

1 Introduced by Committee on Commerce and Economic Development

2 Date:

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

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

8 An act relating to principle-based valuation for life insurance reserves

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

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

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

12 Subchapter 4a. Standard Valuation Law

13 § 3791. TITLE

14 This subchapter shall be known as the Standard Valuation Law.

15 § 3791a. DEFINITIONS

16 As used in this subchapter:

17 (1) “Accident and health insurance” means contracts that incorporate
18 morbidity risk and provide protection against economic loss resulting from
19 accident, sickness, or medical conditions and as may be specified in the
20 Valuation Manual.

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

4 (3) “Company” means an entity that:

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

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

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

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

17 (6) “NAIC” means the National Association of Insurance
18 Commissioners.

19 (7) “Policyholder behavior” means any action a policyholder, contract
20 holder, or any other person with the right to elect options, such as a certificate
21 holder, may take under a policy or contract subject to this subchapter

1 including, lapse, withdrawal, transfer, deposit, premium payment, loan,
2 annuitization, or benefit elections prescribed by the policy or contract but
3 excluding events of mortality or morbidity that result in benefits prescribed in
4 their essential aspects by the terms of the policy or contract.

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

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

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

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

20 § 3791b. RESERVE VALUATION

21 (a)(1) Policies and contracts issued prior to the operative date of the

1 Valuation Manual. The Commissioner shall annually value, or cause to be
2 valued, the reserve liabilities, hereinafter called reserves, for all outstanding
3 life insurance policies and annuity and pure endowment contracts of every life
4 company doing business in this State issued on or after the effective date of
5 1967 Acts and Resolves No. 344, Sec. 1 and prior to the operative date of the
6 Valuation Manual. In calculating reserves, the Commissioner may use group
7 methods and approximate averages for fractions of a year or otherwise. In lieu
8 of the valuation of the reserves required of a foreign or alien company, the
9 Commissioner may accept a valuation made, or caused to be made, by the
10 insurance supervisory official of any state or other jurisdiction when the
11 valuation complies with the minimum standard provided in this subchapter.

12 (2) The provisions set forth in sections 3791d, 3791e, 3791f, 3791g,
13 3791h, 3791i, 3791j, 3791k, 3791l, and 3791m of this subchapter shall apply
14 to all policies and contracts, as appropriate, subject to this subchapter issued on
15 or after July 1, 1968 and prior to the operative date of the Valuation Manual
16 and the provisions set forth in sections 3791n and 3791o of this subchapter
17 shall not apply to any such policies and contracts.

18 (3) The minimum standard for the valuation of policies and contracts
19 issued prior to the effective date of 1967 Acts and Resolves No. 344, Sec. 1
20 shall be that provided by the laws in effect immediately prior to that date.

21 (b)(1) Policies and contracts issued on or after the operative date of the

1 Valuation Manual. The Commissioner shall annually value, or cause to be
2 valued, the reserve liabilities, hereinafter called reserves, for all outstanding
3 life insurance contracts, annuity and pure endowment contracts, accident and
4 health contracts, and deposit-type contracts of every company issued on or
5 after the operative date of the Valuation Manual. In lieu of the valuation of the
6 reserves required of a foreign or alien company, the Commissioner may accept
7 a valuation made, or caused to be made, by the insurance supervisory official
8 of any state or other jurisdiction when the valuation complies with the
9 minimum standard provided in this subchapter.

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

13 § 3791c. ACTUARIAL OPINION OF RESERVES

14 (a)(1) Actuarial Opinion Prior to the Operative Date of the Valuation
15 Manual; General. Every life company doing business in this State shall
16 annually submit the opinion of a qualified actuary as to whether the reserves
17 and related actuarial items held in support of the policies and contracts
18 specified by the Commissioner by rule are computed appropriately, are based
19 on assumptions that satisfy contractual provisions, and are consistent with prior
20 reported amounts and comply with applicable laws of this State. The
21 Commissioner shall define by rule the specifics of this opinion and add any

1 other items deemed to be necessary to its scope.

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

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

13 (B) The Commissioner may provide by rule for a transition period for
14 establishing any higher reserves that the qualified actuary may deem necessary
15 in order to render the opinion required by this section.

16 (3)(A) Requirement for opinion under subdivision (a)(2) of this
17 subsection. Each opinion required by subdivision (a)(2) of this subsection
18 shall be a memorandum, in form and substance acceptable to the
19 Commissioner as specified by rule, and shall be prepared to support each
20 actuarial opinion.

21 (B) If the company fails to provide a supporting memorandum at the

1 request of the Commissioner within a period specified by rule, or the
2 Commissioner determines that the supporting memorandum provided by the
3 company fails to meet the standards prescribed by the rules or is otherwise
4 unacceptable to the Commissioner, the Commissioner may engage a qualified
5 actuary at the expense of the company to review the opinion and the basis for
6 the opinion and prepare the supporting memorandum required by the
7 Commissioner.

8 (4) Requirement for all opinions subject to subsection (a) of this section.

9 Every opinion required by subsection (a) of this section shall be governed by
10 the following provisions:

11 (A) The opinion shall be submitted with the annual statement
12 reflecting the valuation of such reserve liabilities for each year ending on or
13 after the operative date of the Valuation Manual.

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

17 (C) The opinion shall be based on standards adopted from time to
18 time by the Actuarial Standards Board and on such additional standards as the
19 Commissioner may by rule prescribe.

20 (D) In the case of an opinion required to be submitted by a foreign or
21 alien company, the Commissioner may accept the opinion filed by that

1 company with the insurance supervisory official of another state if the
2 Commissioner determines that the opinion reasonably meets the requirements
3 applicable to a company domiciled in this State.

4 (E) As used in this section, “qualified actuary” means a member in
5 good standing of the American Academy of Actuaries who meets the
6 requirements established by rule.

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

11 (G) Disciplinary action by the Commissioner against the company or
12 the qualified actuary shall be defined in rules adopted by the Commissioner.

13 (H) Except as provided in subdivisions (L), (M), and (N) of this
14 subdivision (a)(4), documents, materials, or other information in the possession
15 or control of the Department of Financial Regulation that are a memorandum
16 in support of the opinion, and any other material provided by the company to
17 the Commissioner in connection with the memorandum, shall be confidential
18 by law and privileged, shall be exempt from public inspection and copying
19 under the Public Records Act, shall not be subject to subpoena, and shall not
20 be subject to discovery or admissible in evidence in any private civil action.
21 However, the Commissioner is authorized to use the documents, materials, or

1 other information in the furtherance of any regulatory or legal action brought
2 as a part of the Commissioner’s official duties.

3 (I) Neither the Commissioner nor any person who received
4 documents, materials, or other information while acting under the authority of
5 the Commissioner shall be permitted or required to testify in any private civil
6 action concerning any confidential documents, materials, or information
7 subject to subdivisions (G) and (H) of this subdivision (a)(4).

8 (J) In order to assist in the performance of the Commissioner’s
9 duties, the Commissioner:

10 (i) may share documents, materials or other information, including
11 the confidential and privileged documents, materials, or information subject to
12 subdivision (a)(4)(H) of this section with other state, federal, and international
13 regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with
14 state, federal, and international law enforcement authorities, provided that the
15 recipient agrees to maintain the confidentiality and privileged status of the
16 documents, materials, or other information;

17 (ii) may receive documents, materials or information, including
18 otherwise confidential and privileged documents, materials, or information,
19 from the NAIC and its affiliates and subsidiaries, and from regulatory and law
20 enforcement officials of other foreign or domestic jurisdictions, and shall
21 maintain as confidential or privileged any document, material, or information

1 received with notice or the understanding that it is confidential or privileged
2 under the laws of the jurisdiction that is the source of the document, material,
3 or information; and

4 (iii) may enter into agreements governing sharing and use of
5 information consistent with subdivisions (a)(4)(H) and (a)(4)(j) of this section.

6 (K) No waiver of any applicable privilege or claim of confidentiality
7 in the documents, materials, or information shall occur as a result of disclosure
8 to the Commissioner under this section or as a result of sharing as authorized
9 in subdivision (a)(4)(G) of this section.

10 (L) A memorandum in support of the opinion, and any other material
11 provided by the company to the Commissioner in connection with the
12 memorandum, may be subject to subpoena for the purpose of defending an
13 action seeking damages from the actuary submitting the memorandum by
14 reason of an action required by this section or by rules adopted by the
15 Commissioner.

16 (M) The memorandum or other material may otherwise be released
17 by the Commissioner with the written consent of the company or to the
18 American Academy of Actuaries upon request stating that the memorandum or
19 other material is required for the purpose of professional disciplinary
20 proceedings and setting forth procedures satisfactory to the Commissioner for
21 preserving the confidentiality of the memorandum or other material.

1 (N) Once any portion of the confidential memorandum is cited by the
2 company in its marketing or is cited before a governmental agency other than a
3 state insurance department or is released by the company to the news media,
4 all portions of the confidential memorandum shall be no longer confidential.

5 (b)(1) Actuarial Opinion of Reserves after the Operative Date of the
6 Valuation Manual; General. Every company with outstanding life insurance
7 contracts, accident and health insurance contracts, or deposit-type contracts in
8 this State and subject to regulation by the Commissioner shall annually submit
9 the opinion of the appointed actuary as to whether the reserves and related
10 actuarial items held in support of the policies and contracts are computed
11 appropriately, are based on assumptions that satisfy contractual provisions, are
12 consistent with prior reported amounts, and comply with applicable laws of
13 this State. The Valuation Manual will prescribe the specifics of this opinion,
14 including any items deemed to be necessary to its scope.

15 (2) Actuarial analysis of reserves and assets supporting reserves. Every
16 company with outstanding life insurance contracts, accident and health
17 insurance contracts, or deposit-type contracts in this State and subject to
18 regulation by the Commissioner, except as exempted in the Valuation Manual,
19 shall also annually include in the opinion required by subdivision (b)(1) of this
20 section, an opinion of the same appointed actuary as to whether the reserves
21 and related actuarial items held in support of the policies and contracts

1 specified in the Valuation Manual, when considered in light of the assets held
2 by the company with respect to the reserves and related actuarial items,
3 including the investment earnings on the assets and the considerations
4 anticipated to be received and retained under the policies and contracts, make
5 adequate provision for the company's obligations under the policies and
6 contracts, including the benefits under and expenses associated with the
7 policies and contracts.

8 (3)(A) Requirements for opinions subject to subsection (b) of this
9 section. Each opinion required by subsection (b) of this section, in a form and
10 substance as specified in the Valuation Manual, and acceptable to the
11 Commissioner, shall be prepared to support each actuarial opinion.

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

1 (4)(A) Requirement for all opinions subject to subdivision (b)(2) of this
2 section. Every opinion shall be in form and substance as specified in the
3 Valuation Manual and acceptable to the Commissioner.

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

7 (C) The opinion shall apply to all policies and contracts subject to
8 subdivision (b)(2) of this section, plus other actuarial liabilities as may be
9 specified in the Valuation Manual.

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

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

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

1 (G) Disciplinary action by the Commissioner against the company or
2 the appointed actuary shall be defined in rules adopted by the Commissioner.

3 § 3791d. COMPUTATION OF MINIMUM STANDARD

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

18 (1) For ordinary policies of life insurance issued on the standard basis,
19 excluding any disability and accidental death benefits in the policies: the
20 Commissioners 1941 Standard Ordinary Mortality Table for policies issued
21 prior to the operative date of section 3766 of this chapter, the Commissioners

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

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

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

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

15 (2) For industrial life insurance policies issued on the standard basis,
16 excluding any disability and accidental death benefits in the policies: the 1941
17 Standard Industrial Mortality Table for policies issued prior to the operative
18 date of section 3767 of this chapter, and for policies issued on or after the
19 operative date of section 3767 of this chapter, the Commissioners 1961
20 Standard Industrial Mortality Table or any industrial mortality table adopted
21 after 1980 by the NAIC that is approved by rule adopted by the Commissioner

1 for use in determining the minimum standard of valuation for the policies.

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

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

13 (5) For total and permanent disability benefits in or supplementary to
14 ordinary policies or contracts: for policies or contracts issued on or after
15 January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950
16 termination rates of the 1952 Disability Study of the Society of Actuaries, with
17 due regard to the type of benefit or any tables of disablement rates and
18 termination rates adopted after 1980 by the NAIC, that are approved by rule
19 adopted by the Commissioner for use in determining the minimum standard of
20 valuation for those policies; for policies or contracts issued on or after
21 January 1, 1961, and prior to January 1, 1966, either those tables or, at the

1 option of the company, the Class 3 Disability Table of 1926; and for policies
2 issued prior to January 1, 1961, the Class 3 Disability Table of 1926. Any
3 such table shall, for active lives, be combined with a mortality table permitted
4 for calculating the reserves for life insurance policies.

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

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

17 § 3791e. COMPUTATION OF MINIMUM STANDARD FOR ANNUITIES

18 (a) Except as provided in 3791f of this section, the minimum standard of
19 valuation for individual annuity and pure endowment contracts issued on or
20 after the effective date of this section and for annuities and pure endowments
21 purchased on or after the operative date under group annuity and pure

1 endowment contracts, shall be the Commissioners reserve valuation methods
2 defined in §§ 3791g and 3791h of this subchapter and the following tables and
3 interest rates:

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

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

18 (3) for individual annuity and pure endowment contracts issued on or
19 after January 1, 1980, other than single premium immediate annuity contracts,
20 excluding any disability and accidental death benefits in those contracts: the
21 1971 Individual Annuity Mortality Table or any individual annuity mortality

1 table adopted after 1980 by the NAIC, that is approved by rule adopted by the
2 Commissioner for use in determining the minimum standard of valuation for
3 those contracts, or any modification of these tables approved by the
4 Commissioner, and five and one-half percent interest for single premium
5 deferred annuity and pure endowment contracts and four and one-half percent
6 interest for all other individual annuity and pure endowment contracts;

7 (4) for annuities and pure endowments purchased prior to January 1,
8 1980, under group annuity and pure endowment contracts, excluding any
9 disability and accidental death benefits purchased under those contracts: the
10 1971 Group Annuity Mortality Table or any modification of this table
11 approved by the Commissioner, and six percent interest; and

12 (5) for annuities and pure endowments purchased on or after January 1,
13 1980, under group annuity and pure endowment contracts, excluding any
14 disability and accidental death benefits purchased under those contracts: the
15 1971 Group Annuity Mortality Table, or any group annuity mortality table
16 adopted after 1980 by the NAIC approved by rule adopted by the
17 Commissioner for use in determining the minimum standard of valuation for
18 annuities and pure endowments, or any modification of these tables approved
19 by the Commissioner, and seven and one-half percent interest;

20 (b) After April 12, 1973, any company may file with the Commissioner a
21 written notice of its election to comply with the provisions of this section after

1 a specified date before January 1, 1979, which shall be the operative date of
2 this section for that company. If a company makes no election, the operative
3 date of this section for that company shall be January 1, 1979.

4 § 3791f. COMPUTATION OF MINIMUM STANDARD BY CALENDAR

5 YEAR OF ISSUE

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

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

11 (2) Individual annuity and pure endowment contracts issued in a
12 particular calendar year on or after January 1, 1984;

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

16 (4) The net increase, if any, in a particular calendar year after January 1,
17 1984 in amounts held under guaranteed interest contracts.

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

21 (1) For life insurance:

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W

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

2

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

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

where R1 is the lesser of R and .09;

R2 is the greater of R and .09;

R is the reference interest rate defined in this section, and W is the weighting factor defined in this section;

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

(4) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for

1 single premium immediate annuities stated in subdivision (2) of this section
2 shall apply:

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

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

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

1 (1) Weighting Factors for Life Insurance:

| 2 <u>Guarantee Duration</u> | 3 <u>Weighting</u> |
|---|--------------------|
| 4 <u>(Years)</u> | 5 <u>Factors</u> |
| 6 <u>10 or less</u> | 7 <u>.50</u> |
| 8 <u>More than 10, but not more than 20</u> | 9 <u>.45</u> |
| 10 <u>More than 20</u> | 11 <u>.35</u> |

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

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

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

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

| | <u>Guarantee Duration</u> <u>(Years)</u> | <u>Weighting Factor</u> <u>for Plan Type</u> | | |
|----|---|---|------------|------------|
| | | <u>A</u> | <u>B</u> | <u>C</u> |
| 5 | <u>5 or less:</u> | <u>.80</u> | <u>.60</u> | <u>.50</u> |
| 6 | <u>More than 5, but not more</u> | | | |
| 7 | <u>than 10:</u> | <u>.75</u> | <u>.60</u> | <u>.50</u> |
| 8 | <u>More than 10, but not more</u> | | | |
| 9 | <u>than 20:</u> | <u>.65</u> | <u>.50</u> | <u>.45</u> |
| 10 | <u>More than 20:</u> | <u>.45</u> | <u>.35</u> | <u>.35</u> |

11 (B) For annuities and guaranteed interest contracts valued on a
12 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> |
| 15 | <u>.15</u> | <u>.25</u> | <u>.05</u> |

16 (C) For annuities and guaranteed interest contracts valued on an issue
17 year basis (other than those with no cash settlement options) which do not
18 guarantee interest on considerations received more than one year after issue or
19 purchase and for annuities and guaranteed interest contracts valued on a
20 change in fund basis which do not guarantee interest rates on consideration

1 received more than 12 months beyond the valuation date, the factors shown in
2 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> |

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

15 (E) Plan type as used in the above tables is defined as follows:
16 Plan Type A: At any time policyholder may withdraw funds only (1) with an
17 adjustment to reflect changes in interest rates or asset values since receipt of
18 the funds by the insurance company, or (2) without such adjustment but in
19 installments over five years or more, or (3) as an immediate life annuity, or (4)
20 no withdrawal permitted.

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

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

13 (F) A company may elect to value guaranteed interest contracts with
14 cash settlement options and annuities with cash settlement options on either an
15 issue year basis or on a change in fund basis. Guaranteed interest contracts
16 with no cash settlement options and other annuities with no cash settlement
17 options must be valued on an issue year basis. As used in this section, an issue
18 year basis of valuation refers to a valuation basis under which the interest rate
19 used to determine the minimum valuation standard for the entire duration of
20 the annuity or guaranteed interest contract is the calendar year valuation
21 interest rate for the year of issue or year of purchase of the annuity or

1 guaranteed interest contract, and the change in fund basis of valuation refers to
2 a valuation basis under which the interest rate used to determine the minimum
3 valuation standard applicable to each change in the fund held under the annuity
4 or guaranteed interest contract is the calendar year valuation interest rate for
5 the year of the change in the fund.

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

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

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

19 (3) For other annuities with cash settlement options and guaranteed
20 interest contracts with cash settlement options, valued on a year of issue basis,
21 except as stated in subdivision (2) of this subsection, with guarantee duration

1 in excess of 10 years, the lesser of the average over a period of 36 months and
2 the average over a period of 12 months, ending on June 30 of the calendar year
3 of issue or purchase, of the monthly average of the composite yield on
4 seasoned corporate bonds, as published by Moody’s Investors Services, Inc.

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

11 (5) For other annuities with no cash settlement options and for
12 guaranteed interest contracts with no cash settlement options, the average over
13 a period of 12 months, ending on June 30 of the calendar year of issue or
14 purchase, of the monthly average of the composite yield on seasoned corporate
15 bonds, as published by Moody’s Investors Service, Inc.

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

1 (7) Alternative Method for Determining Reference Interest Rates. In the
2 event that the monthly average of the composite yield on seasoned corporate
3 bonds is no longer published by Moody’s Investors Service, Inc., or in the
4 event that the NAIC determines that the monthly average of the composite
5 yield on seasoned corporate bonds as published by Moody’s Investors Service,
6 Inc. is no longer appropriate for the determination of the reference interest rate,
7 then an alternative method for determination of the reference interest rate
8 adopted by the NAIC and approved by rule adopted by the Commissioner may
9 be substituted.

10 § 3791g. RESERVE VALUATION METHOD-LIFE INSURANCE AND
11 ENDOWMENT BENEFITS

12 (a) Except as otherwise provided in sections 3791g, 3791h, and 3791m of
13 this subchapter, reserves according to the Commissioners reserve valuation
14 method, for the life insurance and endowment benefits of policies providing
15 for a uniform amount of insurance and requiring the payment of uniform
16 premiums shall be the excess, if any, of the present value, at the date of
17 valuation, of the future guaranteed benefits provided for by those policies, over
18 the then present value of any future modified net premiums therefor. The
19 modified net premiums for a policy shall be the uniform percentage of the
20 respective contract premiums for the benefits such that the present value, at the
21 date of issue of the policy, of all modified net premiums shall be equal to the

1 sum of the then present value of the benefits provided for by the policy and the
2 excess of subdivision (1) over subdivision (2) of this subsection, as follows:

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

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

12 (b) For a life insurance policy issued on or after January 1, 1997, for which
13 the contract premium in the first policy year exceeds that of the second year
14 and for which no comparable additional benefit is provided in the first year for
15 the excess and which provides an endowment benefit or a cash surrender value
16 or a combination in an amount greater than the excess premium, the reserve
17 according to the Commissioners reserve valuation method as of any policy
18 anniversary occurring on or before the assumed ending date defined as the first
19 policy anniversary on which the sum of any endowment benefit and any cash
20 surrender value then available is greater than the excess premium shall, except
21 as otherwise provided in section 3791k of this subchapter, be the greater of the

1 reserve as of the policy anniversary calculated as described in subsection (a)
2 and the reserve as of the policy anniversary calculated as described in
3 subsection (a) of this section, but with:

4 (1) The value defined in subsection (a) of this section being reduced by
5 15 percent of the amount of such excess first year premium.

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

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

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

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

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

19 (2) group annuity and pure endowment contracts purchased under a
20 retirement plan or plan of deferred compensation, established or maintained by
21 an employer, including a partnership or sole proprietorship, or by an employee

1 organization, or by both, other than a plan providing individual retirement
2 accounts or individual retirement annuities under Section 408 of the Internal
3 Revenue Code, as may be amended;

4 (3) disability and accidental death benefits in all policies and
5 contracts; and

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

9 § 3791h. RESERVE VALUATION METHOD-ANNUITY AND PURE

10 ENDOWMENT BENEFITS

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

18 (b) Reserves according to the Commissioners annuity reserve method for
19 benefits under annuity or pure endowment contracts, excluding any disability
20 and accidental death benefits in the contracts, shall be the greatest of the
21 respective excesses of the present values, at the date of valuation, of the future

1 guaranteed benefits, including guaranteed nonforfeiture benefits, provided for
2 by the contracts at the end of each respective contract year, over the present
3 value, at the date of valuation, of any future valuation considerations derived
4 from future gross considerations, required by the terms of the contract, that
5 become payable prior to the end of the respective contract year. The future
6 guaranteed benefits shall be determined by using the mortality table, if any,
7 and the interest rate, or rates, specified in the contracts for determining
8 guaranteed benefits. The valuation considerations are the portions of the
9 respective gross considerations applied under the terms of the contracts to
10 determine nonforfeiture values.

11 § 3791i. MINIMUM RESERVES

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

18 (b) In no event shall the aggregate reserves for all policies, contracts, and
19 benefits be less than the aggregate reserves determined by the appointed
20 actuary to be necessary to render the opinion required by § 3791c of this
21 subchapter.

1 § 3791j. OPTIONAL RESERVE CALCULATION

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

6 (b) Reserves for any category of policies, contracts or benefits established
7 by the Commissioner, issued on or after July 1, 1968 may be calculated, at the
8 option of the company, according to any standards that produce greater
9 aggregate reserves for the category than those calculated according to the
10 minimum standard provided herein, but the rate or rates of interest used for
11 policies and contracts, other than annuity and pure endowment contracts, shall
12 not be greater than the corresponding rate or rates of interest used in
13 calculating any nonforfeiture benefits provided in the policies or contracts.

14 (c) A company, which adopts at any time a standard of valuation producing
15 greater aggregate reserves than those calculated according to the minimum
16 standard provided under this subchapter, may adopt a lower standard of
17 valuation with the approval of the Commissioner, but not lower than the
18 minimum provided herein; provided that, for the purposes of this section, the
19 holding of additional reserves previously determined by the appointed actuary
20 to be necessary to render the opinion required by section 3791c of this
21 subchapter shall not be deemed to be the adoption of a higher standard of

1 valuation.

2 § 3791k. RESERVE CALCULATION-VALUATION NET PREMIUM

3 EXCEEDING THE GROSS PREMIUM CHARGED

4 (a) If in any contract year the gross premium charged by a company on a
5 policy or contract is less than the valuation net premium for the policy or
6 contract calculated by the method used in calculating the reserve but using the
7 minimum valuation standards of mortality and rate of interest, the minimum
8 reserve required for the policy or contract shall be the greater of either the
9 reserve calculated according to the mortality table, rate of interest, and method
10 actually used for the policy or contract, or the reserve calculated by the method
11 actually used for the policy or contract but using the minimum valuation
12 standards of mortality and rate of interest and replacing the valuation net
13 premium by the actual gross premium in each contract year for which the
14 valuation net premium exceeds the actual gross premium. The minimum
15 valuation standards of mortality and rate of interest referred to in this section
16 are those standards stated in sections 3791d and 3791f of this subchapter.

17 (b) For a life insurance policy issued on or after January 1, 1987, for which
18 the gross premium in the first policy year exceeds that of the second year and
19 for which no comparable additional benefit is provided in the first year for the
20 excess and which provides an endowment benefit or a cash surrender value or
21 a combination in an amount greater than the excess premium, the provisions of

1 this section shall be applied as if the method actually used in calculating the
2 reserve for the policy were the method described in section 3791g of this
3 subchapter, ignoring the section 3791g(b) of this subchapter. The minimum
4 reserve at each policy anniversary of such a policy shall be the greater of the
5 minimum reserve calculated in accordance with section 3791g of this
6 subchapter, including the subsection (b) of that section, and the minimum
7 reserve calculated in accordance with this section.

8 § 37911. RESERVE CALCULATION-INDETERMINATE PREMIUM

9 PLANS

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

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

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

20 (b) Notwithstanding any other laws to the contrary, a policy, contract, or
21 certificate providing life insurance under such a plan shall be affirmatively

1 approved by the Commissioner before it can be marketed, issued, delivered, or
2 used in this State. [Add?]

3 § 3791m. MINIMUM STANDARD FOR ACCIDENT AND HEALTH
4 INSURANCE CONTRACTS

5 For accident and health insurance contracts issued on or after the operative
6 date of the Valuation Manual, the standard prescribed in the Valuation Manual
7 is the minimum standard of valuation required under subsection 3791b(b) of
8 this subchapter. For disability, accident and sickness, accident and health
9 insurance contracts issued on or after July 1, 1968 and prior to the operative
10 date of the Valuation Manual the minimum standard of valuation is the
11 standard adopted by the Commissioner by rule.

12 § 3791n. VALUATION MANUAL FOR POLICIES ISSUED ON OR
13 AFTER THE OPERATIVE DATE OF THE VALUATION
14 MANUAL

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

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

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

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

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

15 (c) Unless a change in the Valuation Manual specifies a later effective date,
16 changes to the Valuation Manual shall be effective on January 1 following the
17 date when all of the following have occurred:

18 (1) the change to the Valuation Manual has been adopted by the NAIC
19 by an affirmative vote representing:

20 (A) at least three-fourths of the members of the NAIC voting, but not
21 less than a majority of the total membership, and

1 (B) members of the NAIC representing jurisdictions totaling greater
2 than 75 percent of the direct premiums written as reported in the following
3 annual statements most recently available prior to the vote in subdivision
4 (c)(1)(A) of this section: life, accident and health annual statements, health
5 annual statements, or fraternal annual statements.

6 *Drafting Note: The following section is optional:*

7 (2) The Commissioner shall adopt by rule the effective date of the
8 Valuation Manual.

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

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

13 (A) The Commissioners reserve valuation method for life insurance
14 contracts, other than annuity contracts, subject to subsection 3791b(b) of this
15 subchapter;

16 (B) The Commissioners annuity reserve valuation method for annuity
17 contracts subject to subsection 3791b(b) of this subchapter; and

18 (C) Minimum reserves for all other policies or contracts subject to
19 subsection 3791b(b) of this subchapter.

20 (2) Which policies or contracts or types of policies or contracts that are
21 subject to the requirements of a principle-based valuation in subsection

1 3791o(a) of this subchapter and the minimum valuation standards consistent
2 with those requirements;

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

5 (A) Requirements for the format of reports to the Commissioner
6 under subdivision 3791o(b)(3) of this subchapter and which shall include
7 information necessary to determine if the valuation is appropriate and in
8 compliance with this subchapter;

9 (B) Assumptions shall be prescribed for risks over which the
10 company does not have significant control or influence.

11 (C) Procedures for corporate governance and oversight of the
12 actuarial function, and a process for appropriate waiver or modification of such
13 procedures.

14 (4) For policies not subject to a principle-based valuation § 3791o, the
15 minimum valuation standard shall either:

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

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

1 (5) Other requirements including those relating to reserve methods,
2 models for measuring risk, generation of economic scenarios, assumptions,
3 margins, use of company experience, risk measurement, disclosure,
4 certifications, reports, actuarial opinions and memorandum, transition rules,
5 and internal controls; and

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

9 (e) In the absence of a specific valuation requirement or if a specific
10 valuation requirement in the Valuation Manual is not, in the opinion of the
11 Commissioner, in compliance with this subchapter, then the company shall,
12 with respect to such requirements, comply with minimum valuation standards
13 prescribed by the Commissioner by rule.

14 (f) The Commissioner may engage a qualified actuary, at the expense of the
15 company, to perform an actuarial examination of the company and opine on
16 the appropriateness of any reserve assumption or method used by the company,
17 or to review and opine on a company’s compliance with any requirement of
18 this subchapter. The Commissioner may rely upon the opinion, regarding
19 provisions contained within this subchapter, of a qualified actuary engaged by
20 the Commissioner of another state, district, or territory of the United States.
21 As used in this subsection, the term “engage” includes employ or contract

1 with.

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

7 § 3791o. REQUIREMENTS OF A PRINCIPLE-BASED VALUATION

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

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

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

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

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

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

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

7 (ii) to the extent that company data is not available, relevant, or
8 statistically credible, be established using other relevant, statistically credible
9 experience.

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

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

15 (1) Establish procedures for corporate governance and oversight of the
16 actuarial valuation function consistent with those described in the Valuation
17 Manual.

18 (2) Provide to the Commissioner and its Board of Directors an annual
19 certification of the effectiveness of the internal controls with respect to the
20 principle-based valuation. Such controls shall be designed to ensure that all
21 material risks inherent in the liabilities and associated assets subject to such

1 valuation are included in the valuation, and that valuations are made in
2 accordance with the Valuation Manual. The certification shall be based on
3 the controls in place as of the end of the preceding calendar year.

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

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

9 § 3791p. EXPERIENCE REPORTING FOR POLICIES IN FORCE ON OR

10 AFTER THE OPERATIVE DATE OF THE VALUATION

11 MANUAL

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

14 § 3791q. CONFIDENTIALITY

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

16 (1) a memorandum in support of an opinion submitted under § 3791c
17 of this subchapter and any other documents, materials, and information
18 including all working papers and copies thereof, created, produced, or
19 obtained by or disclosed to the Commissioner or any other person in
20 connection with such memorandum;

1 (2) all documents, materials, and other information including all
2 working papers, and copies thereof, created, produced, or obtained by or
3 disclosed to the Commissioner or any other person in the course of an
4 examination made under subsection 3791h(f) of this subchapter; provided,
5 however, that if an examination report or other material prepared in
6 connection with an examination made under chapter 101, subchapter 7 of this
7 title is not held as private and confidential information under such subchapter,
8 an examination report or other material prepared in connection with an
9 examination made under subsection 3791h(f) of this subchapter shall not be
10 “confidential information” to the same extent as if such examination report or
11 other material had been prepared under chapter 101, subchapter 7 of this title;

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

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

6 (5) any documents, materials, data, and other information submitted by
7 a company under section 3791p of this subchapter—collectively, “experience
8 data”—and any other documents, materials, data, and other information,
9 including all working papers and copies thereof, created or produced in
10 connection with such experience data, in each case that include any
11 potentially company-identifying or personally identifiable information, that is
12 provided to or obtained by the Commissioner, together with any experience
13 data, and other experience materials, and any other documents, materials,
14 data, and other information including all working papers and copies thereof,
15 created, produced, or obtained by or disclosed to the Commissioner or any
16 other person in connection with such experience materials.

17 (b) Except as provided in this section, a company’s confidential
18 information is confidential by law and privileged, and shall be exempt from
19 public inspection and copying under the Public Records Act, shall not be
20 subject to subpoena and shall not be subject to discovery or admissible in
21 evidence in any private civil action; provided, however, that the Commissioner

1 is authorized to use the confidential information in the furtherance of any
2 regulatory or legal action brought against the company as a part of the
3 Commissioner’s official duties.

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

8 (d) In order to assist in the performance of the Commissioner’s duties, the
9 Commissioner may share confidential information:

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

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

1 (e) The Commissioner may receive documents, materials, data, and other
2 information, including otherwise confidential and privileged documents,
3 materials, data, or information, from the NAIC and its affiliates and
4 subsidiaries, from regulatory or law enforcement officials of other foreign or
5 domestic jurisdictions and from the Actuarial Board for Counseling and
6 Discipline, or its successor, and shall maintain as confidential or privileged
7 any document, material, data, or other information received with notice or the
8 understanding that it is confidential or privileged under the laws of the
9 jurisdiction that is the source of the document, material, or other information.

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

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

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

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

4 (j) Notwithstanding any provision in this section to the contrary, any
5 confidential information specified in subdivisions (a)(1) or (a)(4) of this
6 section:

7 (1) may be subject to subpoena for the purpose of defending an action
8 seeking damages from the appointed actuary submitting the related
9 memorandum in support of an opinion submitted under section 3791c of this
10 subchapter or principle-based valuation report developed under
11 subdivision 3791o(b)(3) of this subchapter by reason of an action required by
12 this subchapter or by rules adopted hereunder;

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

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

1 § 3791r. SINGLE STATE EXEMPTION

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

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

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

10 (b) For any company granted an exemption under this section,
11 sections 3791c, 3791d, 3791e, 3791f, 3791g, 3791h, 3791i, 3791j, 3791k,
12 3791l, and 3791m shall be applicable. With respect to any company applying
13 this exemption, any reference to section 3791n found in sections 3791c,
14 3791d, 3791e, 3791f, 3791g, 3791h, 3791i, 3791j, 3791k, 3791l and 3791m
15 shall not be applicable.

16 * * * Standard Nonforfeiture Law for Life Insurance * * *

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

18 Subchapter 3b. Standard Nonforfeiture Law for Life Insurance

19 § 3760. TITLE

20 This subchapter shall be known as the Standard Nonforfeiture Law for Life
21 Insurance.

1 § 3761. DEFINITIONS

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

5 § 3762. NONFORFEITURE BENEFITS

6 (a) In the case of policies issued on or after the effective date of this
7 subchapter, as defined in section 3773 of this subchapter, a policy of life
8 insurance, except as stated in section 3772 of this subchapter, shall not be
9 delivered or issued for delivery in this State unless it contains in substance the
10 following provisions, or corresponding provisions that, in the opinion of the
11 Commissioner, are at least as favorable to the defaulting or surrendering
12 policyholder as are the minimum requirements specified in this section and
13 are essentially in compliance with section 3771 of this subchapter.

14 (1) In the event of default in any premium payment, the company shall
15 grant, upon proper request not later than 60 days after the due date of the
16 premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the
17 policy, effective as of the due date, of such amount as may be specified in this
18 section. In lieu of the stipulated paid-up nonforfeiture benefit, the company
19 may substitute, upon proper request not later than 60 days after the due date
20 of the premium in default, an actuarially equivalent alternative paid-up

1 nonforfeiture benefit that provides a greater amount or earlier payment of
2 endowment benefits.

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

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

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

20 (5) If a policy causes, on a basis guaranteed in the policy, unscheduled
21 changes in benefits or premiums, or provides an option for changes in

1 benefits or premiums, other than a change to a new policy, the company shall
2 provide the policyholder a statement of the mortality table, interest rate, and
3 method used in calculating cash surrender values and the paid-up
4 nonforfeiture benefits available under the policy. In the case of all other
5 policies, a company shall provide to its policyholders a statement of the
6 mortality table and interest rate used in calculating the cash surrender values
7 and the paid-up nonforfeiture benefits available under the policy, together
8 with a table showing the cash surrender value, if any, and paid-up
9 nonforfeiture benefit, if any, available under the policy on each policy
10 anniversary either during the first 20 policy years or during the term of the
11 policy, whichever is shorter, such values and benefits to be calculated upon
12 the assumption that there are no dividends or paid-up additions credited to the
13 policy and that there is no indebtedness to the company on the policy.

14 (6) A company shall provide statement that the cash surrender values
15 and the paid-up nonforfeiture benefits available under the policy are not less
16 than the minimum values and benefits required by or pursuant to the insurance
17 law of the state in which the policy is delivered; an explanation of the manner
18 in which the cash surrender values and the paid-up nonforfeiture benefits are
19 altered by the existence of any paid-up additions credited to the policy or any
20 indebtedness to the company on the policy; if a detailed statement of the
21 method of computation of the values and benefits shown in the policy is not

1 stated therein, a statement that such method of computation has been filed with
2 the insurance supervisory official of the state in which the policy is delivered;
3 and a statement of the method to be used in calculating the cash surrender
4 value and a paid-up nonforfeiture benefit available under the policy on any
5 policy anniversary beyond the last anniversary for which values and benefits
6 are consecutively shown in the policy.

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

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

13 § 3763. COMPUTATION OF CASH SURRENDER VALUE

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

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

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

5 (b) Notwithstanding subsection (a) of this section, for a policy issued on or
6 after the operative date of section 3768 of this subchapter that provides
7 supplemental life insurance or annuity benefits at the option of the insured and
8 for an identifiable additional premium by rider or supplemental policy
9 provision, the cash surrender value referred to in subsection (a) of this section
10 shall be an amount not less than the sum of the cash surrender value for an
11 otherwise similar policy issued at the same age without the rider or
12 supplemental policy provision and the cash surrender value as defined in
13 subsection (a) of this section for a policy which provides only the benefits
14 otherwise provided by such rider or supplemental policy provision.

15 (c) For a family policy issued on or after the operative date of section 3768
16 of this subchapter that defines a primary insured and provides term insurance
17 on the life of the spouse of the primary insured expiring before the spouse
18 turns 71 years of age, the cash surrender value referred to in subsection (a) of
19 this section shall be an amount not less than the sum of the cash surrender
20 value for an otherwise similar policy issued at the same age without term
21 insurance on the life of the spouse and the cash surrender value as defined in

1 subsection (a) of this section for a policy that provides only the benefits
2 otherwise provided by term insurance on the life of the spouse.

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

10 § 3764. COMPUTATION OF PAID-UP NONFORFEITURE BENEFITS

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

18 § 3765. CALCULATION OF ADJUSTED PREMIUMS

19 (a)(1) This section shall not apply to policies issued on or after the
20 operative date of section 3768 of this subchapter. Except as provided in
21 subsection (c) of this section, the adjusted premiums for any policy shall be

1 calculated on an annual basis and shall be such uniform percentage of the
2 respective premiums specified in the policy for each policy year, excluding
3 amounts stated in the policy as extra premiums to cover impairments or special
4 hazards, that the present value, at the date of issue of the policy, of all such
5 adjusted premiums shall be equal to the sum of:

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

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

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

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

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

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

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

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

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

14 (2) Subdivisions (1)(A) and (B) of this subsection shall be calculated
15 separately except that, for purposes of subdivisions (a)(1)(B)-(D) of this
16 section, the amount of insurance or equivalent uniform amount of insurance
17 used in the calculation of the adjusted premiums referred to in subsection
18 (a)(1)(B) of this section shall be equal to the excess of the corresponding
19 amount determined for the entire policy over the amount used in the
20 calculation of the adjusted premiums in subdivision (1) of this subsection (c).

1 (d) Except as otherwise provided in sections 3766 and 3767, all adjusted
2 premiums and present values referred to in this subchapter shall for all policies
3 of ordinary insurance be calculated on the basis of the Commissioners' 1941
4 Standard Ordinary Mortality Table, provided that for any category of ordinary
5 insurance issued on female risks, adjusted premiums and present values may
6 be calculated according to any age not more than three years younger than the
7 actual age of the insured and such calculations for all policies of industrial
8 insurance shall be made on the basis of the 1941 Standard Industrial Mortality
9 Table. All calculations shall be made on the basis of the rate of interest, not
10 exceeding three and one-half percent per annum, specified in the policy for
11 calculating cash surrender values and paid-up nonforfeiture benefits. Provided,
12 however, that in calculating the present value of any paid-up term insurance
13 with accompanying pure endowment, if any, offered as a nonforfeiture benefit,
14 the rates of mortality assumed may be not more than 130 percent of the rates of
15 mortality according to the applicable table. Provided, further, that for
16 insurance issued on a substandard basis, the calculation of any adjusted
17 premiums and present values may be based on such other table of mortality as
18 may be specified by the company and approved by the Commissioner.

1 § 3766. CALCULATION OF ADJUSTED PREMIUMS; ORDINARY

2 POLICIES

3 (a) This section does not apply to ordinary policies issued on or after the
4 operative date section 3768 of this subchapter. In the case of ordinary policies
5 issued on or after the operative date of this section, all adjusted premiums and
6 present values referred to in this subchapter shall be calculated on the basis of
7 the Commissioners' 1958 Standard Ordinary Mortality Table and the rate of
8 interest specified in the policy for calculating cash surrender values and paid-
9 up nonforfeiture benefits, provided that such rate of interest shall not exceed
10 three and one-half percent per annum, except that a rate of interest not
11 exceeding four percent per annum may be used for policies issued on or after
12 April 12, 1973, and prior to January 1, 1980, and a rate of interest not
13 exceeding five and one-half percent per annum may be used for policies issued
14 on or after January 1, 1980, except that for any single premium whole life or
15 endowment insurance policy, a rate of interest not exceeding six and one-half
16 percent per annum may be used, provided that for any category of ordinary
17 insurance issued on female risks, adjusted premiums and present values may
18 be calculated according to an age not more than six years younger than the
19 actual age of the insured. In calculating the present value of any paid-up term
20 insurance with accompanying pure endowment, if any, offered as a
21 nonforfeiture benefit, the rates of mortality assumed may not be more than

1 those shown in the Commissioners' 1958 Extended Term Insurance Table. For
2 insurance issued on a substandard basis, the calculation of any adjusted
3 premiums and present values may be based on such other table of mortality as
4 may be specified by the company and approved by the 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, 1966. 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 ordinary policies thereafter issued by the company. If a company makes no
11 election, the operative date of this section for the company shall be January 1,
12 1966.

13 § 3767. CALCULATION OF ADJUSTED PREMIUMS; INDUSTRIAL
14 POLICIES

15 (a) This section does not apply to industrial policies issued on or after the
16 operative date of section 3768 of this subchapter. In the case of industrial
17 policies issued on or after the operative date of this section, all adjusted
18 premiums and present values referred to in this subchapter shall be calculated
19 on the basis of the Commissioners' 1961 Standard Industrial Mortality Table
20 and the rate of interest specified in the policy for calculating cash surrender
21 values and paid-up nonforfeiture benefits provided that such rate of interest

1 shall not exceed three and one-half percent per annum, except that a rate of
2 interest not exceeding four percent per annum may be used for policies issued
3 on or after April 12, 1973, and prior to January 1, 1980, and a rate of interest
4 not exceeding five and one-half percent per annum may be used for policies
5 issued on or after January 1, 1980, except that for any single premium whole
6 life or endowment insurance policy, a rate of interest not exceeding six and
7 one-half percent per annum may be used. In calculating the present value of
8 any paid-up term insurance with accompanying pure endowment, if any,
9 offered as a nonforfeiture benefit, the rates of mortality assumed may be not
10 more than those shown in the Commissioners' 1961 Industrial Extended Term
11 Insurance Table. For insurance issued on a substandard basis, the calculations
12 of any such adjusted premiums and present values may be based on such other
13 table of mortality as may be specified by the company and approved by the
14 Commissioner.

15 (b) After the effective date of this section, any company may file with the
16 Commissioner a written notice of its election to comply with the provisions of
17 this section after a specified date before January 1, 1968. After the filing of
18 such notice, upon the specified date, which shall be the operative date of this
19 section for that company, this section shall become operative with respect to
20 the industrial policies thereafter issued by the company. If a company makes

1 no election, the operative date of this section for the company shall be
2 January 1, 1968.

3 § 3768. CALCULATIONS OF ADJUSTED PREMIUMS BY THE
4 NONFORFEITURE NET LEVEL PREMIUM METHOD

5 (a)(1) This section shall apply to all policies issued on or after the operative
6 date of this section. Except as provided in subsection (g) of this section, the
7 adjusted premiums for any policy shall be calculated on an annual basis and
8 shall be such uniform percentage of the respective premiums specified in the
9 policy for each policy year, excluding amounts payable as extra premiums to
10 cover impairments or special hazards and also excluding any uniform annual
11 contract charge or policy fee specified in the policy in a statement of the
12 method to be used in calculating the cash surrender values and paid-up
13 nonforfeiture benefits, that the present value, at the date of issue of the policy,
14 of all adjusted premiums shall be equal to the sum of:

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

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

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

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

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

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

1 (d) Except as otherwise provided in subsection (g) of this section, the
2 recalculated future adjusted premiums for any policy shall be the uniform
3 percentage of the respective future premiums specified in the policy for each
4 policy year, excluding amounts payable as extra premiums to cover
5 impairments and special hazards, and also excluding any uniform annual
6 contract charge or policy fee specified in the policy in a statement of the
7 method to be used in calculating the cash surrender values and paid-up
8 nonforfeiture benefits, that the present value, at the time of change to the newly
9 defined benefits or premiums, of all such future adjusted premiums shall be
10 equal to the excess of:

11 (1) The sum of:

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

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

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

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

19 (1) One percent of the excess, if positive, of the average amount of
20 insurance at the beginning of each of the first 10 policy years subsequent to the
21 change over the average amount of insurance prior to the change at the

1 beginning of each of the first 10 policy years subsequent to the time of the
2 most recent previous change, or, if there has been no previous change, the date
3 of issue of the policy; and

4 (2) 125 percent of the increase, if positive, in the nonforfeiture net level
5 premium.

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

9 (1) For purposes of this subsection, “sum” means:

10 (A) the nonforfeiture net level premium applicable prior to the
11 change times the present value of an annuity of one per annum payable on each
12 anniversary of the policy on or subsequent to the date of the change on which a
13 premium would have fallen due had the change not occurred, plus

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

16 (2) For purposes of this subsection, “value” means the present value of
17 an annuity of one per annum payable on each anniversary of the policy on or
18 subsequent to the date of change on which a premium falls due.

19 (g) Notwithstanding any other provisions of this section to the contrary, in
20 the case of a policy issued on a substandard basis which provides reduced
21 graded amounts of insurance so that, in each policy year, the policy has the

1 same tabular mortality cost as an otherwise similar policy issued on the
2 standard basis which provides higher uniform amount of insurance, adjusted
3 premiums and present values for the substandard policy may be calculated as if
4 it were issued to provide higher uniform amounts of insurance on the standard
5 basis.

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

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

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

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

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

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

19 (6)(A) For policies issued prior to the operative date of the Valuation
20 Manual defined in subchapter 4a or this chapter, any Commissioners' Standard
21 Ordinary Mortality Tables, adopted after 1980 by the National Association of

1 Insurance Commissioners, approved by rule adopted by the Commissioner for
2 use in determining the minimum nonforfeiture standard may be substituted for
3 the Commissioners' 1980 Standard Ordinary Mortality Table with or without
4 10-Year Select Mortality Factors or for the Commissioners' 1980 Extended
5 Term Insurance Table.

6 (B) For policies issued on or after the operative date of the Valuation
7 Manual the Valuation Manual shall provide the Commissioners' Standard
8 Mortality Table for use in determining the minimum nonforfeiture standard
9 that may be substituted for the Commissioners' 1980 Standard Ordinary
10 Mortality Table with or without 10-Year Select Mortality Factors or for the
11 Commissioners' 1980 Extended Term Insurance Table. If the Commissioner
12 adopts by rule a Commissioners' Standard Ordinary Mortality Table adopted
13 by the NAIC for use in determining the minimum nonforfeiture standard for
14 policies issued on or after the operative date of the Valuation Manual then that
15 minimum nonforfeiture standard supersedes the minimum nonforfeiture
16 standard provided by the Valuation Manual.

17 (7)(A) For policies issued prior to the operative date of the Valuation
18 Manual, any Commissioners' Standard Industrial Mortality Tables, adopted
19 after 1980 by the NAIC, approved by rule adopted by the Commissioner for
20 use in determining the minimum nonforfeiture standard may be substituted for

1 the Commissioners' 1961 Standard Industrial Mortality Table or the
2 Commissioners' 1961 Industrial Extended Term Insurance Table.

3 (B) For policies issued on or after the operative date of the Valuation
4 Manual the Valuation Manual shall provide the Commissioners' Standard
5 Mortality Table for use in determining the minimum nonforfeiture standard
6 that may be substituted for the Commissioners' 1961 Standard Industrial
7 Mortality Table or the Commissioners' 1961 Industrial Extended Term
8 Insurance Table. If the Commissioner adopts by rule a Commissioners'
9 Standard Industrial Mortality Table adopted by the NAIC for use in
10 determining the minimum nonforfeiture standard for policies issued on or after
11 the operative date of the Valuation Manual then that minimum nonforfeiture
12 standard supersedes the minimum nonforfeiture standard provided by the
13 Valuation Manual.

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

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

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

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

9 (k) After the effective date of this section, any company may file with the
10 Commissioner a written notice of its election to comply with the provision of
11 this section after a specified date before January 1, 1989, which shall be the
12 operative date of this section for the company. If a company makes no
13 election, the operative date of this section for the company shall be January 1,
14 1989.

15 § 3769. NONFORFEITURE BENEFITS FOR INDETERMINATE

16 PREMIUM PLANS

17 In the case of any plan of life insurance which provides for future premium
18 determination, the amounts of which are to be determined by the insurance
19 company based on estimates of future experience, or in the case of any plan of
20 life insurance which is of such a nature that minimum values cannot be

1 determined by the methods described in sections 3762–3768 of this
2 subchapter:

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

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

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

15 (4) Notwithstanding any other provision of law to the contrary, any
16 policy, contract, or certificate providing life insurance under any plan must be
17 affirmatively approved by the Commissioner before it can be marketed, issued,
18 delivered, or used in this State.

19 *Drafting Comment: If Subsection (4) is enacted in a state where prior filing*
20 *and approval of life insurance policy forms has not been previously required*
21 *by statute, this subsection would mandate such action for plans requiring*

1 approval under Section 6. If Subsection (4) is enacted in a state where
2 approval is deemed under certain circumstances, the deemer provision would
3 be overridden by the terms of this section. In some states specific reference
4 must be made to any statutory provision which is overridden.

5 § 3770. PRORATION OF VALUES; NET VALUE OF PAID-UP

6 ADDITIONS

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

- 1 (1) in the event of death or dismemberment by accident or accidental
2 means;
3 (2) in the event of total and permanent disability;
4 (3) as reversionary annuity or deferred reversionary annuity benefits;
5 (4) as term insurance benefits provided by a rider or supplemental policy
6 provision to which, if issued as a separate policy, this subchapter would not
7 apply;
8 (5) as term insurance in the life on a child or on the lives of children
9 provided in a policy on the life of a parent of the child, if such term insurance
10 expires before the child turns 26 years of age, is uniform in amount after the
11 child's age is one year of age, and has not become paid-up by reason of the
12 death of a parent of the child; or
13 (6) as other policy benefits additional to life insurance and endowment
14 benefits, and premiums for all such additional benefits.

15 § 3771. CONSISTENCY OF PROGRESSION OF CASH SURRENDER

16 VALUES WITH INCREASING POLICY DURATION

- 17 (a) This section, in addition to all other applicable sections of this chapter,
18 shall apply to all policies issued on or after January 1, 1987. Any cash
19 surrender value available under the policy in the event of default in a premium
20 payment due on any policy anniversary shall be in an amount which does not
21 differ by more than two tenths of one percent of either the amount of

1 insurance, if the insurance be uniform in amount, or the average amount of
2 insurance at the beginning of each of the first 10 policy years, from the sum of:

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

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

7 (b) The basic cash value shall be equal to the present value, on such
8 anniversary, of the future guaranteed benefits which would have been provided
9 for by the policy, excluding any existing paid-up additions and before
10 deduction of any indebtedness to the company, if there had been no default,
11 less the then present value of the nonforfeiture factors, as defined in this
12 subchapter, corresponding to premiums which would have fallen due on and
13 after the anniversary. The effects on the basic cash value of supplemental life
14 insurance or annuity benefits or of family coverage, as described in sections
15 3763 or 3765 of this subchapter, whichever is applicable, shall be the same as
16 the effects specified in those sections, as applicable, on the cash surrender
17 values defined therein.

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

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

3 (A) the fifth policy anniversary; or

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

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

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

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

1 (f) A cash surrender value available other than in the event of default in a
2 premium payment due on a policy anniversary, and the amount of any paid-up
3 nonforfeiture benefit available under the policy in the event of default in a
4 premium payment shall be determined in manners consistent with the manners
5 specified for determining the analogous minimum amounts in sections 3762,
6 3763, 3764, 3768, and 3770 of this subchapter. The amounts of any cash
7 surrender values and of any paid-up nonforfeiture benefits granted in
8 connection with additional benefits such as those listed subsections 3770(a)–(f)
9 of this subchapter shall conform with the principles of this section.

10 § 3772. EXCEPTIONS

11 (a) This subchapter shall not apply to:

12 (1) reinsurance;

13 (2) group insurance;

14 (3) pure endowment;

15 (4) an annuity or reversionary annuity contract;

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

20 (6) a term policy of decreasing amount, which provides no guaranteed
21 nonforfeiture or endowment benefits, on which each adjusted premium,

1 calculated as specified in sections 3765, 3766, 3767, 3768 of this subchapter, is
2 less than the adjusted premium so calculated, on a term policy of uniform
3 amount, or renewal thereof, that provides no guaranteed nonforfeiture or
4 endowment benefits, issued at the same age and for the same initial amount of
5 insurance and for a term of 20 years or less expiring before 71 years of age, for
6 which uniform premiums are payable during the entire term of the policy;

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

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

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

18 § 3773. EFFECTIVE DATE; APPLICABILITY

19 After the effective date of this subchapter, any company may file with the
20 Commissioner a written notice of its election to comply with the provisions of
21 this subchapter after a specified date before January 1, 1948. After the filing

1 of such notice, then upon the specified date (which shall be the operative date
2 for the company), this subchapter shall become operative with respect to the
3 policies thereafter issued by the company. If a company makes no such
4 election, the operative date of this subchapter for the company shall be
5 January 1, 1948.

6 * * * Miscellaneous Banking Provisions * * *

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

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

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

16 (f) There is hereby created a fund to be known as the Financial Institution
17 Supervision Fund for the purpose of providing the financial means for the
18 Commissioner of Financial Regulation to administer Parts 2, 5, and 6 4, and 5
19 of this title, 9 V.S.A. Parts 1 and 3, and Title 9A. All fees and assessments
20 received by the Department pursuant to such administration shall be deposited
21 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.

5 * * * Effective Date * * *

6 Sec. 6. EFFECTIVE DATE

7 This act shall take effect on passage.