for any one or more specified
12 plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality
13 Table with Ten-Year Select Mortality Factors; or

14 (C) any ordinary mortality table, adopted after 1980 by the NAIC,
15 that is approved by rule adopted by the Commissioner for use in determining
16 the minimum standard of valuation for such policies.

17 (2) For industrial life insurance policies issued on the standard basis,
18 excluding any disability and accidental death benefits in the policies: the 1941
19 Standard Industrial Mortality Table for policies issued prior to the operative
20 date of section 3767 of this chapter, and for policies issued on or after the
21 operative date of section 3767 of this chapter, the Commissioners 1961

1 Standard Industrial Mortality Table or any industrial mortality table adopted
2 after 1980 by the NAIC that is approved by rule adopted by the Commissioner
3 for use in determining the minimum standard of valuation for the policies.

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

9 (4) For group annuity and pure endowment contracts, excluding any
10 disability and accidental death benefits in the policies: the Group Annuity
11 Mortality Table for 1951, a modification of the table approved by the
12 Commissioner, or at the option of the company, any of the tables or
13 modifications of tables specified for individual annuity and pure endowment
14 contracts.

15 (5) For total and permanent disability benefits in or supplementary to
16 ordinary policies or contracts: for policies or contracts issued on or after
17 January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950
18 termination rates of the 1952 Disability Study of the Society of Actuaries, with
19 due regard to the type of benefit or any tables of disablement rates and
20 termination rates adopted after 1980 by the NAIC, that are approved by rule
21 adopted by the Commissioner for use in determining the minimum standard of

1 valuation for those policies; for policies or contracts issued on or after
2 January 1, 1961, and prior to January 1, 1966, either those tables or, at the
3 option of the company, the Class 3 Disability Table of 1926; and for policies
4 issued prior to January 1, 1961, the Class 3 Disability Table of 1926. Any
5 such table shall, for active lives, be combined with a mortality table permitted
6 for calculating the reserves for life insurance policies.

7 (6) For accidental death benefits in or supplementary to policies issued
8 on or after January 1, 1966: the 1959 Accidental Death Benefits Table or any
9 accidental death benefits table adopted after 1980 by the NAIC approved by
10 rule adopted by the Commissioner for use in determining the minimum
11 standard of valuation for those policies, for policies issued on or after
12 January 1, 1961, and prior to January 1, 1966, either that table or, at the option
13 of the company, the Inter-Company Double Indemnity Mortality Table; and for
14 policies issued prior to January 1, 1961, the Inter-Company Double Indemnity
15 Mortality Table. Either table shall be combined with a mortality table for
16 calculating the reserves for life insurance policies.

17 (7) For group life insurance, life insurance issued on the substandard
18 basis and other special benefits: tables approved by the Commissioner.

19 § 3791e. COMPUTATION OF MINIMUM STANDARD FOR ANNUITIES

20 (a) Except as provided in 3791f of this subchapter, the minimum standard
21 of valuation for individual annuity and pure endowment contracts issued on or

1 after the effective date of this section and for annuities and pure endowments
2 purchased on or after the operative date under group annuity and pure
3 endowment contracts, shall be the Commissioners reserve valuation methods
4 defined in sections 3791g and 3791h of this subchapter and the following
5 tables and interest rates:

6 (1) for individual annuity and pure endowment contracts issued prior to
7 January 1, 1980, excluding any disability and accidental death benefits in those
8 contracts: the 1971 Individual Annuity Mortality Table, or any modification of
9 this table approved by the Commissioner, and six percent interest for single
10 premium immediate annuity contracts and four percent interest for all other
11 individual annuity and pure endowment contracts;

12 (2) for individual single premium immediate annuity contracts issued on
13 or after January 1, 1980, excluding any disability and accidental death benefits
14 in those contracts: the 1971 Individual Annuity Mortality Table or any
15 individual annuity mortality table adopted after 1980 by the NAIC that is
16 approved by rule adopted by the Commissioner for use in determining the
17 minimum standard of valuation for these contracts, or any modification of
18 these tables approved by the Commissioner, and seven and one-half percent
19 interest;

20 (3) for individual annuity and pure endowment contracts issued on or
21 after January 1, 1980, other than single premium immediate annuity contracts,

1 excluding any disability and accidental death benefits in those contracts: the
2 1971 Individual Annuity Mortality Table or any individual annuity mortality
3 table adopted after 1980 by the NAIC, that is approved by rule adopted by the
4 Commissioner for use in determining the minimum standard of valuation for
5 those contracts, or any modification of these tables approved by the
6 Commissioner, and five and one-half percent interest for single premium
7 deferred annuity and pure endowment contracts and four and one-half percent
8 interest for all other individual annuity and pure endowment contracts;

9 (4) for annuities and pure endowments purchased prior to January 1,
10 1980, under group annuity and pure endowment contracts, excluding any
11 disability and accidental death benefits purchased under those contracts: the
12 1971 Group Annuity Mortality Table or any modification of this table
13 approved by the Commissioner, and six percent interest; and

14 (5) for annuities and pure endowments purchased on or after January 1,
15 1980, under group annuity and pure endowment contracts, excluding any
16 disability and accidental death benefits purchased under those contracts: the
17 1971 Group Annuity Mortality Table, or any group annuity mortality table
18 adopted after 1980 by the NAIC approved by rule adopted by the
19 Commissioner for use in determining the minimum standard of valuation for
20 annuities and pure endowments, or any modification of these tables approved
21 by the Commissioner, and seven and one-half percent interest.

1 (b) After April 12, 1973, any company may file with the Commissioner a
2 written notice of its election to comply with the provisions of this section after
3 a specified date before January 1, 1979, which shall be the operative date of
4 this section for that company. If a company makes no election, the operative
5 date of this section for that company shall be January 1, 1979.

6 § 3791f. COMPUTATION OF MINIMUM STANDARD BY CALENDAR

7 YEAR OF ISSUE

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

11 (1) life insurance policies issued in a particular calendar year, on or after
12 the operative date of section 3768 of this chapter;

13 (2) individual annuity and pure endowment contracts issued in a
14 particular calendar year on or after January 1, 1984;

15 (3) annuities and pure endowments purchased in a particular calendar
16 year on or after January 1, 1984 under group annuity and pure endowment
17 contracts; and

18 (4) the net increase, if any, in a particular calendar year after January 1,
19 1984 in amounts held under guaranteed interest contracts.

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

4 (1) For life insurance:

$$5 \qquad \qquad \qquad \underline{I = .03 + W(R1 - .03) + W/2(R2 - .09);}$$

6 (2) For single premium immediate annuities and for annuity benefits
7 involving life contingencies arising from other annuities with cash settlement
8 options and from guaranteed interest contracts with cash settlement options:

$$9 \qquad \qquad \qquad \underline{I = .03 + W(R - .03)}$$

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

11 R2 is the greater of R and .09;

12 R is the reference interest rate defined in this section; and

13 W is the weighting factor defined in this section;

14 (3) For other annuities with cash settlement options and guaranteed
15 interest contracts with cash settlement options, valued on an issue year basis,
16 except as stated in subdivision (2) of this section, the formula for life insurance
17 stated in subdivision (1) of this section shall apply to annuities and guaranteed
18 interest contracts with guarantee durations in excess of 10 years and the
19 formula for single premium immediate annuities stated in subdivision (2) of
20 this section shall apply to annuities and guaranteed interest contracts with
21 guarantee duration of 10 years or less;

1 (4) For other annuities with no cash settlement options and for
2 guaranteed interest contracts with no cash settlement options, the formula for
3 single premium immediate annuities stated in subdivision (2) of this section
4 shall apply;

5 (5) For other annuities with cash settlement options and guaranteed
6 interest contracts with cash settlement options, valued on a change in fund
7 basis, the formula for single premium immediate annuities stated in this section
8 shall apply.

9 (6) Notwithstanding any provisions to the contrary in this subsection (b),
10 if the calendar year statutory valuation interest rate for any life insurance
11 policies issued in any calendar year determined without reference to this
12 sentence differs from the corresponding actual rate for similar policies issued
13 in the immediately preceding calendar year by less than one-half of one
14 percent, the calendar year statutory valuation interest rate for such life
15 insurance policies shall be equal to the corresponding actual rate for the
16 immediately preceding calendar year. For purposes of applying the
17 immediately preceding sentence, the calendar year statutory valuation interest
18 rate for life insurance policies issued in a calendar year shall be determined for
19 1980 (using the reference interest rate defined for 1979) and shall be
20 determined for each subsequent calendar year regardless of when section 3768
21 of this chapter becomes operative.

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

3 (1) Weighting Factors for Life Insurance:

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

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

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

18 (3) Weighting factors for other annuities and for guaranteed interest
19 contracts, except as stated in subdivision (2) of this section, shall be as
20 specified in tables (A), (B), and (C) of this section, according to the rules and
21 definitions in (D), (E), and (F) of this section:

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

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

13 (B) For annuities and guaranteed interest contracts valued on a
14 change in fund basis, the factors shown in subdivision (A) increased by:

	<u>Plan Type</u>		
	<u>A</u>	<u>B</u>	<u>C</u>
<hr/>			
	<u>.15</u>	<u>.25</u>	<u>.05</u>

19 (C) For annuities and guaranteed interest contracts valued on an issue
20 year basis (other than those with no cash settlement options) which do not
21 guarantee interest on considerations received more than one year after issue or

1 purchase and for annuities and guaranteed interest contracts valued on a
2 change in fund basis which do not guarantee interest rates on consideration
3 received more than 12 months beyond the valuation date, the factors shown in
4 subdivision (A) or derived in subdivision (B) increased by:

	<u>Plan Type</u>		
	<u>A</u>	<u>B</u>	<u>C</u>
	<hr/>		
	<u>.05</u>	<u>.05</u>	<u>.05</u>

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

17 (E) As used in the above tables:

18 (i) Plan Type A means that at any time the policyholder may
19 withdraw funds only:

20 (I) with an adjustment to reflect changes in interest rates or
21 asset values since receipt of the funds by the insurance company;

1 (II) without such adjustment but in installments over five years
2 or more;

3 (III) as an immediate life annuity; or

4 (IV) no withdrawal permitted.

5 (ii) Plan Type B means that, before expiration of the interest rate
6 guarantee, the policyholder may withdraw funds only:

7 (I) with an adjustment to reflect changes in interest rates or
8 asset values since receipt of the funds by the insurance company;

9 (II) without such adjustment but in installments over five years
10 or more; or

11 (III) no withdrawal permitted.

12 (IV) At the end of interest rate guarantee, funds may be
13 withdrawn without such adjustment in a single sum or installments over less
14 than five years.

15 (iii) Plan Type C means a policyholder may withdraw funds
16 before expiration of interest rate guarantee in a single sum or installments over
17 less than five years either:

18 (I) without adjustment to reflect changes in interest rates or
19 asset values since receipt of the funds by the insurance company; or

20 (II) subject only to a fixed surrender charge stipulated in the
21 contract as a percentage of the fund.

1 (F) A company may elect to value guaranteed interest contracts with
2 cash settlement options and annuities with cash settlement options on either an
3 issue year basis or on a change in fund basis. Guaranteed interest contracts
4 with no cash settlement options and other annuities with no cash settlement
5 options must be valued on an issue year basis. As used in this section, an issue
6 year basis of valuation refers to a valuation basis under which the interest rate
7 used to determine the minimum valuation standard for the entire duration of
8 the annuity or guaranteed interest contract is the calendar year valuation
9 interest rate for the year of issue or year of purchase of the annuity or
10 guaranteed interest contract, and the change in fund basis of valuation refers to
11 a valuation basis under which the interest rate used to determine the minimum
12 valuation standard applicable to each change in the fund held under the annuity
13 or guaranteed interest contract is the calendar year valuation interest rate for
14 the year of the change in the fund.

15 (d) The Reference Interest Rate referred to in subsection (b) of this section
16 shall be defined as follows:

17 (1) For life insurance, the lesser of the average over a period of 36
18 months and the average over a period of 12 months, ending on June 30 of the
19 calendar year next preceding the year of issue, of the monthly average of the
20 composite yield on seasoned corporate bonds, as published by Moody's
21 Investors Service, Inc.

1 (2) For single premium immediate annuities and for annuity benefits
2 involving life contingencies arising from other annuities with cash settlement
3 options and guaranteed interest contracts with cash settlement options, the
4 average over a period of 12 months, ending on June 30 of the calendar year of
5 issue or year of purchase, of the monthly average of the composite yield on
6 seasoned corporate bonds, as published by Moody's Investors Service, Inc.

7 (3) For other annuities with cash settlement options and guaranteed
8 interest contracts with cash settlement options, valued on a year of issue basis,
9 except as stated in subdivision (2) of this subsection, with guarantee duration
10 in excess of 10 years, the lesser of the average over a period of 36 months and
11 the average over a period of 12 months, ending on June 30 of the calendar year
12 of issue or purchase, of the monthly average of the composite yield on
13 seasoned corporate bonds, as published by Moody's Investors Services, Inc.

14 (4) For other annuities with cash settlement options and guaranteed
15 interest contracts with cash settlement options, valued on a year of issue basis,
16 except as stated in subdivision (2), with guaranteed duration of 10 years or
17 less, the average over a period of 12 months, ending on June 30 of the calendar
18 year of issue or purchase, of the monthly average of the composite yield on
19 seasoned corporate bonds, as published by Moody's Investors Services, Inc.

20 (5) For other annuities with no cash settlement options and for
21 guaranteed interest contracts with no cash settlement options, the average over

1 a period of 12 months, ending on June 30 of the calendar year of issue or
2 purchase, of the monthly average of the composite yield on seasoned corporate
3 bonds, as published by Moody's Investors Service, Inc.

4 (6) For other annuities with cash settlement options and guaranteed
5 interest contracts with cash settlement options, valued on a change in fund
6 basis, except as stated in subdivision (2), the average over a period of
7 12 months, ending on June 30 of the calendar year of the change in the fund, of
8 the monthly average of the composite yield on seasoned corporate bonds, as
9 published by Moody's Investors Service, Inc.

10 (7) Alternative Method for Determining Reference Interest Rates. In the
11 event that the monthly average of the composite yield on seasoned corporate
12 bonds is no longer published by Moody's Investors Service, Inc., or in the
13 event that the NAIC determines that the monthly average of the composite
14 yield on seasoned corporate bonds as published by Moody's Investors Service,
15 Inc. is no longer appropriate for the determination of the reference interest rate,
16 then an alternative method for determination of the reference interest rate
17 adopted by the NAIC and approved by rule adopted by the Commissioner may
18 be substituted.

1 § 3791g. RESERVE VALUATION METHOD-LIFE INSURANCE AND
2 ENDOWMENT BENEFITS

3 (a) Except as otherwise provided in sections 3791g, 3791h, and 3791m of
4 this subchapter, reserves according to the Commissioners reserve valuation
5 method, for the life insurance and endowment benefits of policies providing
6 for a uniform amount of insurance and requiring the payment of uniform
7 premiums shall be the excess, if any, of the present value, at the date of
8 valuation, of the future guaranteed benefits provided for by those policies, over
9 the then present value of any future modified net premiums therefor. The
10 modified net premiums for a policy shall be the uniform percentage of the
11 respective contract premiums for the benefits such that the present value, at the
12 date of issue of the policy, of all modified net premiums shall be equal to the
13 sum of the then present value of the benefits provided for by the policy and the
14 excess of subdivision (1) over subdivision (2) of this subsection, as follows:

15 (1) A net level annual premium equal to the present value, at the date of
16 issue, of the benefits provided for after the first policy year, divided by the
17 present value, at the date of issue, of an annuity of one per annum payable on
18 the first and each subsequent anniversary of the policy on which a premium
19 falls due. However, the net level annual premium shall not exceed the net
20 level annual premium on the 19-year premium whole life plan for insurance of
21 the same amount at an age one year higher than the age at issue of the policy.

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

3 (b) For a life insurance policy issued on or after January 1, 1997, for which
4 the contract premium in the first policy year exceeds that of the second year
5 and for which no comparable additional benefit is provided in the first year for
6 the excess and which provides an endowment benefit or a cash surrender value
7 or a combination in an amount greater than the excess premium, the reserve
8 according to the Commissioners reserve valuation method as of any policy
9 anniversary occurring on or before the assumed ending date defined as the first
10 policy anniversary on which the sum of any endowment benefit and any cash
11 surrender value then available is greater than the excess premium shall, except
12 as otherwise provided in section 3791k of this subchapter, be the greater of the
13 reserve as of the policy anniversary calculated as described in subsection (a)
14 and the reserve as of the policy anniversary calculated as described in
15 subsection (a) of this section, but with:

16 (1) The value defined in subsection (a) of this section being reduced by
17 15 percent of the amount of such excess first year premium.

18 (2) All present values of benefits and premiums being determined
19 without reference to premiums or benefits provided for by the policy after the
20 assumed ending date.

21 (3) The policy being assumed to mature on that date as an endowment.

1 (4) The cash surrender value provided on that date being considered as
2 an endowment benefit. In making the above comparison, the mortality and
3 interest bases stated in sections 3791d and 3791e of this subchapter shall be
4 used.

5 (c) Reserves according to the Commissioners reserve valuation method
6 shall be calculated by a method consistent with the principles of the preceding
7 subsections of this section for:

8 (1) life insurance policies providing for a varying amount of insurance
9 or requiring the payment of varying premiums;

10 (2) group annuity and pure endowment contracts purchased under a
11 retirement plan or plan of deferred compensation, established or maintained by
12 an employer, including a partnership or sole proprietorship, or by an employee
13 organization, or by both, other than a plan providing individual retirement
14 accounts or individual retirement annuities under Section 408 of the Internal
15 Revenue Code, as may be amended;

16 (3) disability and accidental death benefits in all policies and
17 contracts; and

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

1 § 3791h. RESERVE VALUATION METHOD-ANNUITY AND PURE
2 ENDOWMENT BENEFITS

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

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

1 respective gross considerations applied under the terms of the contracts to
2 determine nonforfeiture values.

3 § 3791i. MINIMUM RESERVES

4 (a) In no event shall a company's aggregate reserves for all life insurance
5 policies, excluding disability and accidental death benefits, issued on or after
6 July 1, 1968 be less than the aggregate reserves calculated in accordance with
7 the methods set forth in sections 3791g, 3791h, 3791k, and 3791l of this
8 subchapter and the mortality table or tables and rate or rates of interest used in
9 calculating nonforfeiture benefits for the policies.

10 (b) In no event shall the aggregate reserves for all policies, contracts, and
11 benefits be less than the aggregate reserves determined by the appointed
12 actuary to be necessary to render the opinion required by section 3791c of this
13 subchapter.

14 § 3791j. OPTIONAL RESERVE CALCULATION

15 (a) Reserves for policies and contracts issued prior to July 1, 1968 may be
16 calculated, at the option of the company, according to any standards that
17 produce greater aggregate reserves for all such policies and contracts than the
18 minimum reserves required by the laws in effect immediately prior to that date.

19 (b) Reserves for any category of policies, contracts or benefits established
20 by the Commissioner, issued on or after July 1, 1968 may be calculated, at the
21 option of the company, according to any standards that produce greater

1 aggregate reserves for the category than those calculated according to the
2 minimum standard provided herein, but the rate or rates of interest used for
3 policies and contracts, other than annuity and pure endowment contracts, shall
4 not be greater than the corresponding rate or rates of interest used in
5 calculating any nonforfeiture benefits provided in the policies or contracts.

6 (c) A company, which adopts at any time a standard of valuation producing
7 greater aggregate reserves than those calculated according to the minimum
8 standard provided under this subchapter, may adopt a lower standard of
9 valuation with the approval of the Commissioner, but not lower than the
10 minimum provided herein; provided that, for the purposes of this section, the
11 holding of additional reserves previously determined by the appointed actuary
12 to be necessary to render the opinion required by section 3791c of this
13 subchapter shall not be deemed to be the adoption of a higher standard of
14 valuation.

15 § 3791k. RESERVE CALCULATION-VALUATION NET PREMIUM

16 EXCEEDING THE GROSS PREMIUM CHARGED

17 (a) If in any contract year the gross premium charged by a company on a
18 policy or contract is less than the valuation net premium for the policy or
19 contract calculated by the method used in calculating the reserve but using the
20 minimum valuation standards of mortality and rate of interest, the minimum
21 reserve required for the policy or contract shall be the greater of either the

1 reserve calculated according to the mortality table, rate of interest, and method
2 actually used for the policy or contract, or the reserve calculated by the method
3 actually used for the policy or contract but using the minimum valuation
4 standards of mortality and rate of interest and replacing the valuation net
5 premium by the actual gross premium in each contract year for which the
6 valuation net premium exceeds the actual gross premium. The minimum
7 valuation standards of mortality and rate of interest referred to in this section
8 are those standards stated in sections 3791d and 3791f of this subchapter.

9 (b) For a life insurance policy issued on or after January 1, 1987, for which
10 the gross premium in the first policy year exceeds that of the second year and
11 for which no comparable additional benefit is provided in the first year for the
12 excess and which provides an endowment benefit or a cash surrender value or
13 a combination in an amount greater than the excess premium, the provisions of
14 this section shall be applied as if the method actually used in calculating the
15 reserve for the policy were the method described in section 3791g of this
16 subchapter, ignoring the subsection 3791g(b) of this subchapter. The
17 minimum reserve at each policy anniversary of such a policy shall be the
18 greater of the minimum reserve calculated in accordance with section 3791g of
19 this subchapter, including the subsection (b) of that section, and the minimum
20 reserve calculated in accordance with this section.

1 § 3791l. RESERVE CALCULATION-INDETERMINATE PREMIUM

2 PLANS

3 (a) In the case of a plan of life insurance that provides for future premium
4 determination, the amounts of which are to be determined by the company
5 based on then estimates of future experience, or in the case of a plan of life
6 insurance or annuity that is of such a nature that the minimum reserves cannot
7 be determined by the methods described in sections 3791g, 3791h, and 3791k
8 of this subchapter, the reserves that are held under the plan shall:

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

11 (2) be computed by a method that is consistent with the principles of this
12 Standard Valuation Law, as determined by rules adopted by the Commissioner.

13 (b) Notwithstanding any other laws to the contrary, a policy, contract, or
14 certificate providing life insurance under such a plan shall be affirmatively
15 approved by the Commissioner before it can be marketed, issued, delivered, or
16 used in this State.

17 § 3791m. MINIMUM STANDARD FOR ACCIDENT AND HEALTH

18 INSURANCE CONTRACTS

19 For accident and health insurance contracts issued on or after the operative
20 date of the Valuation Manual, the standard prescribed in the Valuation Manual
21 is the minimum standard of valuation required under subsection 3791b(b) of

1 this subchapter. For disability, accident and sickness, accident and health
2 insurance contracts issued on or after July 1, 1968 and prior to the operative
3 date of the Valuation Manual the minimum standard of valuation is the
4 standard adopted by the Commissioner by rule.

5 § 3791n. VALUATION MANUAL FOR POLICIES ISSUED ON OR
6 AFTER THE OPERATIVE DATE OF THE VALUATION
7 MANUAL

8 (a) For policies issued on or after the operative date of the Valuation
9 Manual, the standard prescribed in the Valuation Manual is the minimum
10 standard of valuation required under subsection 3791b(b) of this subchapter,
11 except as provided under subsection (e) or (g) of this section.

12 (b) The operative date of the Valuation Manual is January 1 of the first
13 calendar year following the first July 1 as of which all of the following have
14 occurred:

15 (1) the Valuation Manual has been adopted by the NAIC by an
16 affirmative vote of at least 42 members, or three-fourths of the members
17 voting, whichever is greater;

18 (2) the Standard Valuation Law, as amended by the NAIC in 2009, or
19 legislation including substantially similar terms and provisions, has been
20 enacted by states representing greater than 75 percent of the direct premiums
21 written as reported in the following annual statements submitted for 2008: life,

1 accident and health annual statements; health annual statements; or fraternal
2 annual statements;

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

8 (c) Unless a change in the Valuation Manual specifies a later effective date,
9 changes to the Valuation Manual shall be effective on January 1 following the
10 date when the change to the Valuation Manual has been adopted by the NAIC
11 by an affirmative vote representing:

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

14 (2) members of the NAIC representing jurisdictions totaling greater than
15 75 percent of the direct premiums written as reported in the following annual
16 statements most recently available prior to the vote in subdivision (1) of this
17 subsection: life, accident and health annual statements, health annual
18 statements, or fraternal annual statements.

1 (d) The Valuation Manual must specify all of the following:

2 (1) Minimum valuation standards for and definitions of the policies or
3 contracts subject to subsection 3791b(b) of this subchapter. Such minimum
4 valuation standards shall be:

5 (A) the Commissioners reserve valuation method for life insurance
6 contracts, other than annuity contracts, subject to subsection 3791b(b) of this
7 subchapter;

8 (B) the Commissioners annuity reserve valuation method for annuity
9 contracts subject to subsection 3791b(b) of this subchapter; and

10 (C) minimum reserves for all other policies or contracts subject to
11 subsection 3791b(b) of this subchapter.

12 (2) Which policies or contracts or types of policies or contracts that are
13 subject to the requirements of a principle-based valuation in subsection
14 3791o(a) of this subchapter and the minimum valuation standards consistent
15 with those requirements.

16 (3) For policies and contracts subject to a principle-based valuation
17 under section 3791o of this subchapter:

18 (A) requirements for the format of reports to the Commissioner under
19 subdivision 3791o(b)(3) of this subchapter and which shall include information
20 necessary to determine if the valuation is appropriate and in compliance with
21 this subchapter;

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

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

6 (4) For policies not subject to a principle-based valuation section 3791o
7 of this subchapter, the minimum valuation standard shall either:

8 (A) be consistent with the minimum standard of valuation prior to the
9 operative date of the Valuation Manual; or

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

14 (5) Other requirements including those relating to reserve methods,
15 models for measuring risk, generation of economic scenarios, assumptions,
16 margins, use of company experience, risk measurement, disclosure,
17 certifications, reports, actuarial opinions and memorandum, transition rules,
18 and internal controls.

19 (6) The data and form of the data required under section 3791p of this
20 subchapter with whom the data must be submitted, and may specify other
21 requirements including data analyses and reporting of analyses.

1 (e) In the absence of a specific valuation requirement or if a specific
2 valuation requirement in the Valuation Manual is not, in the opinion of the
3 Commissioner, in compliance with this subchapter, then the company shall,
4 with respect to such requirements, comply with minimum valuation standards
5 prescribed by the Commissioner by rule.

6 (f) The Commissioner may engage a qualified actuary, at the expense of the
7 company, to perform an actuarial examination of the company and opine on
8 the appropriateness of any reserve assumption or method used by the company,
9 or to review and opine on a company's compliance with any requirement of
10 this subchapter. The Commissioner may rely upon the opinion, regarding
11 provisions contained within this subchapter, of a qualified actuary engaged by
12 the Commissioner of another state, district, or territory of the United States.
13 As used in this subsection, the term "engage" includes employ or contract
14 with.

15 (g) The Commissioner may require a company to change any assumption
16 or method that in the opinion of the Commissioner is necessary in order to
17 comply with the requirements of the Valuation Manual or this subchapter; and
18 the company shall adjust the reserves as required by the Commissioner. The
19 Commissioner may take other disciplinary action he or she deems appropriate.

1 § 3791o. REQUIREMENTS OF A PRINCIPLE-BASED VALUATION

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

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

11 (2) Incorporate assumptions, risk analysis methods and financial
12 models, and management techniques that are consistent with, but not
13 necessarily identical to, those used within the company's overall risk
14 assessment process, while recognizing potential differences in financial
15 reporting structures and any prescribed assumptions or methods.

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

18 (A) The assumption is prescribed in the Valuation Manual.

19 (B) For assumptions that are not prescribed, the assumptions shall:

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

1 (ii) to the extent that company data is not available, relevant, or
2 statistically credible, be established using other relevant, statistically credible
3 experience.

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

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

9 (1) Establish procedures for corporate governance and oversight of the
10 actuarial valuation function consistent with those described in the Valuation
11 Manual.

12 (2) Provide to the Commissioner and its Board of Directors an annual
13 certification of the effectiveness of the internal controls with respect to the
14 principle-based valuation. Such controls shall be designed to ensure that all
15 material risks inherent in the liabilities and associated assets subject to such
16 valuation are included in the valuation, and that valuations are made in
17 accordance with the Valuation Manual. The certification shall be based on
18 the controls in place as of the end of the preceding calendar year.

19 (3) Develop and file with the Commissioner, upon request, a
20 principle-based valuation report that complies with standards prescribed in
21 the Valuation Manual.

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

3 § 3791p. EXPERIENCE REPORTING FOR POLICIES IN FORCE ON OR
4 AFTER THE OPERATIVE DATE OF THE VALUATION
5 MANUAL

6 A company shall submit mortality, morbidity, policyholder behavior, or
7 expense experience and other data as prescribed in the Valuation Manual.

8 § 3791q. CONFIDENTIALITY

9 (a) As used in this subchapter, “confidential information” means:

10 (1) a memorandum in support of an opinion submitted under section
11 3791c of this subchapter and any other documents, materials, and information
12 including all working papers and copies thereof, created, produced, or
13 obtained by or disclosed to the Commissioner or any other person in
14 connection with such memorandum;

15 (2) all documents, materials, and other information including all
16 working papers, and copies thereof, created, produced, or obtained by or
17 disclosed to the Commissioner or any other person in the course of an
18 examination made under subsection 3791h(f) of this subchapter; provided,
19 however, that if an examination report or other material prepared in
20 connection with an examination made under chapter 101, subchapter 7 of this
21 title is not held as private and confidential information under such subchapter,

1 an examination report or other material prepared in connection with an
2 examination made under subsection 3791h(f) of this subchapter shall not be
3 “confidential information” to the same extent as if such examination report or
4 other material had been prepared under chapter 101, subchapter 7 of this title;

5 (3) any reports, documents, materials, and other information developed
6 by a company in support of, or in connection with, an annual certification by
7 the company under subdivision 3791o(b)(2) of this subchapter evaluating the
8 effectiveness of the company’s internal controls with respect to a
9 principle-based valuation and any other documents, materials, and other
10 information including all working papers, and copies thereof, created,
11 produced, or obtained by or disclosed to the Commissioner or any other
12 person in connection with such reports, documents, materials, and other
13 information;

14 (4) any principle-based valuation report developed under
15 subdivision 3791o(b)(3) of this subchapter and any other documents,
16 materials, and other information including all working papers and copies
17 thereof, created, produced, or obtained by or disclosed to the Commissioner
18 or any other person in connection with such report; and

19 (5) any documents, materials, data, and other information submitted by
20 a company under section 3791p of this subchapter—collectively, “experience
21 data”—and any other documents, materials, data, and other information,

1 including all working papers and copies thereof, created or produced in
2 connection with such experience data, in each case that include any
3 potentially company-identifying or personally identifiable information, that is
4 provided to or obtained by the Commissioner, together with any experience
5 data, and other experience materials, and any other documents, materials,
6 data, and other information including all working papers and copies thereof,
7 created, produced, or obtained by or disclosed to the Commissioner or any
8 other person in connection with such experience materials.

9 (b) Except as provided in this section, a company's confidential
10 information is confidential by law and privileged, and shall be exempt from
11 public inspection and copying under the Public Records Act, shall not be
12 subject to subpoena and shall not be subject to discovery or admissible in
13 evidence in any private civil action; provided, however, that the Commissioner
14 is authorized to use the confidential information in the furtherance of any
15 regulatory or legal action brought against the company as a part of the
16 Commissioner's official duties.

17 (c) Neither the Commissioner nor any person who received confidential
18 information while acting under the authority of the Commissioner shall be
19 permitted or required to testify in any private civil action concerning any
20 confidential information.

1 (d) In order to assist in the performance of the Commissioner's duties, the
2 Commissioner may share confidential information:

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

5 (2) in the case of confidential information specified in subdivisions
6 (a)(1) and (a)(4) of this section only, with the Actuarial Board for Counseling
7 and Discipline or its successor upon request stating that the confidential
8 information is required for the purpose of professional disciplinary
9 proceedings and with State, federal, and international law enforcement
10 officials; in the case of subdivisions (1) and (2) of this subsection (d),
11 provided that such recipient agrees, and has the legal authority to agree, to
12 maintain the confidentiality and privileged status of such documents,
13 materials, data, and other information in the same manner and to the same
14 extent as required for the Commissioner.

15 (e) The Commissioner may receive documents, materials, data, and other
16 information, including otherwise confidential and privileged documents,
17 materials, data, or information, from the NAIC and its affiliates and
18 subsidiaries, from regulatory or law enforcement officials of other foreign or
19 domestic jurisdictions and from the Actuarial Board for Counseling and
20 Discipline, or its successor, and shall maintain as confidential or privileged
21 any document, material, data, or other information received with notice or the

1 understanding that it is confidential or privileged under the laws of the
2 jurisdiction that is the source of the document, material, or other information.

3 (f) The Commissioner may enter into agreements governing sharing and
4 use of information consistent with subsection (b) of this section.

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

9 (h) A privilege established under the law of any state or jurisdiction that is
10 substantially similar to the privilege established under this subsection (b) of
11 this section shall be available and enforced in any proceeding in, and in any
12 court of, this State.

13 (i) As used in this section, “regulatory agency,” “law enforcement
14 agency,” and the NAIC include their employees, agents, consultants, and
15 contractors.

16 (j) Notwithstanding any provision in this section to the contrary, any
17 confidential information specified in subdivision (a)(1) or (a)(4) of
18 this section:

19 (1) may be subject to subpoena for the purpose of defending an action
20 seeking damages from the appointed actuary submitting the related
21 memorandum in support of an opinion submitted under section 3791c of this

1 subchapter or principle-based valuation report developed under
2 subdivision 3791o(b)(3) of this subchapter by reason of an action required by
3 this subchapter or by rules adopted hereunder;

4 (2) may otherwise be released by the Commissioner with the written
5 consent of the company; and

6 (3) once any portion of a memorandum in support of an opinion
7 submitted under section 3791c of this subchapter or a principle-based
8 valuation report developed under subdivision 3791o(b)(3) of this subchapter
9 is cited by the company in its marketing or is publicly volunteered to or
10 before a governmental agency other than a state insurance department or is
11 released by the company to the news media, all portions of such
12 memorandum or report shall no longer be confidential.

13 § 3791r. SINGLE STATE EXEMPTION

14 (a) The Commissioner may exempt specific product forms or product
15 lines of a domestic company that is licensed and doing business only in
16 Vermont from the requirements of section 3791n of this subchapter provided:

17 (1) the Commissioner has issued an exemption in writing to the
18 company and has not subsequently revoked the exemption in writing; and

19 (2) the company computes reserves using assumptions and methods
20 used prior to the operative date of the Valuation Manual in addition to any
21 requirements established by rule adopted by the Commissioner.

1 (b) For any company granted an exemption under this section,
2 sections 3791c, 3791d, 3791e, 3791f, 3791g, 3791h, 3791i, 3791j, 3791k,
3 3791l, and 3791m of this subchapter shall be applicable. With respect to any
4 company applying this exemption, any reference to section 3791n found in
5 sections 3791c, 3791d, 3791e, 3791f, 3791g, 3791h, 3791i, 3791j, 3791k,
6 3791l and 3791m of this subchapter shall not be applicable.

7 * * * Standard Nonforfeiture Law for Life Insurance * * *

8 Sec. 2. 8 V.S.A. chapter 103, subchapter 3b is added to read:

9 Subchapter 3b. Standard Nonforfeiture Law for Life Insurance

10 § 3760. TITLE

11 This subchapter shall be known as the Standard Nonforfeiture Law for Life
12 Insurance.

13 § 3761. DEFINITIONS

14 As used in this subchapter, “operative date of the Valuation Manual”
15 means January 1 of the first calendar year that the Valuation Manual as
16 defined in subchapter 4a of this chapter is effective.

17 § 3762. NONFORFEITURE BENEFITS

18 (a) In the case of policies issued on or after the effective date of this
19 subchapter, as defined in section 3773 of this subchapter, a policy of life
20 insurance, except as stated in section 3772 of this subchapter, shall not be
21 delivered or issued for delivery in this State unless it contains in substance the

1 following provisions, or corresponding provisions that, in the opinion of the
2 Commissioner, are at least as favorable to the defaulting or surrendering
3 policyholder as are the minimum requirements specified in this section and
4 are essentially in compliance with section 3771 of this subchapter.

5 (1) In the event of default in any premium payment, the company shall
6 grant, upon proper request not later than 60 days after the due date of the
7 premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the
8 policy, effective as of the due date, of such amount as may be specified in this
9 section. In lieu of the stipulated paid-up nonforfeiture benefit, the company
10 may substitute, upon proper request not later than 60 days after the due date
11 of the premium in default, an actuarially equivalent alternative paid-up
12 nonforfeiture benefit that provides a greater amount or earlier payment of
13 endowment benefits.

14 (2) Upon surrender of the policy within 60 days after the due date of
15 any premium payment in default after premiums have been paid for at least
16 three full years in the case of ordinary insurance or five full years in the case
17 of industrial insurance, the company shall pay, in lieu of any paid-up
18 nonforfeiture benefit, a cash surrender value of an amount as may be
19 specified in this section.

20 (3) A specified paid-up nonforfeiture benefit shall become effective as
21 specified in the policy unless the person entitled to make the election elects

1 another available option not later than 60 days after the due date of the
2 premium in default.

3 (4) If the policy becomes paid-up by completion of all premium
4 payments or if it is continued under any paid-up nonforfeiture benefit that
5 became effective on or after the third policy anniversary in the case of
6 ordinary insurance or the fifth policy anniversary in the case of industrial
7 insurance, the company shall pay upon surrender of the policy within 30 days
8 after any policy anniversary, a cash surrender value of an amount as may be
9 specified in this section.

10 (5) If a policy causes, on a basis guaranteed in the policy, unscheduled
11 changes in benefits or premiums, or provides an option for changes in
12 benefits or premiums, other than a change to a new policy, the company shall
13 provide the policyholder a statement of the mortality table, interest rate, and
14 method used in calculating cash surrender values and the paid-up
15 nonforfeiture benefits available under the policy. In the case of all other
16 policies, a company shall provide to its policyholders a statement of the
17 mortality table and interest rate used in calculating the cash surrender values
18 and the paid-up nonforfeiture benefits available under the policy, together
19 with a table showing the cash surrender value, if any, and paid-up
20 nonforfeiture benefit, if any, available under the policy on each policy
21 anniversary either during the first 20 policy years or during the term of the

1 policy, whichever is shorter, such values and benefits to be calculated upon
2 the assumption that there are no dividends or paid-up additions credited to the
3 policy and that there is no indebtedness to the company on the policy.

4 (6) A company shall provide statement that the cash surrender values
5 and the paid-up nonforfeiture benefits available under the policy are not less
6 than the minimum values and benefits required by or pursuant to the insurance
7 law of the state in which the policy is delivered; an explanation of the manner
8 in which the cash surrender values and the paid-up nonforfeiture benefits are
9 altered by the existence of any paid-up additions credited to the policy or any
10 indebtedness to the company on the policy; if a detailed statement of the
11 method of computation of the values and benefits shown in the policy is not
12 stated therein, a statement that such method of computation has been filed with
13 the insurance supervisory official of the state in which the policy is delivered;
14 and a statement of the method to be used in calculating the cash surrender
15 value and a paid-up nonforfeiture benefit available under the policy on any
16 policy anniversary beyond the last anniversary for which values and benefits
17 are consecutively shown in the policy.

18 (b) Any of the provisions in subsection (a) of this section, or portions
19 thereof not applicable by reason of the plan of insurance may be omitted from
20 the policy, to the extent inapplicable.

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

4 § 3763. COMPUTATION OF CASH SURRENDER VALUE

5 (a) Any cash surrender value available under the policy in the event of
6 default in a premium payment due on any policy anniversary, whether or not
7 required by section 3762 of this subchapter, shall be an amount not less than
8 the excess, if any, of the present value, on the anniversary, of the future
9 guaranteed benefits that would have been provided for by the policy, including
10 any existing paid-up additions, if there had been no default, over the sum of:

11 (1) the then present value of the adjusted premiums as defined in
12 sections 3765–3768 of this subchapter, corresponding to premiums which
13 would have fallen due on and after the anniversary; and

14 (2) the amount of any indebtedness to the company on the policy.

15 (b) Notwithstanding subsection (a) of this section, for a policy issued on or
16 after the operative date of section 3768 of this subchapter that provides
17 supplemental life insurance or annuity benefits at the option of the insured and
18 for an identifiable additional premium by rider or supplemental policy
19 provision, the cash surrender value referred to in subsection (a) of this section
20 shall be an amount not less than the sum of the cash surrender value for an
21 otherwise similar policy issued at the same age without the rider or

1 supplemental policy provision and the cash surrender value as defined in
2 subsection (a) of this section for a policy which provides only the benefits
3 otherwise provided by such rider or supplemental policy provision.

4 (c) For a family policy issued on or after the operative date of section 3768
5 of this subchapter that defines a primary insured and provides term insurance
6 on the life of the spouse of the primary insured expiring before the spouse
7 turns 71 years of age, the cash surrender value referred to in subsection (a) of
8 this section shall be an amount not less than the sum of the cash surrender
9 value for an otherwise similar policy issued at the same age without term
10 insurance on the life of the spouse and the cash surrender value as defined in
11 subsection (a) of this section for a policy that provides only the benefits
12 otherwise provided by term insurance on the life of the spouse.

13 (d) A cash surrender value available within 30 days after any policy
14 anniversary under any policy paid up by completion of all premium payments
15 or any policy continued under any paid-up nonforfeiture benefit, whether or
16 not required under section 3762 of this subchapter, shall be an amount not less
17 than the present value, on the anniversary, of the future guaranteed benefits
18 provided for by the policy, including any existing paid-up additions, decreased
19 by any indebtedness to the company on the policy.

1 § 3764. COMPUTATION OF PAID-UP NONFORFEITURE BENEFITS

2 A paid-up nonforfeiture benefit available under a policy in the event of
3 default in a premium payment due on any policy anniversary shall be such that
4 its present value as of the anniversary shall be at least equal to the cash
5 surrender value then provided for by the policy or, if none is provided for, that
6 cash surrender value that would have been required under this subchapter in
7 the absence of the condition that premiums shall have been paid for at least a
8 specified period.

9 § 3765. CALCULATION OF ADJUSTED PREMIUMS

10 (a)(1) This section shall not apply to policies issued on or after the
11 operative date of section 3768 of this subchapter. Except as provided in
12 subsection (c) of this section, the adjusted premiums for any policy shall be
13 calculated on an annual basis and shall be such uniform percentage of the
14 respective premiums specified in the policy for each policy year, excluding
15 amounts stated in the policy as extra premiums to cover impairments or special
16 hazards, that the present value, at the date of issue of the policy, of all such
17 adjusted premiums shall be equal to the sum of:

18 (A) the then present value of the future guaranteed benefits provided
19 for by the policy;

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

4 (C) 40 percent of the adjusted premium for the first policy year; and

5 (D) 25 percent of either the adjusted premium for the first policy year
6 or the adjusted premium for a whole life policy of the same uniform or
7 equivalent uniform amount with uniform premiums for the whole of life issued
8 at the same age for the same amount of insurance, whichever is less.

9 (2) In applying the percentages specified in subdivisions(a)(C) and (D)
10 of this section, no adjusted premium shall be deemed to exceed four percent of
11 the amount of insurance or level amount equivalent. The date of issue of a
12 policy for the purpose of this section shall be the date as of which the rated age
13 of the insured is determined.

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

1 (c)(1) The adjusted premiums for any policy providing term insurance
2 benefits by rider or supplemental policy provision shall be equal to:

3 (A) the adjusted premiums for an otherwise similar policy issued at
4 the same age without such term insurance benefits, increased, during the period
5 for which premiums for such term insurance benefits are payable, by

6 (B) the adjusted premiums for such term insurance,

7 (2) Subdivisions (1)(A) and (B) of this subsection shall be calculated
8 separately except that, for purposes of subdivisions (a)(1)(B)–(D) of this
9 section, the amount of insurance or equivalent uniform amount of insurance
10 used in the calculation of the adjusted premiums referred to in subsection
11 (a)(1)(B) of this section shall be equal to the excess of the corresponding
12 amount determined for the entire policy over the amount used in the
13 calculation of the adjusted premiums in subdivision (1) of this subsection (c).

14 (d) Except as otherwise provided in sections 3766 and 3767 of this
15 subchapter, all adjusted premiums and present values referred to in this
16 subchapter shall for all policies of ordinary insurance be calculated on the basis
17 of the Commissioners' 1941 Standard Ordinary Mortality Table, provided that
18 for any category of ordinary insurance issued on female risks, adjusted
19 premiums and present values may be calculated according to any age not more
20 than three years younger than the actual age of the insured and such
21 calculations for all policies of industrial insurance shall be made on the basis of

1 the 1941 Standard Industrial Mortality Table. All calculations shall be made
2 on the basis of the rate of interest, not exceeding three and one-half percent per
3 annum, specified in the policy for calculating cash surrender values and paid-
4 up nonforfeiture benefits. Provided, however, that in calculating the present
5 value of any paid-up term insurance with accompanying pure endowment, if
6 any, offered as a nonforfeiture benefit, the rates of mortality assumed may be
7 not more than 130 percent of the rates of mortality according to the applicable
8 table. Provided, further, that for insurance issued on a substandard basis, the
9 calculation of any adjusted premiums and present values may be based on such
10 other table of mortality as may be specified by the company and approved by
11 the Commissioner.

12 § 3766. CALCULATION OF ADJUSTED PREMIUMS; ORDINARY
13 POLICIES

14 (a) This section does not apply to ordinary policies issued on or after the
15 operative date of section 3768 of this subchapter. In the case of ordinary
16 policies issued on or after the operative date of this section, all adjusted
17 premiums and present values referred to in this subchapter shall be calculated
18 on the basis of the Commissioners' 1958 Standard Ordinary Mortality Table
19 and the rate of interest specified in the policy for calculating cash surrender
20 values and paid-up nonforfeiture benefits, provided that such rate of interest
21 shall not exceed three and one-half percent per annum, except that a rate of

1 interest not exceeding four percent per annum may be used for policies issued
2 on or after April 12, 1973, and prior to January 1, 1980, and a rate of interest
3 not exceeding five and one-half percent per annum may be used for policies
4 issued on or after January 1, 1980, except that for any single premium whole
5 life or endowment insurance policy, a rate of interest not exceeding six and
6 one-half percent per annum may be used, provided that for any category of
7 ordinary insurance issued on female risks, adjusted premiums and present
8 values may be calculated according to an age not more than six years younger
9 than the actual age of the insured. In calculating the present value of any paid-
10 up term insurance with accompanying pure endowment, if any, offered as a
11 nonforfeiture benefit, the rates of mortality assumed may not be more than
12 those shown in the Commissioners' 1958 Extended Term Insurance Table. For
13 insurance issued on a substandard basis, the calculation of any adjusted
14 premiums and present values may be based on such other table of mortality as
15 may be specified by the company and approved by the Commissioner.

16 (b) After the effective date of this section, any company may file with the
17 Commissioner a written notice of its election to comply with the provisions of
18 this section after a specified date before January 1, 1966. After the filing of
19 such notice, upon the specified date (which shall be the operative date of this
20 section for that company), this section shall become operative with respect to
21 the ordinary policies thereafter issued by the company. If a company makes no

1 election, the operative date of this section for the company shall be
2 January 1, 1966.

3 § 3767. CALCULATION OF ADJUSTED PREMIUMS; INDUSTRIAL
4 POLICIES

5 (a) This section does not apply to industrial policies issued on or after the
6 operative date of section 3768 of this subchapter. In the case of industrial
7 policies issued on or after the operative date of this section, all adjusted
8 premiums and present values referred to in this subchapter shall be calculated
9 on the basis of the Commissioners' 1961 Standard Industrial Mortality Table
10 and the rate of interest specified in the policy for calculating cash surrender
11 values and paid-up nonforfeiture benefits provided that such rate of interest
12 shall not exceed three and one-half percent per annum, except that a rate of
13 interest not exceeding four percent per annum may be used for policies issued
14 on or after April 12, 1973, and prior to January 1, 1980, and a rate of interest
15 not exceeding five and one-half percent per annum may be used for policies
16 issued on or after January 1, 1980, except that for any single premium whole
17 life or endowment insurance policy, a rate of interest not exceeding six and
18 one-half percent per annum may be used. In calculating the present value of
19 any paid-up term insurance with accompanying pure endowment, if any,
20 offered as a nonforfeiture benefit, the rates of mortality assumed may be not
21 more than those shown in the Commissioners' 1961 Industrial Extended Term

1 Insurance Table. For insurance issued on a substandard basis, the calculations
2 of any such adjusted premiums and present values may be based on such other
3 table of mortality as may be specified by the company and approved by the
4 Commissioner.

5 (b) After the effective date of this section, any company may file with the
6 Commissioner a written notice of its election to comply with the provisions of
7 this section after a specified date before January 1, 1968. After the filing of
8 such notice, upon the specified date, which shall be the operative date of this
9 section for that company, this section shall become operative with respect to
10 the industrial policies thereafter issued by the company. If a company makes
11 no election, the operative date of this section for the company shall be
12 January 1, 1968.

13 § 3768. CALCULATIONS OF ADJUSTED PREMIUMS BY THE
14 NONFORFEITURE NET LEVEL PREMIUM METHOD

15 (a)(1) This section shall apply to all policies issued on or after the operative
16 date of this section. Except as provided in subsection (g) of this section. the
17 adjusted premiums for any policy shall be calculated on an annual basis and
18 shall be such uniform percentage of the respective premiums specified in the
19 policy for each policy year, excluding amounts payable as extra premiums to
20 cover impairments or special hazards and also excluding any uniform annual
21 contract charge or policy fee specified in the policy in a statement of the

1 method to be used in calculating the cash surrender values and paid-up
2 nonforfeiture benefits, that the present value, at the date of issue of the policy,
3 of all adjusted premiums shall be equal to the sum of:

4 (A) the then present value of the future guaranteed benefits provided
5 for by the policy;

6 (B) one percent of either the amount of insurance, if the insurance be
7 uniform in amount, or the average amount of insurance at the beginning of
8 each of the first 10 policy years; and

9 (C) 125 percent of the nonforfeiture net level premium as defined in
10 this section.

11 (2) In applying the percentage specified in subdivision (1)(C) of this
12 subsection, no nonforfeiture net level premium shall be deemed to exceed four
13 percent of either the amount of insurance, if the insurance be uniform in
14 amount, or the average amount of insurance at the beginning of each of the
15 first 10 policy years. The date of issue of a policy for the purpose of this
16 section shall be the date as of which the rated age of the insured is determined.

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

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

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

21 (1) The sum of:

1 (A) the then present value of the then future guaranteed benefits
2 provided for by the policy, and

3 (B) the additional expense allowance, if any, over

4 (2) the then cash surrender value, if any, or present value of any paid-up
5 nonforfeiture benefit under this policy.

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

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

14 (2) 125 percent of the increase, if positive, in the nonforfeiture net level
15 premium.

16 (f) The recalculated nonforfeiture net level premium shall be equal to the
17 result obtained by dividing the sum arrived at under subdivision (1) of this
18 subsection by the value specified in subdivision (2) of this subsection.

19 (1) As used in this subsection, “sum” means:

20 (A) the nonforfeiture net level premium applicable prior to the
21 change times the present value of an annuity of one per annum payable on each

1 anniversary of the policy on or subsequent to the date of the change on which a
2 premium would have fallen due had the change not occurred, plus

3 (B) the present value of the increase in future guaranteed benefits
4 provided for by the policy.

5 (2) As used in this subsection, “value” means the present value of an
6 annuity of one per annum payable on each anniversary of the policy on or
7 subsequent to the date of change on which a premium falls due.

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

16 (h) All adjusted premiums and present values referred to in this subchapter
17 shall for all policies of ordinary insurance be calculated on the basis of the
18 Commissioners’ 1980 Standard Ordinary Mortality Table or, at the election of
19 the company, for any one or more specified plans of life insurance, the
20 Commissioners’ 1980 Standard Ordinary Mortality Table with Ten-Year
21 Select Mortality Factors, shall for all policies of industrial insurance be

1 calculated on the basis of the Commissioners' 1961 Standard Industrial
2 Mortality Table, and shall for all policies issued in a particular calendar year be
3 calculated on the basis of a rate of interest not exceeding the nonforfeiture
4 interest rate as defined in this section, for policies issued in that calendar year,
5 provided that:

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

10 (2) Under a paid-up nonforfeiture benefit, including any paid-up
11 dividend additions, any cash surrender value available, whether or not required
12 by section 3762 of this subchapter, shall be calculated on the basis of the
13 mortality table and rate of interest used in determining the amount of such
14 paid-up nonforfeiture benefit and paid-up dividend additions, if any.

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

19 (4) In calculating the present value of any paid-up term insurance with
20 accompanying pure endowment, if any, offered as a nonforfeiture benefit, the
21 rates of mortality assumed may be not more than those shown in the

1 Commissioners' 1980 Extended Term Insurance Table for policies of ordinary
2 insurance and not more than the Commissioners' 1961 Industrial Extended
3 Term Insurance Table for policies of industrial insurance.

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

7 (6)(A) For policies issued prior to the operative date of the Valuation
8 Manual defined in subchapter 4a or this chapter, any Commissioners' Standard
9 Ordinary Mortality Tables, adopted after 1980 by the National Association of
10 Insurance Commissioners, approved by rule adopted by the Commissioner for
11 use in determining the minimum nonforfeiture standard may be substituted for
12 the Commissioners' 1980 Standard Ordinary Mortality Table with or without
13 10-Year Select Mortality Factors or for the Commissioners' 1980 Extended
14 Term Insurance Table.

15 (B) For policies issued on or after the operative date of the Valuation
16 Manual the Valuation Manual shall provide the Commissioners' Standard
17 Mortality Table for use in determining the minimum nonforfeiture standard
18 that may be substituted for the Commissioners' 1980 Standard Ordinary
19 Mortality Table with or without 10-Year Select Mortality Factors or for the
20 Commissioners' 1980 Extended Term Insurance Table. If the Commissioner
21 adopts by rule a Commissioners' Standard Ordinary Mortality Table adopted

1 by the NAIC for use in determining the minimum nonforfeiture standard for
2 policies issued on or after the operative date of the Valuation Manual then that
3 minimum nonforfeiture standard supersedes the minimum nonforfeiture
4 standard provided by the Valuation Manual.

5 (7)(A) For policies issued prior to the operative date of the Valuation
6 Manual, any Commissioners' Standard Industrial Mortality Tables, adopted
7 after 1980 by the NAIC, approved by rule adopted by the Commissioner for
8 use in determining the minimum nonforfeiture standard may be substituted for
9 the Commissioners' 1961 Standard Industrial Mortality Table or the
10 Commissioners' 1961 Industrial Extended Term Insurance Table.

11 (B) For policies issued on or after the operative date of the Valuation
12 Manual the Valuation Manual shall provide the Commissioners' Standard
13 Mortality Table for use in determining the minimum nonforfeiture standard
14 that may be substituted for the Commissioners' 1961 Standard Industrial
15 Mortality Table or the Commissioners' 1961 Industrial Extended Term
16 Insurance Table. If the Commissioner adopts by rule a Commissioners'
17 Standard Industrial Mortality Table adopted by the NAIC for use in
18 determining the minimum nonforfeiture standard for policies issued on or after
19 the operative date of the Valuation Manual then that minimum nonforfeiture
20 standard supersedes the minimum nonforfeiture standard provided by the
21 Valuation Manual.

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

2 (1) For policies issued prior to the operative date of the Valuation
3 Manual, the nonforfeiture interest rate per annum for any policy issued in a
4 particular calendar year shall be equal to 125 percent of the calendar year
5 statutory valuation interest rate for such policy as defined under subchapter 4a
6 of this chapter, rounded to the nearer one quarter of one percent, provided the
7 nonforfeiture interest rate shall not be less than four percent.

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

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

16 (k) After the effective date of this section, any company may file with the
17 Commissioner a written notice of its election to comply with the provision of
18 this section after a specified date before January 1, 1989, which shall be the
19 operative date of this section for the company. If a company makes no
20 election, the operative date of this section for the company shall be
21 January 1, 1989.

1 § 3769. NONFORFEITURE BENEFITS FOR INDETERMINATE

2 PREMIUM PLANS

3 In the case of any plan of life insurance which provides for future premium
4 determination, the amounts of which are to be determined by the insurance
5 company based on estimates of future experience, or in the case of any plan of
6 life insurance which is of such a nature that minimum values cannot be
7 determined by the methods described in sections 3762–3768 of this
8 subchapter:

9 (1) The Commissioner must be satisfied that the benefits provided under
10 the plan are substantially as favorable to policyholders and insureds as the
11 minimum benefits otherwise required by sections 3762–3768 of this
12 subchapter.

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

16 (3) The cash surrender values and paid-up nonforfeiture benefits
17 provided by such plan must not be less than the minimum values and benefits
18 required for the plan computed by a method consistent with the principles of
19 this Standard Nonforfeiture Law for Life Insurance, as determined by
20 subchapter 4a of this chapter and any rules adopted thereunder.

1 § 3770. PRORATION OF VALUES; NET VALUE OF PAID-UP

2 ADDITIONS

3 Any cash surrender value and any paid-up nonforfeiture benefit available
4 under a policy in the event of default in a premium payment due at any time
5 other than on the policy anniversary shall be calculated with allowance for the
6 lapse of time and the payment of fractional premiums beyond the last
7 preceding policy anniversary. All values referred to in sections 3763–3768 of
8 this subchapter may be calculated upon the assumption that any death benefit
9 is payable at the end of the policy year of death. The net value of any paid-up
10 additions, other than paid-up term additions, shall not be less than the amounts
11 used to provide such additions. Notwithstanding the provisions of section
12 3763 of this subchapter, additional benefits shall be disregarded in ascertaining
13 cash surrender values and nonforfeiture benefits required under this
14 subchapter, and no such additional benefits shall be required to be included in
15 any paid-up nonforfeiture benefits. As used in this section, “additional
16 benefits” means benefits payable:

17 (1) in the event of death or dismemberment by accident or accidental
18 means;

19 (2) in the event of total and permanent disability;

20 (3) as reversionary annuity or deferred reversionary annuity benefits;

1 (4) as term insurance benefits provided by a rider or supplemental policy
2 provision to which, if issued as a separate policy, this subchapter would not
3 apply;

4 (5) as term insurance in the life on a child or on the lives of children
5 provided in a policy on the life of a parent of the child, if such term insurance
6 expires before the child turns 26 years of age, is uniform in amount after the
7 child's age is one year of age, and has not become paid-up by reason of the
8 death of a parent of the child; or

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

11 § 3771. CONSISTENCY OF PROGRESSION OF CASH SURRENDER

12 VALUES WITH INCREASING POLICY DURATION

13 (a) This section, in addition to all other applicable sections of this chapter,
14 shall apply to all policies issued on or after January 1, 1987. Any cash
15 surrender value available under the policy in the event of default in a premium
16 payment due on any policy anniversary shall be in an amount which does not
17 differ by more than two tenths of one percent of either the amount of
18 insurance, if the insurance be uniform in amount, or the average amount of
19 insurance at the beginning of each of the first 10 policy years, from the sum of:

20 (1) the greater of zero and the basic cash value specified in this
21 section; and

1 (2) the present value of any existing paid-up additions less the amount
2 of any indebtedness to the company under the policy.

3 (b) The basic cash value shall be equal to the present value, on such
4 anniversary, of the future guaranteed benefits which would have been provided
5 for by the policy, excluding any existing paid-up additions and before
6 deduction of any indebtedness to the company, if there had been no default,
7 less the then present value of the nonforfeiture factors, as defined in this
8 subchapter, corresponding to premiums which would have fallen due on and
9 after the anniversary. The effects on the basic cash value of supplemental life
10 insurance or annuity benefits or of family coverage, as described in section
11 3763 or 3765 of this subchapter, whichever is applicable, shall be the same as
12 the effects specified in those sections, as applicable, on the cash surrender
13 values defined therein.

14 (c) The nonforfeiture factor for each policy year shall be an amount equal
15 to a percentage of the adjusted premium for the policy year, as defined in
16 section 3765 or section 3768 of this subchapter, as applicable, except that the
17 percentage:

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

20 (A) the fifth policy anniversary; or

1 (B) the first policy anniversary at which there is available under the
2 policy a cash surrender value in an amount, before including any paid-up
3 additions and before deducting any indebtedness, of at least two tenths of one
4 percent of either the amount of insurance, if the insurance be uniform in
5 amount, or the average amount of insurance at the beginning of each of the
6 first 10 policy years; and

7 (2) must be such that no percentage after the later of the two policy
8 anniversaries specified in subsection (a) of this section may apply to fewer
9 than five consecutive policy years.

10 (d) Basic cash value shall not be less than the value which would be
11 obtained if the adjusted premiums for the policy, as defined in section 3768 of
12 this subchapter, were substituted for the nonforfeiture factors in the calculation
13 of the basic cash value.

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

19 (f) A cash surrender value available other than in the event of default in a
20 premium payment due on a policy anniversary, and the amount of any paid-up
21 nonforfeiture benefit available under the policy in the event of default in a

1 premium payment shall be determined in manners consistent with the manners
2 specified for determining the analogous minimum amounts in sections 3762,
3 3763, 3764, 3768, and 3770 of this subchapter. The amounts of any cash
4 surrender values and of any paid-up nonforfeiture benefits granted in
5 connection with additional benefits such as those listed subsections 3770(a)–(f)
6 of this subchapter shall conform with the principles of this section.

7 § 3772. EXCEPTIONS

8 (a) This subchapter shall not apply to:

9 (1) reinsurance;

10 (2) group insurance;

11 (3) pure endowment;

12 (4) an annuity or reversionary annuity contract;

13 (5) a term policy of uniform amount, which provides no guaranteed
14 nonforfeiture or endowment benefits, or renewal thereof, of 20 years or less
15 expiring before 71 years of age, for which uniform premiums are payable
16 during the entire term of the policy;

17 (6) a term policy of decreasing amount, which provides no guaranteed
18 nonforfeiture or endowment benefits, on which each adjusted premium,
19 calculated as specified in section 3765, 3766, 3767, or 3768 of this subchapter,
20 is less than the adjusted premium so calculated, on a term policy of uniform
21 amount, or renewal thereof, that provides no guaranteed nonforfeiture or

1 endowment benefits, issued at the same age and for the same initial amount of
2 insurance and for a term of 20 years or less expiring before 71 years of age, for
3 which uniform premiums are payable during the entire term of the policy;

4 (7) a policy, which provides no guaranteed nonforfeiture or endowment
5 benefits, for which no cash surrender value, if any, or present value of any
6 paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as
7 specified in section 3763, 3764, 3765, 3766, 3767, or 3768 of this subchapter,
8 exceeds two and one-half percent of the amount of insurance at the beginning
9 of the same policy year; nor

10 (8) a policy delivered outside this State through an agent or other
11 representative of the company issuing the policy.

12 (b) For purposes of determining the applicability of this subchapter, the age
13 at expiry for a joint term life insurance policy shall be the age at expiry of the
14 oldest life.

15 § 3773. EFFECTIVE DATE; APPLICABILITY

16 After the effective date of this subchapter, any company may file with the
17 Commissioner a written notice of its election to comply with the provisions of
18 this subchapter after a specified date before January 1, 1948. After the filing
19 of such notice, then upon the specified date (which shall be the operative date
20 for the company), this subchapter shall become operative with respect to the
21 policies thereafter issued by the company. If a company makes no such

1 election, the operative date of this subchapter for the company shall be
2 January 1, 1948.

3 * * * Miscellaneous Banking Provisions * * *

4 Sec. 3. 8 V.S.A. § 15(b) is amended to read:

5 (b) The Commissioner may, whether or not requested by any person, issue
6 written advisory interpretations of ~~Part 5~~ Part 4 of this title and regulations
7 issued under it, including interpretations of the applicability of any provision
8 of this title and regulations issued under it. Such interpretations shall be
9 presumed to be correct unless found to be clearly erroneous by a court of
10 competent jurisdiction. The Commissioner may make public all or a portion of
11 an advisory interpretation.

12 Sec. 4. 8 V.S.A. § 19(f) is amended to read:

13 (f) There is hereby created a fund to be known as the Financial Institution
14 Supervision Fund for the purpose of providing the financial means for the
15 Commissioner of Financial Regulation to administer Parts 2, ~~5, and 6~~ 4, and 5
16 of this title, 9 V.S.A. Parts 1 and 3, and Title 9A. All fees and assessments
17 received by the Department pursuant to such administration shall be deposited
18 in this Fund.

1 Sec. 5. 8 V.S.A. § 23(a) is amended to read:

2 (a) This section shall apply to all persons licensed, authorized, or
3 registered, or required to be licensed, authorized, or registered, under Parts 2
4 and ~~5~~ 4 of ~~Title 8~~ this title.

5 * * * Repeal; Effective Date * * *

6 Sec. 6. REPEAL

7 8 V.S.A. chapter 103, subchapters 3 (standard nonforfeiture law for life
8 insurance) and 4 (standard valuation law) are repealed.

9 Sec. 7. EFFECTIVE DATE

10 This act shall take effect on passage.