

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
HOUSE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 164

98TH GENERAL ASSEMBLY

2015

0344H.03T

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## AN ACT

To repeal sections 375.534, 375.1070, 375.1072, 376.370, 376.380, 376.670, 456.950, and 513.430, RSMo, and to enact in lieu thereof twelve new sections relating to financial transactions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 375.534, 375.1070, 375.1072, 376.370, 376.380, 2 376.670, 456.950, and 513.430, RSMo, are repealed and twelve new sections 3 enacted in lieu thereof, to be known as sections 375.534, 375.1070, 375.1072, 4 375.1074, 375.1078, 376.365, 376.370, 376.380, 376.670, 456.950, 456.1-113, and 5 513.430, to read as follows:

375.534. 1. In addition to other foreign investments permitted by 2 Missouri law for the type or kind of insurance company involved, the capital, 3 reserves and surplus of all insurance companies of whatever kind and character 4 organized under the laws of this state, having admitted assets of not less than 5 one hundred million dollars, may be invested in securities, investments and 6 deposits issued, guaranteed or assumed by a foreign government or foreign 7 corporation, or located in a foreign country, whether denominated in United 8 States dollars or in foreign currency, subject to the following conditions:

9 (1) Such securities, investments and deposits shall be of substantially the 10 same kind, class and quality of like United States investments eligible for 11 investment by an insurance company under Missouri law;

12 (2) An insurance company shall not invest or deposit in the aggregate 13 more than ~~[five]~~ **twenty** percent of its admitted assets under this section, except 14 that an insurance company may reinvest or redeposit any income or profits

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

15 generated by investments permitted under this section; [and]

16 (3) **The aggregate amount of foreign investments then held by the**  
17 **insurer under this subsection in a single foreign jurisdiction shall not**  
18 **exceed ten percent of its admitted assets as to a foreign jurisdiction**  
19 **that has a sovereign debt rating of SVO "1" or five percent of its**  
20 **admitted assets as to any other foreign jurisdiction; and**

21 (4) Such securities, investments and deposits shall be aggregated with  
22 United States investments of the same class in determining compliance with  
23 percentage limitations imposed under Missouri law for investments in that class  
24 for the type or kind of insurance company involved.

25 2. This section shall not apply to an insurer organized under chapter 376.  
375.1070. [1. Sections 375.1070 to 375.1075 may be cited as the  
2 "Investments in Medium and Lower Quality Obligations Law".

3 2.] Sections 375.1070 to [375.1075] **375.1078** shall not apply to an insurer  
4 organized under chapter 376.

375.1072. As used in sections 375.1070 to [375.1075] **375.1078**, the  
2 following terms mean:

3 (1) "Admitted assets", the amount thereof as of the last day of the most  
4 recently concluded annual statement year, computed in the same manner as  
5 admitted assets in section 379.080 for insurers other than life;

6 (2) "Aggregate amount of medium to lower quality obligations", the  
7 aggregate statutory statement value thereof;

8 (3) "Institution", a corporation, a joint-stock company, an association, a  
9 trust, a business partnership, a business joint venture or similar entity;

10 (4) "Medium to lower quality obligations", obligations which are rated  
11 three, four, five and six by the Securities Valuation Office of the National  
12 Association of Insurance Commissioners.

**375.1074. Except as otherwise specified by Missouri law, no**  
2 **domestic insurer shall acquire an investment directly or indirectly**  
3 **through an investment subsidiary if, as a result of and after giving**  
4 **effect to the investment, the insurer would hold more than five percent**  
5 **of its admitted assets in the investments of all kinds issued, assumed,**  
6 **accepted, insured, or guaranteed by a single person.**

**375.1078. 1. No insurer shall acquire, directly or indirectly**  
2 **through an investment subsidiary, a Canadian investment otherwise**  
3 **permitted under Missouri law if, after giving effect to the investment,**

4 the aggregate amount of the investments then held by the insurer  
5 would exceed twenty-five percent of its admitted assets.

6 2. For any insurer that is authorized to do business in Canada or  
7 that has outstanding insurance, annuity, or reinsurance contracts on  
8 lives or risks resident or located in Canada and denominated in  
9 Canadian currency, the limitations of subsection 1 of this section shall  
10 be increased by the greater of:

11 (1) The amount the insurer is required by applicable Canadian  
12 law to invest in Canada or to be denominated in Canadian currency; or

13 (2) One hundred twenty-five percent of the amount of the  
14 insurer's reserves and other obligations under contracts on risks  
15 resident or located in Canada.

376.365. 1. Sections 376.365 to 376.380 shall be known and may  
2 be cited as the "Standard Valuation Law".

3 2. As used in sections 376.365 to 376.380, the following terms shall  
4 mean and apply on or after the operative date of the valuation manual:

5 (1) "Accident and health insurance", contracts that incorporate  
6 morbidity risk and provide protection against economic loss resulting  
7 from accidents, sickness, or medical conditions and as may be specified  
8 in the valuation manual;

9 (2) "Appointed actuary", a qualified actuary who is appointed in  
10 accordance with the valuation manual to prepare the actuarial opinion  
11 required under subsection 5 of section 376.380;

12 (3) "Company", an entity which has written, issued, or reinsured  
13 life insurance contracts, accident and health insurance contracts, or  
14 deposit-type contracts:

15 (a) In Missouri and has at least one such policy in force or on  
16 claim; or

17 (b) In any state and is required to hold a certificate of authority  
18 to write life insurance, accident and health insurance, or deposit-type  
19 contracts in Missouri;

20 (4) "Deposit-type contract", a contract that does not incorporate  
21 mortality or morbidity risks and as may be specified in the valuation  
22 manual;

23 (5) "Life insurance", contracts that incorporate mortality risk  
24 including annuity and pure endowment contracts and as may be

25 specified in the valuation manual;

26 (6) "NAIC", the National Association of Insurance Commissioners;

27 (7) "Operative date of the valuation manual", January first of the  
28 first calendar year that the valuation manual is effective, as described  
29 in subdivision (2) of subsection 6 of section 376.380;

30 (8) "Policyholder behavior", any action a policyholder, contract  
31 holder, or any other person with the right to elect options, such as a  
32 certificate holder, may take under a policy or contract subject to  
33 sections 376.365 to 376.380 including, but not limited to, lapse,  
34 withdrawal, transfer, deposit, premium payment, loan, annuitization,  
35 or benefit elections prescribed by the policy or contract but excluding  
36 events of mortality or morbidity that result in benefits prescribed in  
37 their essential aspects by the terms of the policy or contract;

38 (9) "Principle-based valuation", a reserve valuation that uses one  
39 or more methods or one or more assumptions determined by the  
40 insurer and is required to comply with subsection 7 of section 376.380  
41 as specified in the valuation manual;

42 (10) "Qualified actuary", an individual who is qualified to sign  
43 the applicable statement of actuarial opinion in accordance with the  
44 American Academy of Actuaries qualification standards for actuaries  
45 signing such statements and who meets the requirements specified in  
46 the valuation manual;

47 (11) "Tail risk", a risk that occurs either if the frequency of low  
48 probability events is higher than expected under a normal probability  
49 distribution or if there are observed events of very significant size or  
50 magnitude;

51 (12) "Valuation manual", the manual of valuation instructions  
52 adopted by the NAIC as specified in sections 376.365 to 376.380.

376.370. 1. (1) The director of the department of insurance, financial  
2 institutions and professional registration shall annually value, or cause to be  
3 valued, the reserve liabilities, herein called "reserves", for all outstanding life  
4 insurance policies and [annuities] annuity and pure endowment contracts of  
5 every life insurance company doing business in this state[, and may certify the  
6 amount of any such reserves, specifying the mortality table or tables, rate or rates  
7 of interest and methods, net level premium method or other, used in the  
8 calculation of such reserves] issued on or after the operative date provided

9 **in subsection 20 of section 376.670 and prior to the operative date of**  
10 **the valuation manual.** In calculating such reserves, [he] **the director** may  
11 use group methods and approximate averages for fractions of a year or otherwise.  
12 In lieu of the valuation of the reserves herein required of any foreign or alien  
13 company, [he] **the director** may accept any valuation made, or caused to be  
14 made, by the insurance supervisory official of any state or other jurisdiction when  
15 such valuation complies with the minimum standard herein provided [and if the  
16 official of such state or jurisdiction accepts as sufficient and valid for all legal  
17 purposes the certificate of valuation of the director when such certificate states  
18 the valuation to have been made in a specified manner according to which the  
19 aggregate reserves would be at least as large as if they had been computed in the  
20 manner prescribed by the law of that state or jurisdiction].

21 **(2) The provisions of subsection 3 of this section and subsections**  
22 **1 to 3 of section 376.380 shall apply to all policies and contracts, as**  
23 **appropriate, issued on or after the operative date provided in**  
24 **subsection 20 of section 376.670 and prior to the operative date of the**  
25 **valuation manual, and the provisions of subsections 6 and 7 of section**  
26 **376.380 shall not apply to such policies and contracts.**

27 **(3) The minimum standard for the valuation of policies and**  
28 **contracts issued prior to the operative date provided in subsection 20**  
29 **of section 376.670 shall be that provided by the laws in effect**  
30 **immediately prior to the operative date provided in subsection 20 of**  
31 **section 376.670.**

32 **2. (1) The director shall annually value or caused to be valued**  
33 **the reserves for all outstanding life insurance contracts, annuity and**  
34 **pure endowment contracts, accident and health insurance contracts,**  
35 **and deposit-type contracts of every company issued on or after the**  
36 **operative date of the valuation manual. In lieu of the valuation of the**  
37 **reserves herein required of any foreign or alien company, the director**  
38 **may accept any valuation made or caused to be made by the insurance**  
39 **supervisory official of any state or other jurisdiction if such valuation**  
40 **complies with the minimum standard provided herein.**

41 **(2) The provisions of subsections 6 and 7 of section 376.380 shall**  
42 **apply to all policies and contracts issued on or after the operative date**  
43 **of the valuation manual.**

44 **[2.] 3. Reserves for all policies and contracts issued prior to August 28,**

45 1993, may be calculated, at the option of the company, according to any standards  
46 which produce greater aggregate reserves for all such policies and contracts than  
47 the minimum reserves required by the laws in effect immediately prior to such  
48 date. Reserves for any category of policies, contracts or benefits as established  
49 by the director, issued on or after August 28, 1993, may be calculated, at the  
50 option of the company, according to any standards which produce greater  
51 aggregate reserves for such category than those calculated according to the  
52 minimum standard herein provided, but the rate or rates of interest used for  
53 policies and contracts, other than annuity and pure endowment contracts, shall  
54 not be higher than the corresponding rate or rates of interest used in calculating  
55 any nonforfeiture benefits provided therein. Any such company which at any  
56 time shall have adopted any standard of valuation producing greater aggregate  
57 reserves than those calculated according to the minimum standard herein  
58 provided may, with the approval of the director, adopt any lower standard of  
59 valuation, but not lower than the minimum herein provided; however, for  
60 purposes of this subsection, the holding of additional reserves previously  
61 determined by a qualified actuary to be necessary to render the opinion required  
62 by [subsection 4] **subsections 4 and 5** of section 376.380 shall not be deemed  
63 to be the adoption of a higher standard of valuation.

376.380. 1. The legal minimum standard for valuation of policies and  
2 contracts and the reserves to be maintained thereon shall be as follows:

3 (1) For those policies and contracts issued prior to the operative date  
4 provided in subsection [14] **20** of section 376.670:

5 (a) Except as otherwise provided in subdivision (3) of this subsection, the  
6 legal minimum standard for valuation of policies of life insurance or annuity  
7 contracts issued prior to April 13, 1934, shall be the Actuaries' or Combined  
8 Experience Table of Mortality, with interest at the rate of five percent per annum  
9 for group annuity contracts and four percent per annum for all other policies and  
10 contracts; and for policies of life insurance and annuity contracts issued on and  
11 after April 13, 1934, such minimum standard shall be the American Experience  
12 Table of Mortality with interest at the rate of five percent per annum for group  
13 annuity contracts and three and one-half percent per annum for all other policies  
14 and contracts;

15 (b) The director may vary the legal minimum standards of interest and  
16 mortality for annuity contracts and in particular cases of invalid or substandard  
17 lives and other extra hazards, and shall have the right and authority to designate

18 the legal minimum standard for valuation of total and permanent disability  
19 benefits and additional accidental death benefits;

20 (c) Policies issued by companies doing business in this state may provide  
21 for not more than one year preliminary term insurance by incorporating in the  
22 provisions thereof, specifying the premium consideration to be received, a clause  
23 plainly showing that the first year's insurance under such policies is term  
24 insurance, purchased by the whole or a part of the premium to be received during  
25 the first policy year and shall be valued accordingly; provided, that if the  
26 premium charged for term insurance under a limited payment life preliminary  
27 term policy providing for the payment of all premiums thereon in less than  
28 twenty years from the date of the policy, or under an endowment preliminary  
29 term policy, exceeds that charged for life insurance twenty payment life  
30 preliminary term policies of the same company, the reserve thereon at the end of  
31 any year, including the first, shall not be less than the reserve on a twenty  
32 payment life preliminary term policy issued in the same year and at the same  
33 age, together with an amount which shall be equivalent to the accumulation of  
34 a net level premium sufficient to provide for a pure endowment at the end of the  
35 premium payment period equal to the difference between the value at the end of  
36 such period of such twenty payment life preliminary term policy and the full  
37 reserve at such time of such a limited payment life or endowment policy. The  
38 premium payment period is the period during which premiums are concurrently  
39 payable under such twenty payment life preliminary term policy and such limited  
40 payment life or endowment policy;

41 (d) Reserves for all such policies and contracts may be calculated, at the  
42 option of the company, according to any standards which produce greater  
43 aggregate reserves for all such policies and contracts than the minimum reserves  
44 required by subdivision (1) of this subsection. In the case of policy obligations of  
45 an insolvent life insurance company assumed or reinsured in bulk by an  
46 insurance company upon a basis requiring a separate accounting of the business  
47 and assets of such insolvent company and an application of any part of the  
48 earnings therefrom upon obligations which are not implicit in the original terms  
49 of the policies or contracts assumed or reinsured, the director, in order to protect  
50 all policyholders of the reinsuring company, including the holders of all policies  
51 so assumed or reinsured, and to safeguard the future solvency of such reinsuring  
52 company, shall have the right and authority to designate standards of valuation  
53 for such reinsured policies and contracts which will produce greater aggregate

54 reserves for all such policies and contracts than the minimum reserves required  
55 by subdivision (1) of this subsection or the terms and provisions of the policies  
56 and contracts so assumed or reinsured, and, in such event, such reinsuring  
57 company shall not, thereafter, adopt any lower standards of valuation without the  
58 approval of the director.

59 (2) For those policies and contracts issued on or after the operative date  
60 provided in subsection [14] 20 of section 376.670:

61 (a) Except as otherwise provided in subdivision (3) of this subsection and  
62 subsection 2 of this section, the minimum standard for the valuation of all such  
63 policies and contracts shall be the commissioners reserve valuation methods  
64 defined in paragraphs (b), (c), (d), (e), and (h) of this subdivision, three and  
65 one-half percent interest on all such policies and contracts except those contracts  
66 specified in subparagraph c. of **this** paragraph [(a) of this subdivision] which  
67 consist of single premium annuity contracts and in subparagraph d. of **this**  
68 paragraph [(a) of this subdivision] which consists of group annuity contracts  
69 where the interest rate shall be five percent, and except policies and contracts,  
70 other than annuity and pure endowment contracts, issued on or after September  
71 28, 1975, where the interest rate shall be four percent interest for such policies  
72 issued prior to September 28, 1979, and four and one-half percent interest for  
73 such policies issued on or after September 28, 1979, and the following tables:

74 a. For all ordinary policies of life insurance issued prior to the operative  
75 date provided in subsection [10] 12 of section 376.670 on the standard basis,  
76 excluding any disability and accidental death benefits in such policies, the  
77 Commissioners 1941 Standard Ordinary Mortality Table, and for such policies  
78 issued on or after the operative date provided in subsection [10] 12 of section  
79 376.670, and prior to the operative date of subsection [10b] 14 of section 376.670,  
80 the Commissioners 1958 Standard Ordinary Mortality Table; provided that for  
81 any category of such policies issued on or after September 28, 1979, on female  
82 risks all modified net premiums and present values referred to in this section  
83 may be calculated according to an age not more than six years younger than the  
84 actual age of the insured; and for such policies issued on or after the operative  
85 date of subsection [10b] 14 of section 376.670:

86 i. The Commissioners 1980 Standard Ordinary Mortality Table; or

87 ii. At the election of the company for any one or more specified plans of  
88 life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with  
89 Ten-Year Select Mortality Factors; or



90           iii. Any ordinary mortality table, adopted after 1980 by the [National  
91 Association of Insurance Commissioners] NAIC, that is approved by regulation  
92 promulgated by the director for use in determining the minimum standard of  
93 valuation for such policies;

94           b. For all industrial life insurance policies issued on the standard basis,  
95 excluding any disability and accidental death benefits in such policies, the 1941  
96 Standard Industrial Mortality Table for such policies issued prior to the operative  
97 date of subsection [10a] 13 of section 376.670 and for such policies issued on or  
98 after such operative date, the Commissioners 1961 Standard Industrial Mortality  
99 Table or any industrial mortality table, adopted after 1980 by the [National  
100 Association of Insurance Commissioners] NAIC, that is approved by regulation  
101 promulgated by the director for use in determining the minimum standard of  
102 valuation for such policies;

103           c. For individual annuity and pure endowment contracts, excluding any  
104 disability and accidental death benefits in such policies, the 1937 Standard  
105 Annuity Mortality Table or, at the option of the company, the Annuity Mortality  
106 Table for 1949, Ultimate, or any modification of either of these tables approved  
107 by the director;

108           d. For group annuity and pure endowment contracts, excluding any  
109 disability and accidental death benefits in such policies, the Group Annuity  
110 Mortality Table for 1951, any modification of such table approved by the director,  
111 or, at the option of the company, any of the tables or modifications of tables  
112 specified for individual annuity and pure endowment contracts;

113           e. For total and permanent disability benefits in or supplementary to  
114 ordinary policies or contracts, for policies or contracts issued on or after January  
115 1, 1966, the tables of period two disablement rates and the 1930 to 1950  
116 termination rates of the 1952 disability study of the Society of Actuaries, with  
117 due regard to the type of benefit or any tables of disablement rates and  
118 termination rates, adopted after 1980 by the [National Association of Insurance  
119 Commissioners] NAIC, that are approved by regulation promulgated by the  
120 director for use in determining the minimum standard of valuation for such  
121 policies; for policies or contracts issued on or after January 1, 1961, and prior to  
122 January 1, 1966, either such tables or at the option of the company, the Class (3)  
123 Disability Table (1926); and for policies issued prior to January 1, 1961, the Class  
124 (3) Disability Table (1926). Any such table shall, for active lives, be combined  
125 with a mortality table permitted for calculating the reserves for life insurance

126 policies;

127           f. For accidental death benefits in or supplementary to policies issued on  
128 or after January 1, 1966, the 1959 Accidental Death Benefits Table or any  
129 accidental death benefits table, adopted after 1980 by the [National Association  
130 of Insurance Commissioners] NAIC, that is approved by regulation promulgated  
131 by the director for use in determining the minimum standard of valuation for  
132 such policies; for policies issued on or after January 1, 1961, and prior to January  
133 1, 1966, either such table or, at the option of the company, the Inter-Company  
134 Double Indemnity Mortality Table; and for policies issued prior to January 1,  
135 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall  
136 be combined with a mortality table permitted for calculating the reserves for life  
137 insurance policies;

138           g. For group life insurance, life insurance issued on the substandard basis  
139 and other special benefits, such tables as may be approved by the director;

140           (b) Except as otherwise provided in paragraphs (d), (e), and (h) of this  
141 subdivision, reserves according to the commissioners reserve valuation method,  
142 for the life insurance and endowment benefits of policies providing for a uniform  
143 amount of insurance and requiring the payment of uniform premiums shall be the  
144 excess, if any, of the present value, at the date of valuation, of such future  
145 guaranteed benefits provided for by such policies, over the then present value of  
146 any future modified net premiums therefor. The modified net premiums for any  
147 such policy shall be such uniform percentage of the respective contract premiums  
148 for such benefits that the present value, at the date of issue of the policy, of all  
149 such modified net premiums shall be equal to the sum of the then present value  
150 of such benefits provided for by the policy and the excess of a. over b., as follows:

151           a. A net level annual premium equal to the present value, at the date of  
152 issue, of such benefits provided for after the first policy year, divided by the  
153 present value, at the date of issue, of an annuity of one per annum payable on the  
154 first and each subsequent anniversary of such policy on which a premium falls  
155 due; provided, however, that such net level annual premium shall not exceed the  
156 net level annual premium on the nineteen year premium whole life plan for  
157 insurance of the same amount at an age one year higher than the age at issue of  
158 such policy;

159           b. A net one year term premium for such benefit provided for in the first  
160 policy year; provided, that for any life insurance policy issued on or after January  
161 1, 1986, for which the contract premium in the first policy year exceeds that of

162 the second year and for which no comparable additional benefit is provided in the  
163 first year for such excess and which provides an endowment benefit or a cash  
164 surrender value or a combination thereof in an amount greater than such excess  
165 premium, the reserve according to the commissioners reserve valuation method  
166 as of any policy anniversary occurring on or before the assumed ending date  
167 defined herein as the first policy anniversary on which the sum of any endowment  
168 benefit and any cash surrender value then available is greater than such excess  
169 premium shall, except as otherwise provided in paragraph (h) of this subdivision,  
170 be the greater of the reserve as of such policy anniversary calculated as described  
171 in paragraph (b) of this subdivision and the reserve as of such policy anniversary  
172 calculated as described in paragraph (b) of this subdivision, but with:

173 i. The value defined in subparagraph a. of paragraph (b) **of this**  
174 **subdivision** being reduced by fifteen percent of the amount of such excess first  
175 year premium;

176 ii. All present values of benefits and premiums being determined without  
177 reference to premiums or benefits provided for by the policy after the assumed  
178 ending date;

179 iii. The policy being assumed to mature on such date as an endowment;  
180 and

181 iv. The cash surrender value provided on such date being considered as  
182 an endowment benefit. In making the above comparison the mortality and  
183 interest bases stated in paragraph (a) of this subdivision and subsection 2 of this  
184 section shall be used;

185 (c) Reserves according to the commissioners reserve valuation method for:

186 a. Life insurance policies providing for a varying amount of insurance or  
187 requiring the payment of varying premiums;

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

194 c. Disability and accidental death benefits in all policies and contracts;  
195 and

196 d. All other benefits, except life insurance and endowment benefits in life  
197 insurance policies and benefits provided by all other annuity and pure

198 endowment contracts, shall be calculated by a method consistent with the  
199 principles of paragraph (b) of this subdivision;

200 (d) Paragraph (e) of this subdivision shall apply to all annuity and pure  
201 endowment contracts other than group annuity and pure endowment contracts  
202 purchased under a retirement plan or plan of deferred compensation, established  
203 or maintained by an employer (including a partnership or sole proprietorship), or  
204 by an employee organization, or by both, other than a plan providing individual  
205 retirement accounts or individual retirement annuities under section 408 of the  
206 Internal Revenue Code, as now or hereafter amended;

207 (e) Reserves according to the commissioners annuity reserve method for  
208 benefits under annuity or pure endowment contracts, excluding any disability and  
209 accidental death benefits in such contracts, shall be the greatest of the respective  
210 excesses of the present values, at the date of valuation, of the future guaranteed  
211 benefits, including guaranteed nonforfeiture benefits, provided for by such  
212 contracts at the end of each respective contract year, over the present value, at  
213 the date of valuation, of any future valuation considerations derived from future  
214 gross considerations, required by the terms of such contract, that become payable  
215 prior to the end of such respective contract year. The future guaranteed benefits  
216 shall be determined by using the mortality table, if any, and the interest rate, or  
217 rates, specified in such contracts for determining guaranteed benefits. The  
218 valuation considerations are the portions of the respective gross considerations  
219 applied under the terms of such contracts to determine nonforfeiture values;

220 (f) In no event shall a company's aggregate reserves for all life insurance  
221 policies, excluding disability and accidental death benefits, be less than the  
222 aggregate reserves calculated in accordance with the method set forth in  
223 paragraphs (b), (c), (d), (e), (h) and (i) of this subdivision and the mortality table  
224 or tables and rate or rates of interest used in calculating nonforfeiture benefits  
225 for such policies;

226 (g) In no event shall the aggregate reserves for all policies, contracts and  
227 benefits be less than the aggregate reserves determined by the qualified actuary  
228 to be necessary to render the opinion required by [subsection 4] **subsections 4**  
229 **and 5** of this section;

230 (h) If in any contract year the gross premium charged by any life  
231 insurance company on any policy or contract is less than the valuation net  
232 premium for the policy or contract calculated by the method used in calculating  
233 the reserve thereon but using the minimum valuation standards of mortality and

234 rate of interest, the minimum reserve required for such policy or contract shall  
235 be the greater of either the reserve calculated according to the mortality table,  
236 rate of interest, and method actually used for such policy or contract, or the  
237 reserve calculated by the method actually used for such policy or contract but  
238 using the minimum valuation standards of mortality and rate of interest and  
239 replacing the valuation net premium by the actual gross premium in each  
240 contract year for which the valuation net premium exceeds the actual gross  
241 premium. The minimum valuation standards of mortality and rate of interest  
242 referred to in this section are those standards stated in paragraph (a) of this  
243 subdivision and subsection 2 of this section; provided, that for any life insurance  
244 policy issued on or after January 1, 1986, for which the gross premium in the first  
245 policy year exceeds that of the second year and for which no comparable  
246 additional benefit is provided in the first year for such excess and which provides  
247 an endowment benefit or a cash surrender value or a combination thereof in an  
248 amount greater than such excess premium, the foregoing provisions of this  
249 paragraph shall be applied as if the method actually used in calculating the  
250 reserve for such policy were the method described in paragraph (b) of this  
251 subdivision. The minimum reserve at each policy anniversary of such a policy  
252 shall be the greater of the minimum reserve calculated in accordance with  
253 paragraphs (b) and (c) **of this subdivision** and the minimum reserve calculated  
254 in accordance with this paragraph;

255 (i) In the case of any plan of life insurance which provides for future  
256 premium determination, the amounts of which are to be determined by the  
257 insurance company based on then estimates of future experience, or in the case  
258 of any plan of life insurance or annuity which is of such a nature that the  
259 minimum reserves cannot be determined by the methods described in paragraphs  
260 (b) to (e) of this subdivision, and paragraph (h) of this subdivision, the reserves  
261 which are held under any such plan must:

262 a. Be appropriate in relation to the benefits and the pattern of premiums  
263 for that plan; and

264 b. Be computed by a method which is consistent with the principles of this  
265 section as determined by regulations promulgated by the director.

266 (3) Except as provided in subsection 2 of this section, the minimum  
267 standard for the valuation of all individual annuity and pure endowment  
268 contracts issued on or after the operative date of this subdivision, as defined  
269 herein, and for all annuities and pure endowments purchased on or after such

270 operative date under group annuity and pure endowment contracts, shall be the  
271 commissioners reserve valuation methods defined in paragraphs (b), (c), (d), and  
272 (e) of subdivision (2) of this subsection, and the following tables and interest  
273 rates:

274 (a) For individual annuity and pure endowment contracts issued prior to  
275 September 28, 1979, excluding any disability and accidental death benefits in  
276 such contracts, the 1971 Individual Annuity Mortality Table, or any modification  
277 of this table approved by the director, and six percent interest for single premium  
278 immediate annuity contracts, and four percent interest for all other individual  
279 annuity and pure endowment contracts;

280 (b) For individual single premium immediate annuity contracts issued on  
281 or after September 28, 1979, excluding any disability and accidental death  
282 benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any  
283 individual annuity mortality table adopted after 1980 by the [National  
284 Association of Insurance Commissioners] NAIC, that is approved by regulation  
285 promulgated by the director for use in determining the minimum standard of  
286 valuation for such contracts, or any modification of these tables approved by the  
287 director, and seven and one-half percent interest;

288 (c) For individual annuity and pure endowment contracts issued on or  
289 after September 28, 1979, other than single premium immediate annuity  
290 contracts, excluding any disability and accidental death benefits in such  
291 contracts, the 1971 Individual Annuity Mortality Table, or any individual annuity  
292 mortality table adopted after 1980 by the [National Association of Insurance  
293 Commissioners] NAIC, that is approved by regulation promulgated by the  
294 director for use in determining the minimum standard of valuation for such  
295 contracts, or any modification of these tables approved by the director, and five  
296 and one-half percent interest for single premium deferred annuity and pure  
297 endowment contracts and four and one-half percent interest for all other such  
298 individual annuity and pure endowment contracts;

299 (d) For all annuities and pure endowments purchased prior to September  
300 28, 1979, under group annuity and pure endowment contracts, excluding any  
301 disability and accidental death benefits purchased under such contracts, the 1971  
302 Group Annuity Mortality Table, or any modification of this table approved by the  
303 director, and six percent interest;

304 (e) For all annuities and pure endowments purchased on or after  
305 September 28, 1979, under group annuity and pure endowment contracts,

306 excluding any disability and accidental death benefits purchased under such  
307 contracts, the 1971 Group Annuity Mortality Table, or any group annuity  
308 mortality table adopted after 1980 by the [National Association of Insurance  
309 Commissioners] NAIC, that is approved by regulation promulgated by the  
310 director for use in determining the minimum standard of valuation for such  
311 annuities and pure endowments, or any modification of these tables approved by  
312 the director, and seven and one-half percent interest;

313 (f) On and after September 28, 1975, any company may file with the  
314 director a written notice of its election to comply with the provisions of this  
315 subdivision after a specified date before January 1, 1980, which shall be the  
316 operative date of this subdivision for such company, provided a company may  
317 elect a different operative date for individual annuity and pure endowment  
318 contracts from that elected for group annuity and pure endowment contracts. If  
319 a company makes no such election, the operative date of this subdivision for such  
320 company shall be January 1, 1980.

321 2. (1) The calendar year statutory valuation interest rates as defined in  
322 this subsection shall be the interest rates used in determining the minimum  
323 standard for the valuation of:

324 (a) All life insurance policies issued in a particular calendar year, on or  
325 after the operative date of subsection [10b] 14 of section 376.670;

326 (b) All individual annuity and pure endowment contracts issued in a  
327 particular calendar year on or after January 1, 1983;

328 (c) All annuities and pure endowment contracts purchased in a particular  
329 calendar year on or after January 1, 1983, under group annuity and pure  
330 endowment contracts; and

331 (d) The net increase, if any, in a particular calendar year after January  
332 1, 1983, in amounts held under guaranteed interest contracts.

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

336 (a) For life insurance:

337  $I = .03 + W (R_1 - .03) + W/2 (R_2 - .09)$ ;

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

341  $I = .03 + W (R - .03)$ , where  $R_1$  is the lesser of R and .09;  $R_2$  is the greater

342 of R and .09; R is the reference interest rate defined in this subsection; and W is  
 343 the weighting factor defined in this subsection;

344 (c) For other annuities with cash settlement options and guaranteed  
 345 interest contracts with cash settlement options, valued on an issue year basis,  
 346 except as stated in paragraph (b) of this subdivision, the formula for life  
 347 insurance stated in paragraph (a) of this subdivision shall apply to annuities and  
 348 guaranteed interest contracts with guarantee durations in excess of ten years and  
 349 the formula for single premium immediate annuities stated in paragraph (b) of  
 350 this subdivision shall apply to annuities and guaranteed interest contracts with  
 351 guarantee durations of ten years or less;

352 (d) For other annuities with no cash settlement options and for  
 353 guaranteed interest contracts with no cash settlement options, the formula for  
 354 single premium immediate annuities stated in paragraph (b) of this subdivision  
 355 shall apply;

356 (e) For other annuities with cash settlement options and guaranteed  
 357 interest contracts with cash settlement options, valued on a change in fund basis,  
 358 the formula for single premium immediate annuities stated in paragraph (b) of  
 359 this subdivision shall apply. If the calendar year statutory valuation interest  
 360 rate for any life insurance policies issued in any calendar year determined  
 361 without reference to this sentence differs from the corresponding actual rate for  
 362 similar policies issued in the immediately preceding calendar year by less than  
 363 one-half of one percent, the calendar year statutory valuation interest rate for  
 364 such life insurance policies shall be equal to the corresponding actual rate for the  
 365 immediately preceding calendar year. For purposes of applying the immediately  
 366 preceding sentence, the calendar year statutory valuation interest rate for life  
 367 insurance policies issued in a calendar year shall be determined for 1980 (using  
 368 the reference interest rate defined for 1979) and shall be determined for each  
 369 subsequent calendar year regardless of when subsection [10b] 14 of section  
 370 376.670 becomes operative.

371 (3) The weighting factors referred to in the formulas stated in subdivision  
 372 (2) of this subsection are given in the following tables:

373 (a) Weighting factors for life insurance:

374	Guarantee	Weighting
375	Duration	Factors
376	(Years)	
377	10 or less	.50



378 More than 10, but not more than 20 .45  
 379 More than 20 .35

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

384 (b) Weighting factor for single premium immediate annuities and for  
 385 annuity benefits involving life contingencies arising from other annuities with  
 386 cash settlement options and guaranteed interest contracts with cash settlement  
 387 options: .80;

388 (c) Weighting factors for other annuities and for guaranteed interest  
 389 contracts, except as stated in paragraph (b) of this subdivision, shall be as  
 390 specified in subparagraphs a., b., and c. of this paragraph, according to the rules  
 391 and definitions in subparagraphs d., e., and f. of this paragraph:

392 a. For annuities and guaranteed interest contracts valued on an issue  
 393 year basis:

394 Guarantee	Weighting Factor		
395 Duration	for Plan Type		
396 (Years)	A	B	C
397 5 or less:	.80	.60	.50
398 More than 5, but not more than 10:	.75	.60	.50
399 More than 10, but not more than 20:	.65	.50	.45
400 More than 20:	.45	.35	.35;

401 b. For annuities and guaranteed interest contracts valued on a change in  
 402 fund basis, the factors shown in subparagraph a. of this paragraph increased by:

403	Plan Type		
404	A	B	C
405	.15	.25	.05;

406 c. For annuities and guaranteed interest contracts valued on an issue year  
 407 basis (other than those with no cash settlement options) which do not guarantee  
 408 interest on considerations received more than one year after issue or purchase  
 409 and for annuities and guaranteed interest contracts valued on a change in fund  
 410 basis which do not guarantee interest rates on considerations received more than  
 411 twelve months beyond the valuation date, the factors shown in subparagraph a.  
 412 of this paragraph or derived in subparagraph b. of this paragraph increased by:

413 Plan Type

414		A	B	C
415		.05	.05	.05;

416           d. For other annuities with cash settlement options and guaranteed  
417 interest contracts with cash settlement options, the guarantee duration is the  
418 number of years for which the contract guarantees interest rates in excess of the  
419 calendar year statutory valuation interest rate for life insurance policies with  
420 guarantee duration in excess of twenty years. For other annuities with no cash  
421 settlement options and for guaranteed interest contracts with no cash settlement  
422 options, the guarantee duration is the number of years from the date of issue or  
423 date of purchase to the date annuity benefits are scheduled to commence;

424           e. Plan type as used in subparagraphs a., b., and c. of this paragraph is  
425 defined as follows:

426           Plan Type A: At any time policyholder may withdraw funds only with an  
427 adjustment to reflect changes in interest rates or asset values since receipt of the  
428 funds by the insurance company, or without such adjustment but in installments  
429 over five years or more, or as an immediate life annuity, or no withdrawal  
430 permitted;

431           Plan Type B: Before expiration of the interest rate guarantee, policyholder  
432 may withdraw funds only with an adjustment to reflect changes in interest rates  
433 or asset values since receipt of the funds by the insurance company, or without  
434 such adjustment but in installments over five years or more, or no withdrawal  
435 permitted. At the end of interest rate guarantee, funds may be withdrawn  
436 without such adjustment in a single sum or installments over fewer than five  
437 years;

438           Plan Type C: Policyholder may withdraw funds before expiration of  
439 interest rate guarantee in a single sum or installments over fewer than five years  
440 either without adjustment to reflect changes in interest rates or asset values  
441 since receipt of the funds by the insurance company, or subject only to a fixed  
442 surrender charge stipulated in the contract as a percentage of the fund;

443           f. A company may elect to value guaranteed interest contracts with cash  
444 settlement options and annuities with cash settlement options on either an issue  
445 year basis or on a change in fund basis. Guaranteed interest contracts with no  
446 cash settlement options and other annuities with no cash settlement options must  
447 be valued on an issue year basis. As used in this subsection an issue year basis  
448 of valuation refers to a valuation basis under which the interest rate used to  
449 determine the minimum valuation standard for the entire duration of the annuity

450 or guaranteed interest contract is the calendar year valuation interest rate for the  
451 year of issue or year of purchase of the annuity or guaranteed interest contract,  
452 and the change in fund basis of valuation refers to a valuation basis under which  
453 the interest rate used to determine the minimum valuation standard applicable  
454 to each change in the fund held under the annuity or guaranteed interest contract  
455 is the calendar year valuation interest rate for the year of the change in the fund.

456 (4) The "reference interest rate" referred to in subdivision (2) of this  
457 subsection shall be defined as follows:

458 (a) For all life insurance, the lesser of the average over a period of  
459 thirty-six months and the average over a period of twelve months, ending on June  
460 thirtieth of the calendar year next preceding the year of issue, of the Monthly  
461 Average of the Composite Yield on Seasoned Corporate Bonds, as published by  
462 Moody's Investors Service, Inc.;

463 (b) For single premium immediate annuities and for annuity benefits  
464 involving life contingencies arising from other annuities with cash settlement  
465 options and guaranteed interest contracts with cash settlement options, the  
466 average over a period of twelve months, ending on June thirtieth of the calendar  
467 year of issue or purchase, of the Monthly Average of the Composite Yield on  
468 Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.;

469 (c) For other annuities with cash settlement options and guaranteed  
470 interest contracts with cash settlement options, valued on a year of issue basis,  
471 except as stated in paragraph (b) of this subdivision, with guarantee duration in  
472 excess of ten years, the lesser of the average over a period of thirty-six months  
473 and the average over a period of twelve months, ending on June thirtieth of the  
474 calendar year of issue or purchase, of the Monthly Average of the Composite Yield  
475 on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.;

476 (d) For other annuities with cash settlement options and guaranteed  
477 interest contracts with cash settlement options, valued on a year of issue basis,  
478 except as stated in paragraph (b) of this subdivision, with guarantee duration of  
479 ten years or less, the average over a period of twelve months, ending on June  
480 thirtieth of the calendar year of issue or purchase, of the Monthly Average of the  
481 Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors  
482 Service, Inc.;

483 (e) For other annuities with no cash settlement options and for  
484 guaranteed interest contracts with no cash settlement options, the average over  
485 a period of twelve months, ending on June thirtieth of the calendar year of issue

486 or purchase, of the Monthly Average of the Composite Yield on Seasoned  
487 Corporate Bonds, as published by Moody's Investors Service, Inc.;

488 (f) For other annuities with cash settlement options and guaranteed  
489 interest contracts with cash settlement options, valued on a change in fund basis,  
490 except as stated in paragraph (b) of this subdivision, the average over a period  
491 of twelve months, ending on June thirtieth of the calendar year of the change in  
492 the fund, of the Monthly Average of the Composite Yield on Seasoned Corporate  
493 Bonds, as published by Moody's Investors Service, Inc.

494 (5) In the event that the Monthly Average of the Composite Yield on  
495 Seasoned Corporate Bonds is no longer published by Moody's Investors Service,  
496 Inc., or in the event that the [National Association of Insurance Commissioners]  
497 NAIC determines that the Monthly Average of the Composite Yield on Seasoned  
498 Corporate Bonds as published by Moody's Investors Service, Inc., is no longer  
499 appropriate for the determination of the reference interest rate, then an  
500 alternative method for determination of the reference interest rate, which is  
501 adopted by the [National Association of Insurance Commissioners] NAIC and  
502 approved by regulation promulgated by the director, may be substituted.

503 3. [The director shall promulgate a regulation containing the minimum  
504 standards applicable to the valuation of health, disability and sickness and  
505 accident plans] **For accident and health insurance contracts issued on  
506 or after the operative date of the valuation manual, the standard  
507 prescribed in the valuation manual is the minimum standard of  
508 valuation required under subsection 2 of section 376.370. For  
509 disability, accident and sickness, and accident and health insurance  
510 contracts issued on or after the operative date provided in subsection  
511 20 of section 376.670 and prior to the operative date of the valuation  
512 manual, the minimum standard of valuation is the standard adopted by  
513 the director by regulation.**

514 4. (1) **This subsection shall apply to actuarial opinions of  
515 reserves prior to the date of the valuation manual.**

516 (2) Every life insurance company doing business in this state shall  
517 annually submit the opinion of a qualified actuary as to whether the reserves and  
518 related actuarial items held in support of the policies and contracts specified by  
519 the director by regulation are computed appropriately, are based on assumptions  
520 which satisfy contractual provisions, are consistent with prior reported amounts  
521 and comply with applicable laws of this state. The director by regulation shall

522 define the specifics of this opinion and add any other items deemed to be  
523 necessary to its scope.

524        [(2)] (3) (a) Every life insurance company, except as exempted by or  
525 pursuant to regulation, shall also annually include in the opinion required by  
526 subdivision [(1)] (2) of this subsection, an opinion of the same qualified actuary  
527 as to whether the reserves and related actuarial items held in support of the  
528 policies and contracts specified by the director by regulation, when considered in  
529 light of the assets held by the company with respect to the reserves and related  
530 actuarial items, including but not limited to the investment earnings on the  
531 assets and the considerations anticipated to be received and retained under the  
532 policies and contracts, make adequate provision for the company's obligations  
533 under the policies and contracts, including but not limited to the benefits under  
534 and expenses associated with the policies and contracts.

535        (b) The director may provide by regulation for a transition period for  
536 establishing any higher reserves which the qualified actuary may deem necessary  
537 in order to render the opinion required by this subsection.

538        [(3)] (4) Each opinion required by subdivision [(2)] (3) of this subsection  
539 shall be governed by the following provisions:

540        (a) A memorandum, in form and substance acceptable to the director as  
541 specified by regulation, shall be prepared to support each actuarial opinion; and

542        (b) If the insurance company fails to provide a supporting memorandum  
543 at the request of the director within a period specified by regulation or the  
544 director determines that the supporting memorandum provided by the insurance  
545 company fails to meet the standards prescribed by the regulations or is otherwise  
546 unacceptable to the director, the director may engage a qualified actuary at the  
547 expense of the company to review the opinion and the basis for the opinion and  
548 prepare such supporting memorandum as is required by the director.

549        [(4)] (5) Every opinion **required by this subsection** shall be governed  
550 by the following provisions:

551        (a) The opinion shall be submitted with the annual statement reflecting  
552 the valuation of such reserve liabilities for each year ending on or after December  
553 31, 1993;

554        (b) The opinion shall apply to all business in force including individual  
555 and group health insurance plans, in form and substance acceptable to the  
556 director as specified by regulation;

557        (c) The opinion shall be based on standards adopted from time to time by

558 the Actuarial Standards Board and on such additional standards as the director  
559 may by regulation prescribe;

560 (d) In the case of an opinion required to be submitted by a foreign or alien  
561 company, the director may accept the opinion filed by that company with the  
562 insurance supervisory official of another state if the director determines that the  
563 opinion reasonably meets the requirements applicable to a company domiciled in  
564 this state;

565 (e) For the purposes of this section, "qualified actuary" means a member  
566 in good standing of the American Academy of Actuaries who meets the  
567 requirements set forth in such regulations;

568 (f) Except in cases of fraud or willful misconduct, the qualified actuary  
569 shall not be liable for damages to any person, other than the insurance company  
570 and the director, for any act, error, omission, decision or conduct with respect to  
571 the actuary's opinion;

572 (g) Disciplinary action by the director against the company or the  
573 qualified actuary shall be defined in regulations by the director; and

574 (h) Any memorandum in support of the opinion, and any other material  
575 provided by the company to the director in connection therewith, shall be kept  
576 confidential by the director and shall not be made public and shall not be subject  
577 to subpoena, other than for the purpose of defending an action seeking damages  
578 from any person by reason of any action required by this section or by regulations  
579 promulgated hereunder; except that the memorandum or other material may  
580 otherwise be released by the director:

581 a. With the written consent of the company; or

582 b. To the American Academy of Actuaries upon request stating that the  
583 memorandum or other material is required for the purpose of professional  
584 disciplinary proceedings and setting forth procedures satisfactory to the director  
585 for preserving the confidentiality of the memorandum or other material. Once  
586 any portion of the confidential memorandum is cited by the company in its  
587 marketing or is cited before any governmental agency other than a state  
588 insurance department or is released by the company to the news media, all  
589 portions of the confidential memorandum shall be no longer confidential.

590 **5. (1) This subsection shall apply to actuarial opinions of**  
591 **reserves after the operative date of the valuation manual.**

592 **(2) Every company with outstanding life insurance contracts,**  
593 **accident and health insurance contracts, or deposit-type contracts in**

594 Missouri and subject to regulation by the director shall annually submit  
595 the opinion of the appointed actuary as to whether the reserves and  
596 related actuarial items held in support of the policies and contracts are  
597 computed appropriately, are based on assumptions that satisfy  
598 contractual provisions, are consistent with prior reported amounts, and  
599 comply with applicable Missouri law. The valuation manual shall  
600 prescribe the specifics of such opinion, including any items deemed to  
601 be necessary to its scope.

602 (3) Every company with outstanding life insurance contracts,  
603 accident and health insurance contracts, or deposit-type contracts in  
604 Missouri and subject to regulation by the director, except as exempted  
605 in the valuation manual, shall also annually include in the opinion  
606 required under subdivision (2) of this subsection an opinion of the same  
607 appointed actuary as to whether the reserves and related actuarial  
608 items held in support of the policies and contracts specified in the  
609 valuation manual, when considered in light of the assets held by the  
610 company with respect to the reserves and related actuarial items  
611 including, but not limited to, the investment earnings on the assets and  
612 the considerations anticipated to be received and retained under the  
613 policies and contracts, make adequate provision for the company's  
614 obligations under the policies and contracts including, but not limited  
615 to, benefits under and expenses associated with the policies and  
616 contracts.

617 (4) Each opinion required by subdivision (3) of this subsection  
618 shall be governed by the following provisions:

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

622 (b) If the insurance company fails to provide a supporting  
623 memorandum at the request of the director within a period specified  
624 in the valuation manual or the director determines that the supporting  
625 memorandum provided by the insurance company fails to meet the  
626 standards prescribed by the valuation manual or is otherwise  
627 unacceptable to the director, the director may engage a qualified  
628 actuary at the expense of the company to review the opinion and the  
629 basis for the opinion and prepare the supporting memorandum

630 required by the director.

631 (5) Every opinion required by this subsection shall be governed  
632 by the following:

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

635 (b) The opinion shall be submitted with the annual statement  
636 reflecting the valuation of such reserve liabilities for each year ending  
637 on or after the operative date of the valuation manual;

638 (c) The opinion shall apply to all policies and contracts subject  
639 to subdivision (3) of this subsection, plus other actuarial liabilities as  
640 may be specified in the valuation manual;

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

644 (e) In the case of an opinion required to be submitted by a  
645 foreign or alien company, the director may accept the opinion filed by  
646 such company with the insurance supervisory official of another state  
647 if the director determines that the opinion reasonably meets the  
648 requirements applicable to a company domiciled in Missouri;

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

654 (g) Disciplinary action by the director against the company or  
655 the appointed actuary shall be defined in regulations by the director.

656 6. (1) For policies issued on or after the operative date of the  
657 valuation manual, the standard prescribed in the valuation manual is  
658 the minimum standard of valuation required under subsection 2 of  
659 section 376.370, except as provided under subdivision (5) or (7) of this  
660 subsection.

661 (2) The operative date of the valuation manual is January first  
662 of the first calendar year following the first July first as of which all of  
663 the following have occurred:

664 (a) The valuation manual has been adopted by the NAIC by an  
665 affirmative vote of at least forty-two members or three-fourths of the



666 members voting, whichever is greater;

667 (b) The Standard Valuation Law as amended by the NAIC in 2009  
668 or legislation including substantially similar terms and provisions has  
669 been enacted by states representing greater than seventy-five percent  
670 of the direct premiums written as reported in the following annual  
671 statements submitted for 2008: life, accident, and health annual  
672 statements; health annual statements; or fraternal annual statements;

673 (c) The Standard Valuation Law as amended by the NAIC in 2009  
674 or legislation including substantially similar terms and provisions has  
675 been enacted by at least forty-two of the following fifty-five  
676 jurisdictions: the fifty states of the United States, American Samoa, the  
677 American Virgin Islands, the District of Columbia, Guam, and Puerto  
678 Rico; and

679 (d) The valuation manual becomes effective under an order of  
680 the director.

681 (3) Unless a change in the valuation manual specifies a later  
682 effective date, changes to the valuation manual shall be effective on  
683 January first following the date when all of the following have  
684 occurred:

685 (a) The change to the valuation manual has been adopted by the  
686 NAIC by an affirmative vote representing:

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

689 b. Members of the NAIC representing jurisdictions totaling  
690 greater than seventy-five percent of the direct premiums written as  
691 reported in the following annual statements most recently available  
692 prior to the vote in subparagraph a. of this paragraph: life, accident,  
693 and health annual statements; health annual statements; or fraternal  
694 annual statements;

695 (b) The valuation manual becomes effective under an order of  
696 the director.

697 (4) The valuation manual shall specify all of the following:

698 (a) Minimum valuation standards for and definitions of the  
699 policies or contracts subject to subsection 2 of section 376.370. Such  
700 minimum standards shall be:

701 a. The commissioners reserve valuation method for life insurance

702 contracts, other than annuity contracts, subject to subsection 2 of  
703 section 376.370;

704       b. The commissioners annuity reserve valuation method for  
705 annuity contracts subject to subsection 2 of section 376.370; and

706       c. Minimum reserves for all other policies and contracts subject  
707 to subsection 2 of section 376.370;

708       (b) Which policies or contracts or types of policies or contracts  
709 are subject to the requirements of a principle-based valuation under  
710 subdivision (1) of subsection 7 of this section and the minimum  
711 valuation standards consistent with such requirements;

712       (c) For policies and contracts subject to principle-based  
713 valuation under subsection 7 of this section:

714       a. Requirements for the format of reports to the director under  
715 paragraph (c) of subdivision (2) of subsection 7 of this section and  
716 which shall include information necessary to determine if the valuation  
717 is appropriate and in compliance with sections 376.365 to 376.380;

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

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

723       (d) For policies not subject to a principle-based valuation under  
724 subsection 7 of this section, the minimum valuation standard shall  
725 either:

726       a. Be consistent with the minimum standard of valuation prior  
727 to the operative date of the valuation manual; or

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

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

737       (f) The data and form of the data required under subsection 8 of

738 this section, to whom the data shall be submitted, and may specify  
739 other requirements, including data analyses and reporting of analyses.

740 (5) In the absence of a specific valuation requirement or if a  
741 specific valuation requirement in the valuation manual is not, in the  
742 opinion of the director, in compliance with sections 376.365 to 376.380,  
743 the company shall, with respect to such requirements, comply with  
744 minimum valuation standards prescribed by the director by regulation.

745 (6) The director may engage a qualified actuary, at the expense  
746 of the company, to perform an actuarial examination of the company  
747 and opine on the appropriateness of any reserve assumption or method  
748 used by the company, or to review and opine on a company's  
749 compliance with any requirement set forth in sections 376.365 to  
750 376.380. The director may rely upon the opinion regarding provisions  
751 contained in sections 376.365 to 376.380 of a qualified actuary engaged  
752 by the director of another state, district, or territory of the United  
753 States. As used in this subdivision, engage includes employment and  
754 contracting.

755 (7) The director may require a company to change any  
756 assumption or method that in the opinion of the director is necessary  
757 in order to comply with the requirements of the valuation manual or  
758 sections 376.365 to 376.380, and the company shall adjust the reserves  
759 as required by the director. The director may take other disciplinary  
760 action as permitted under chapter 354 and chapters 374 to 385.

761 7. (1) A company shall establish reserves using a principle-based  
762 valuation that meets the following conditions for policies or contracts  
763 as specified in the valuation manual:

764 (a) Quantify the benefits and guarantees, and the funding,  
765 associated with the contracts and their risks at a level of conservatism  
766 that reflects conditions that include unfavorable events that have a  
767 reasonable probability of occurring during the lifetime of the  
768 contracts. For policies or contracts with significant tail risk, the  
769 company's valuation shall reflect conditions appropriately adverse to  
770 quantify the tail risk;

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

774 assessment process, while recognizing potential differences in financial  
775 reporting structures and any prescribed assumptions or methods;

776 (c) Incorporate assumptions that are derived in one of the  
777 following manners:

778 a. The assumption is prescribed in the valuation manual; or

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

780 (i) Be established utilizing the company's available experience  
781 to the extent it is relevant and statistically credible; or

782 (ii) To the extent that company data is not available, relevant, or  
783 statistically credible, be established utilizing other relevant  
784 statistically credible experience;

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

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

791 (a) Establish procedures for corporate governance and oversight  
792 of the actuarial valuation function consistent with those described in  
793 the valuation manual;

794 (b) Provide to the director an annual certification of the  
795 effectiveness of the internal controls with respect to the principle-  
796 based valuation. Such controls shall be designed to ensure that all  
797 material risks inherent in the liabilities and associated assets subject  
798 to such valuation are included in the valuation and that valuations are  
799 made in accordance with the valuation manual. The certification shall  
800 be based on the controls in place as of the end of the preceding  
801 calendar year;

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

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

807 8. For policies in force on or after the operative date of the  
808 valuation manual, a company shall submit mortality, morbidity,  
809 policyholder behavior, or expense experience and other data as

810 prescribed in the valuation manual.

811           **9. (1) For purposes of this subsection, "confidential information"**  
812 **means:**

813           **(a) A memorandum in support of an opinion submitted under**  
814 **subsection 4 or 5 of this section and any other documents, materials,**  
815 **and other information including, but not limited to, all working papers**  
816 **and copies thereof created, produced, or obtained by or disclosed to the**  
817 **director or any other person in connection with such memorandum;**

818           **(b) All documents, materials, and other information including,**  
819 **but not limited to, all working papers and copies thereof created,**  
820 **produced, or obtained by or disclosed to the director or any other**  
821 **person in the course of an examination made under subdivision (6) of**  
822 **subsection 6 of this section; provided, however, that if an examination**  
823 **report or other material prepared in connection with an examination**  
824 **made under section 374.205 is not held as private and confidential**  
825 **information under section 374.205, an examination report or other**  
826 **material prepared in connection with an examination made under**  
827 **subdivision (6) of subsection 6 of this section shall not be confidential**  
828 **information to the same extent as if such examination report or other**  
829 **material had been prepared under section 374.205;**

830           **(c) Any reports, documents, materials, and other information**  
831 **developed by a company in support of or in connection with an annual**  
832 **certification by the company under paragraph (b) of subdivision (2) of**  
833 **subsection 7 of this section evaluating the effectiveness of the**  
834 **company's internal controls with respect to a principle-based valuation**  
835 **and any other documents, materials, and other information including,**  
836 **but not limited to, all working papers and copies thereof created,**  
837 **produced, or obtained by or disclosed to the director or any other**  
838 **person in connection with such reports, documents, material, and other**  
839 **information;**

840           **(d) Any principle-based valuation report developed under**  
841 **paragraph (c) of subdivision (2) of subsection 7 of this section and any**  
842 **other documents, materials, and other information including, but not**  
843 **limited to, all working papers and copies thereof created, produced, or**  
844 **obtained by or disclosed to the director or any other person in**  
845 **connection with such report; and**

846 (e) Any documents, materials, data, and other information  
847 submitted by a company under subsection 8 of this section (collectively,  
848 "experience data") and any other documents, materials, data, and other  
849 information including, but not limited to, all working papers and copies  
850 thereof created or produced in connection with such experience data,  
851 in each case that include any potentially company-identifying or  
852 personally identifiable information, that is provided to or obtained by  
853 the director (together with any "experience data", the "experience  
854 materials") and any other documents, materials, data, and other  
855 information including, but not limited to, all working papers and copies  
856 thereof created, produced, or obtained by or disclosed to the director  
857 or any other person in connection with such experience materials.

858 (2) (a) Except as provided in this subsection, a company's  
859 confidential information is confidential by law and privileged, and shall  
860 not be subject to chapter 610, shall not be subject to subpoena, and  
861 shall not be subject to discovery or admissible in evidence in any  
862 private civil action; provided, however, that the director is authorized  
863 to use the confidential information in the furtherance of any regulatory  
864 or legal action brought against the company as a part of the director's  
865 official duties.

866 (b) Neither the director nor any person who received  
867 confidential information while acting under the authority of the  
868 director shall be permitted or required to testify in any private civil  
869 action concerning any confidential information.

870 (c) In order to assist in the performance of the director's duties,  
871 the director may share confidential information with:

872 a. Other state, federal, and international regulatory agencies and  
873 with the NAIC and its affiliates and subsidiaries; and

874 b. In the case of confidential information specified in paragraphs  
875 (a) and (d) of subdivision (1) of this subsection only, the Actuarial  
876 Board for Counseling and Discipline or its successor upon request  
877 stating that the confidential information is required for the purpose of  
878 professional disciplinary proceedings and with state, federal, and  
879 international law enforcement officials.

880 (d) The sharing of confidential information detailed in  
881 paragraph (c) of this subdivision shall be contingent on such recipient

882 agreeing and having the legal authority to agree to maintain the  
883 confidentiality and privileged status of such documents, materials,  
884 data, and other information in the same manner and to the same extent  
885 as required for the director.

886 (e) The director may receive documents, materials, data, and  
887 other information, including otherwise confidential and privileged  
888 documents, materials, data, or information, from the NAIC and its  
889 affiliates and subsidiaries, from regulatory or law enforcement officials  
890 of other foreign or domestic jurisdictions, and from the Actuarial Board  
891 for Counseling and Discipline or its successor and shall maintain as  
892 confidential or privileged any document, material, data, or other  
893 information received with notice or the understanding that it is  
894 confidential or privileged under the laws of the jurisdiction that is the  
895 source of the document, material, or other information.

896 (f) The director may enter into agreements governing sharing  
897 and use of information consistent with this subdivision.

898 (g) No waiver of any applicable privilege or claim of  
899 confidentiality in the confidential information shall occur as a result  
900 of disclosure to the director under this section or as a result of sharing  
901 as authorized in paragraph (c) of this subdivision.

902 (h) A privilege established under the law of any state or  
903 jurisdiction that is substantially similar to the privilege established  
904 under this subdivision shall be available and enforced in any  
905 proceeding in, and in any court of, Missouri.

906 (i) In this subsection, regulatory agency, law enforcement  
907 agency, and the NAIC include, but are not limited to, their employees,  
908 agents, consultants and contractors.

909 (3) Notwithstanding subdivision (2) of this subsection, any  
910 confidential information specified in paragraphs (a) and (d) of  
911 subdivision (1) of this subsection:

912 (a) May be subject to subpoena for the purpose of defending an  
913 action seeking damages from the appointed actuary submitting the  
914 related memorandum in support of an opinion submitted under  
915 subsection 4 or 5 of this section or principle-based valuation report  
916 developed under paragraph (c) of subdivision (2) of subsection 7 of this  
917 section by reason of an action required by sections 376.365 to 376.380

918 or by regulations promulgated hereunder;

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

921 (c) Once any portion of a memorandum in support of an opinion  
922 submitted under subsection 4 or 5 of this section or a principle-based  
923 valuation report developed under paragraph (c) of subdivision (2) of  
924 subsection 7 of this section is cited by the company in its marketing, or  
925 is publicly volunteered to or before a governmental agency other than  
926 a state insurance department, or is released by the company to the  
927 news media, all portions of such memorandum or report shall no longer  
928 be confidential.

929 10. The director may exempt specific product forms or product  
930 lines of a domestic company that is licensed and doing business only in  
931 Missouri from the requirements of subsection 6 of this section provided:

932 (1) The director has issued an exemption in writing to the  
933 company and has not subsequently revoked the exemption in writing;  
934 and

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

939 For any company granted an exemption under this section, subsection  
940 3 of section 376.370 and subsections 1 to 5 of this section shall be  
941 applicable. With respect to any company applying this exemption, any  
942 reference to subsection 6 of this section found in subsection 3 of section  
943 376.370 and subsections 1 to 5 of this section shall not be applicable.

944 11. (1) A company that has less than three hundred million  
945 dollars of ordinary life premium and that is licensed and doing  
946 business in Missouri and that is subject to the requirements of  
947 subsections 6 and 7 of this section, may hold reserves based on the  
948 mortality tables and interest rates defined by the valuation manual for  
949 net premium reserves and using the methodology defined in the  
950 provisions of paragraphs (b) through (i) of subdivision (2) of subsection  
951 1 of this section and subsection 3 of section 376.370 as they apply to  
952 ordinary life insurance in lieu of the reserves required by subsections  
953 6 and 7 of this section, provided that:



954 (a) If the company is a member of a group of life insurers, the  
955 group has combined ordinary life premiums of less than six hundred  
956 million dollars;

957 (b) The company reported total adjusted capital of at least four  
958 hundred fifty percent of authorized control level risk-based capital in  
959 the risk-based capital report for the prior calendar year;

960 (c) The appointed actuary has provided an unqualified opinion  
961 on the reserves in accordance with subsections 4 and 5 of this section  
962 for the prior calendar year;

963 (d) The company has provided a certification by a qualified  
964 actuary that any universal life policy with a secondary guarantee  
965 issued after the operative date of the valuation manual meets the  
966 definition of a nonmaterial secondary guarantee universal life product  
967 as defined in the valuation manual.

968 (2) For purposes of subdivision (1) of this subsection, ordinary  
969 life premiums are measured as direct premium plus reinsurance  
970 assumed from an unaffiliated company, as reported in the prior  
971 calendar year annual statement.

972 (3) A domestic company meeting all of the above conditions may  
973 file a statement prior to July first with the director certifying that  
974 these conditions are met for the current calendar year based on  
975 premiums and other values from the prior calendar year financial  
976 statements. The director may reject such statement prior to September  
977 first and require a company to comply with the valuation manual  
978 requirements for life insurance reserves.

376.670. 1. As used in this section, "operative date of the  
2 valuation manual" shall have the same meaning as set forth in section  
3 376.365.

4 2. In the case of policies issued on or after the operative date of this  
5 section, as defined in subsection [14] 20 of this section, no policy of life  
6 insurance, except as stated in subsection [13] 19 of this section, shall be  
7 delivered or issued for delivery in this state unless it shall contain in substance  
8 the following provisions, or corresponding provisions which in the opinion of the  
9 director of the department of insurance, financial institutions and professional  
10 registration are at least as favorable to the defaulting or surrendering  
11 policyholder as are the minimum requirements specified in this section and are

12 essentially in compliance with subsection [12a] 18 of this section:

13 (1) That, in the event of default in any premium payment, the company  
14 will grant, upon proper request not later than sixty days after the due date of the  
15 premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the  
16 policy, effective as of such due date, of such amount as may be herein specified.  
17 In lieu of such stipulated paid-up nonforfeiture benefit, the company may  
18 substitute, upon proper request not later than sixty days after the due date of the  
19 premium in default, an actuarially equivalent alternative paid-up nonforfeiture  
20 benefit which provides a greater amount or longer period of death benefits or, if  
21 applicable, a greater amount or earlier payment of endowment benefits;

22 (2) That, upon surrender of the policy within sixty days after the due date  
23 of any premium payment in default after premiums have been paid for at least  
24 three full years in the case of ordinary insurance or five full years in the case of  
25 industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture  
26 benefit, a cash surrender value of such amount as may be herein specified;

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

31 (4) That, if the policy shall have become paid up by completion of all  
32 premium payments or if it is continued under any paid-up nonforfeiture benefit  
33 which became effective on or after the third policy anniversary in the case of  
34 ordinary insurance or the fifth policy anniversary in the case of industrial  
35 insurance, the company will pay, upon surrender of the policy within thirty days  
36 after any policy anniversary, a cash surrender value of such amount as may be  
37 herein specified;

38 (5) In the case of policies which cause, on a basis guaranteed in the policy,  
39 unscheduled changes in benefits or premiums, or which provide an option for  
40 changes in benefits or premiums other than a change to a new policy, a statement  
41 of the mortality table, interest rate, and method used in calculating cash  
42 surrender values and the paid-up nonforfeiture benefits available under the  
43 policy. In the case of all other policies, a statement of the mortality table and  
44 interest rate used in calculating the cash surrender values and the paid-up  
45 nonforfeiture benefits available under the policy, together with a table showing  
46 the cash surrender value, if any, and paid-up nonforfeiture benefit, if any,  
47 available under the policy on each policy anniversary either during the first

48 twenty policy years or during the term of the policy, whichever is shorter, such  
49 values and benefits to be calculated upon the assumption that there are no  
50 dividends or paid-up additions credited to the policy and that there is no  
51 indebtedness to the company on the policy;

52 (6) A statement that the cash surrender values and the paid-up  
53 nonforfeiture benefits available under the policy are not less than the minimum  
54 values and benefits required by or pursuant to the insurance law of the state in  
55 which the policy is delivered; an explanation of the manner in which the cash  
56 surrender values and the paid-up nonforfeiture benefits are altered by the  
57 existence of any paid-up additions credited to the policy or any indebtedness to  
58 the company on the policy; if a detailed statement of the method of computation  
59 of the values and benefits shown in the policy is not stated therein, a statement  
60 that such method of computation has been filed with the insurance supervisory  
61 official of the state in which the policy is delivered; and a statement of the  
62 method to be used in calculating the cash surrender value and paid-up  
63 nonforfeiture benefit available under the policy on any policy anniversary beyond  
64 the last anniversary for which such values and benefits are consecutively shown  
65 in the policy.

66 [2.] 3. Any of the foregoing provisions or portions thereof not applicable  
67 by reason of the plan of insurance may, to the extent inapplicable, be omitted  
68 from the policy.

69 [3.] 4. The company shall reserve the right to defer the payment of any  
70 cash surrender value for a period of six months after demand therefor with  
71 surrender of the policy.

72 [4.] 5. (1) Any cash surrender value available under the policy in the  
73 event of default in a premium payment due on any policy anniversary, whether  
74 or not required by subsection [1] 2 of this section, shall be an amount not less  
75 than the excess, if any, of the present value, on such anniversary, of the future  
76 guaranteed benefits which would have been provided for by the policy if there had  
77 been no default, including any existing paid-up additions, over the sum of the  
78 then present value of the adjusted premiums as defined in subsections [6, 7, 8,  
79 8a, 9, 10, 10a, and 10b] 7, 8, 9, 10, 11, 12, 13, and 14 of this section  
80 corresponding to premiums which would have fallen due on and after such  
81 anniversary, and the amount of any indebtedness to the company on the policy.

82 (2) For any policy issued on or after the operative date of subsection [10b]  
83 14 of this section which provides supplemental life insurance or annuity benefits

84 at the option of the insured for an identifiable additional premium by rider or  
85 supplemental policy provision, the cash surrender value referred to in subdivision  
86 (1) of this subsection shall be an amount not less than the sum of the cash  
87 surrender value for an otherwise similar policy issued at the same age without  
88 such rider or supplemental policy provision and the cash surrender value for a  
89 policy which provides only the benefits otherwise provided by such rider or  
90 supplemental policy provision.

91 (3) For any family policy issued on or after the operative date of  
92 subsection [10b] 14 of this section which defines a primary insured and provides  
93 term insurance on the life of the spouse of the primary insured expiring before  
94 the spouse's age seventy-one, the cash surrender value referred to in subdivision  
95 (1) of this subsection shall be an amount not less than the sum of the cash  
96 surrender value for an otherwise similar policy issued at the same age without  
97 such term insurance on the life of the spouse and the cash surrender value for a  
98 policy which provides only the benefits otherwise provided by such term  
99 insurance on the life of the spouse.

100 (4) Any cash surrender value available within thirty days after any policy  
101 anniversary under any policy paid up by completion of all premium payments or  
102 any policy continued under any paid-up nonforfeiture benefit, whether or not  
103 required by subsection [1] 2 of this section, shall be an amount not less than  
104 the present value, on such anniversary, of the future guaranteed benefits  
105 provided for the policy, including any existing paid-up additions, decreased by  
106 any indebtedness to the company on the policy.

107 [5.] 6. Any paid-up nonforfeiture benefit available under the policy in the  
108 event of default in a premium payment due on any policy anniversary shall be  
109 such that its present value as of such anniversary shall be at least equal to the  
110 cash surrender value then provided for by the policy or, if none is provided for,  
111 that cash surrender value which would have been required by this section in the  
112 absence of the condition that premiums shall have been paid for at least a  
113 specified period.

114 [6.] 7. This subsection and subsections [7, 8, 8a, and 9] 8, 9, 10, and 11  
115 of this section shall not apply to policies issued on or after the operative date of  
116 subsection [10b] 14 of this section. Except as provided in subsection [8a] 10 of  
117 this section, the adjusted premiums for any policy shall be calculated on an  
118 annual basis and shall be such uniform percentage of the respective premiums  
119 specified in the policy for each policy year, excluding any extra premiums charged

120 because of impairments or special hazards, that the present value, at the date of  
121 issue of the policy, of all such adjusted premiums shall be equal to the sum of:

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

124 (2) Two percent of the amount of insurance, if the insurance be uniform  
125 in amount, or of the equivalent uniform amount, as herein defined, if the amount  
126 of insurance varies with duration of the policy;

127 (3) Forty percent of the adjusted premium for the first policy year;

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

132 [7.] **8.** Provided, however, that in applying the percentages specified in  
133 subdivisions (3) and (4) of subsection [6] **7 of this section**, no adjusted premium  
134 shall be deemed to exceed four percent of the amount of insurance or uniform  
135 amount equivalent thereto. The date of issue of a policy for the purpose of  
136 subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11 of this section** shall be the  
137 date as of which the rated age of the insured is determined.

138 [8.] **9.** In the case of a policy providing an amount of insurance varying  
139 with duration of the policy, the equivalent uniform amount thereof for the  
140 purpose of subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11 of this section**  
141 shall be deemed to be the uniform amount of insurance provided by an otherwise  
142 similar policy, containing the same endowment benefit or benefits, if any, issued  
143 at the same age and for the same term, the amount of which does not vary with  
144 duration and the benefits under which have the same present value at the date  
145 of issue as the benefits under the policy; provided, however, that in the case of a  
146 policy providing a varying amount of insurance issued on the life of a child under  
147 age ten, the equivalent uniform amount may be computed as though the amount  
148 of insurance provided by the policy prior to the attainment of age ten were the  
149 amount provided by such policy at age ten.

150 [8a.] **10.** The adjusted premiums for any policy providing term insurance  
151 benefits by rider or supplemental policy provision shall be equal to (a) the  
152 adjusted premiums for an otherwise similar policy issued at the same age without  
153 such term insurance benefits, increased, during the period for which premiums  
154 for such term insurance benefits are payable, by (b) the adjusted premiums for  
155 such term insurance, the foregoing items (a) and (b) being calculated separately

156 and as specified in subsections [6, 7 and 8] **7, 8, and 9 of this section** except  
157 that, for the purposes of subdivisions (2), (3) and (4) of subsection [6] **7 of this**  
158 **section**, the amount of insurance or equivalent uniform amount of insurance  
159 used in the calculation of the adjusted premiums referred to in (b) shall be equal  
160 to the excess of the corresponding amount determined for the entire policy over  
161 the amount used in the calculation of the adjusted premiums in (a).

162 [9.] **11.** Except as otherwise provided in subsections [10 and 10a] **12 and**  
163 **13 of this section**, all adjusted premiums and present values referred to in this  
164 section shall, for all policies of ordinary insurance, be calculated on the basis of  
165 the Commissioners 1941 Standard Ordinary Mortality Table, provided that for  
166 any category of ordinary insurance issued on and after the effective date of this  
167 amendment on female risks, adjusted premiums and present values may be  
168 calculated according to an age not more than three years younger than the actual  
169 age of the insured and such calculations for all policies of industrial insurance  
170 shall be made on the basis of the 1941 Standard Industrial Mortality Table. All  
171 calculations shall be made on the basis of the rate of interest, not exceeding three  
172 and one-half percent per annum, specified in the policy for calculating cash  
173 surrender values and paid-up nonforfeiture benefits; provided, however, that in  
174 calculating the present value of any paid-up term insurance with accompanying  
175 pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality  
176 assumed may be not more than one hundred and thirty percent of the rates of  
177 mortality according to such applicable table; provided, further, that for insurance  
178 issued on a substandard basis, the calculation of any such adjusted premiums and  
179 present values may be based on such other table of mortality as may be specified  
180 by the company and approved by the director.

181 [10.] **12.** This subsection shall not apply to ordinary policies issued on or  
182 after the operative date of subsection [10b] **14 of this section**. In the case of  
183 ordinary policies issued on or after the operative date provided in this subsection,  
184 all adjusted premiums and present values referred to in this section shall be  
185 calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality  
186 Table and the rate of interest specified in the policy for calculating cash  
187 surrender values and paid-up nonforfeiture benefits, provided that such rate of  
188 interest shall not exceed three and one-half percent per annum, except that a rate  
189 of interest not exceeding four percent per annum may be used for policies issued  
190 on or after September 28, 1975, and prior to September 28, 1979, and a rate of  
191 interest not exceeding five and one-half percent per annum may be used for

192 policies issued on or after September 28, 1979, and provided that for any category  
193 of ordinary insurance issued on female risks, adjusted premiums and present  
194 values may be calculated according to an age not more than six years younger  
195 than the actual age of the insured; provided, however, that in calculating the  
196 present value of any paid-up term insurance with accompanying pure endowment,  
197 if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be  
198 not more than those shown in the Commissioners 1958 Extended Term Insurance  
199 Table; provided, further, that for insurance issued on a substandard basis, the  
200 calculation of any such adjusted premiums and present values may be based on  
201 such other table of mortality as may be specified by the company and approved  
202 by the director. After the date when this subsection becomes effective, any  
203 company may file with the director a written notice of its election to comply with  
204 the provisions of this subsection after a specified date before January 1,  
205 1966. After the filing of such notice, then upon such specified date, which shall  
206 be the operative date of this subsection for such company, this subsection shall  
207 become operative with respect to the ordinary policies thereafter issued by such  
208 company. If a company makes no such election, the operative date of this  
209 subsection for such company shall be January 1, 1966.

210 [10a.] **13.** This subsection shall not apply to industrial policies issued on  
211 or after the operative date of subsection [10b] **14 of this section.** In the case  
212 of industrial policies issued on or after the operative date of this subsection as  
213 defined herein, all adjusted premiums and present values referred to in this  
214 section shall be calculated on the basis of the Commissioners 1961 Standard  
215 Industrial Mortality Table and the rate of interest specified in the policy for  
216 calculating cash surrender values and paid-up nonforfeiture benefits, provided  
217 that such rate of interest shall not exceed three and one-half percent per annum,  
218 except that a rate of interest not exceeding four percent per annum may be used  
219 for policies issued on or after September 28, 1975, and prior to September 28,  
220 1979, and a rate of interest not exceeding five and one-half percent per annum  
221 may be used for policies issued on or after September 28, 1979; provided,  
222 however, that in calculating the present value of any paid-up term insurance with  
223 accompanying pure endowment, if any, offered as a nonforfeiture benefit, the  
224 rates of mortality assumed may be not more than those shown in the  
225 Commissioners 1961 Industrial Extended Term Insurance Table; provided,  
226 further, that for insurance issued on a substandard basis, the calculation of any  
227 such adjusted premiums and present values may be based on such other table of

228 mortality as may be specified by the company and approved by the director. After  
229 the date when this subsection becomes effective, any company may file with the  
230 director a written notice of its election to comply with the provisions of this  
231 subsection after a specified date before January 1, 1968. After the filing of such  
232 notice, then upon such specified date, which shall be the operative date of this  
233 subsection for such company, this subsection shall become operative with respect  
234 to the industrial policies thereafter issued by such company. If a company makes  
235 no such election, the operative date of this subsection for such company shall be  
236 January 1, 1968.

237 [10b.] 14. (1) This subsection shall apply to all policies issued on or after  
238 the operative date of this subsection as defined herein. Except as provided in  
239 subdivision (7) of this subsection, the adjusted premiums for any policy shall be  
240 calculated on an annual basis and shall be such uniform percentage of the  
241 respective premiums specified in the policy for each policy year, excluding  
242 amounts payable as extra premiums to cover impairments or special hazards and  
243 also excluding any uniform annual contract charge or policy fee specified in the  
244 policy in a statement of the method to be used in calculating the cash surrender  
245 values and paid-up nonforfeiture benefits, that the present value, at the date of  
246 issue of the policy, of all adjusted premiums shall be equal to the sum of:

247 (a) The then present value of the future guaranteed benefits provided for  
248 by the policy; **provided, however, that the nonforfeiture interest rate**  
249 **shall not be less than four percent;**

250 (b) One percent of either the amount of insurance, if the insurance be  
251 uniform in amount, or the average amount of insurance at the beginning of each  
252 of the first ten policy years; and

253 (c) One hundred twenty-five percent of the nonforfeiture net level  
254 premium as hereinafter defined. In applying the percentage specified in  
255 paragraph (c) above, no nonforfeiture net level premium shall be deemed to  
256 exceed four percent of either the amount of insurance, if the insurance be uniform  
257 in amount, or the average amount of insurance at the beginning of each of the  
258 first ten policy years. The date of issue of a policy for the purpose of this  
259 subsection shall be the date as of which the rated age of the insured is  
260 determined.

261 (2) The nonforfeiture net level premium shall be equal to the present  
262 value, at the date of issue of the policy, of the guaranteed benefits provided for  
263 by the policy divided by the present value, at the date of issue of the policy, of an



264 annuity of one per annum payable on the date of issue of the policy and on each  
265 anniversary of such policy on which a premium falls due.

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

276 (4) Except as otherwise provided in subdivision (7) of this subsection, the  
277 recalculated future adjusted premiums for any such policy shall be such uniform  
278 percentage of the respective future premiums specified in the policy for each  
279 policy year, excluding amounts payable as extra premiums to cover impairments  
280 and special hazards, and also excluding any uniform annual contract charge or  
281 policy fee specified in the policy in a statement of the method to be used in  
282 calculating the cash surrender values and paid-up nonforfeiture benefits, that the  
283 present value, at the time of change to the newly defined benefits or premiums,  
284 of all such future adjusted premiums shall be equal to the excess of (A) the sum  
285 of the then present value of the then future guaranteed benefits provided for by  
286 the policy and the additional expense allowance, if any, over (B) the then cash  
287 surrender value, if any, or present value of any paid-up nonforfeiture benefit  
288 under the policy.

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

291 (a) One percent of the excess, if positive, of the average amount of  
292 insurance at the beginning of each of the first ten policy years subsequent to the  
293 change over the average amount of insurance prior to the change at the beginning  
294 of each of the first ten policy years subsequent to the time of the most recent  
295 previous change, or, if there has been no previous change, the date of issue of the  
296 policy; and

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

299 (6) The recalculated nonforfeiture net level premium shall be equal to the

300 result obtained by dividing (a) by (b) where:

301 (a) Equals the sum of:

302 a. The nonforfeiture net level premium applicable prior to the change  
303 times the present value of an annuity of one per annum payable on each  
304 anniversary of the policy on or subsequent to the date of the change on which a  
305 premium would have fallen due had the change not occurred; and

306 b. The present value of the increase in future guaranteed benefits  
307 provided for by the policy; and

308 (b) Equals the present value of an annuity of one per annum payable on  
309 each anniversary of the policy on or subsequent to the date of change on which  
310 a premium falls due.

311 (7) Notwithstanding any other provisions of this subsection to the  
312 contrary, in the case of a policy issued on a substandard basis which provides  
313 reduced graded amounts of insurance so that in each policy year such policy has  
314 the same tabular mortality cost as an otherwise similar policy issued on the  
315 standard basis which provides higher uniform amounts of insurance, adjusted  
316 premiums and present values for such substandard policy may be calculated as  
317 if it were issued to provide such higher uniform amounts of insurance on the  
318 standard basis.

319 (8) All adjusted premiums and present values referred to in this section  
320 shall for all policies of ordinary insurance be calculated on the basis of the  
321 Commissioners 1980 Standard Ordinary Mortality Table or, at the election of the  
322 company for any one or more specified plans of life insurance, the Commissioners  
323 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors.  
324 All adjusted premiums and present values referred to in this section shall for all  
325 policies of industrial insurance be calculated on the basis of the Commissioners  
326 1961 Standard Industrial Mortality Table. All adjusted premiums and present  
327 values referred to in this section shall for all policies issued in a particular  
328 calendar year be calculated on the basis of a rate of interest not exceeding the  
329 nonforfeiture interest rate as defined in this subsection for policies issued in that  
330 calendar year.

331 (9) Except as provided in subdivision (8) of this subsection:

332 (a) At the option of the company, calculations for all policies issued in a  
333 particular calendar year may be made on the basis of a rate of interest not  
334 exceeding the nonforfeiture interest rate, as defined in this subsection, for policies  
335 issued in the immediately preceding calendar year;

336 (b) Under any paid-up nonforfeiture benefit, including any paid-up  
337 dividend additions, any cash surrender value available, whether or not required  
338 by subsection [1] 2 of this section, shall be calculated on the basis of the  
339 mortality table and rate of interest used in determining the amount of such  
340 paid-up nonforfeiture benefit and paid-up dividend additions, if any;

341 (c) A company may calculate the amount of any guaranteed paid-up  
342 nonforfeiture benefit including any paid-up additions under the policy on the  
343 basis of an interest rate no lower than that specified in the policy for calculating  
344 cash surrender values;

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

351 (e) For insurance issued on a substandard basis, the calculation of any  
352 such adjusted premiums and present values may be based on appropriate  
353 modifications of the tables listed in [subdivision] **paragraph** (d) of this  
354 [subsection] **subdivision**;

355 (f) **For policies issued prior to the operative date of the valuation**  
356 **manual**, any ordinary mortality tables, adopted after 1980 by the [National  
357 Association of Insurance Commissioners] **NAIC**, that are approved by regulation  
358 promulgated by the director for use in determining the minimum nonforfeiture  
359 standard may be substituted for the Commissioners 1980 Standard Ordinary  
360 Mortality Table with or without Ten-Year Select Mortality Factors or for the  
361 Commissioners 1980 Extended Term Insurance Table;

362 (g) **For policies issued on or after the operative date of the**  
363 **valuation manual, the valuation manual shall provide the mortality**  
364 **table for use in determining the minimum nonforfeiture standard that**  
365 **may be substituted for the Commissioners 1980 Standard Ordinary**  
366 **Mortality Table with or without Ten-Year Select Mortality Factors or**  
367 **for the Commissioners 1980 Extended Term Insurance Table. If the**  
368 **director approves by regulation any ordinary mortality table adopted**  
369 **by the NAIC for use in determining the minimum nonforfeiture**  
370 **standard for policies issued on or after the operative date of the**  
371 **valuation manual, such minimum nonforfeiture standard supersedes**

372 **the minimum nonforfeiture standard provided by the valuation manual;**

373 **(h) For policies issued prior to the operative date of the**  
374 **valuation manual,** any industrial mortality tables, adopted after 1980 by the  
375 [National Association of Insurance Commissioners] NAIC, that are approved by  
376 regulation promulgated by the director for use in determining the minimum  
377 nonforfeiture standard may be substituted for the Commissioners 1961 Standard  
378 Industrial Mortality Table or for the Commissioners 1961 Industrial Extended  
379 Term Insurance Table;

380 **(i) For policies issued on or after the operative date of the**  
381 **valuation manual, the valuation manual shall provide the mortality**  
382 **table for use in determining the minimum nonforfeiture standard that**  
383 **may be substituted for the Commissioners 1961 Standard Industrial**  
384 **Mortality Table or the Commissioners 1961 Industrial Extended Term**  
385 **Insurance Table. If the director approves by regulation any industrial**  
386 **mortality table adopted by the NAIC for use in determining the**  
387 **minimum nonforfeiture standard for policies issued on or after the**  
388 **operative date of the valuation manual, such minimum nonforfeiture**  
389 **standard supersedes the minimum nonforfeiture standard provided by**  
390 **the valuation manual.**

391 (10) The nonforfeiture interest rate is defined as follows:

392 **(a) For policies issued prior to the operative date of the**  
393 **valuation manual, the nonforfeiture rate** per annum for any policy issued  
394 in a particular calendar year shall be equal to one hundred twenty-five percent  
395 of the calendar year statutory valuation interest rate for such policy as defined  
396 in section 376.380 rounded to the nearer one-quarter of one percent;

397 **(b) For policies issued on or after the operative date of the**  
398 **valuation manual, the nonforfeiture interest rate per annum for any**  
399 **policy issued in a particular calendar year shall be provided by the**  
400 **valuation manual.**

401 (11) Notwithstanding any other provision of law to the contrary, any  
402 refiling of nonforfeiture values or their methods of computation for any previously  
403 approved policy form which involves only a change in the interest rate or  
404 mortality table used to compute nonforfeiture values shall not require refiling of  
405 any other provisions of that policy form[;].

406 (12) After the effective date of this subsection, any company may file with  
407 the director a written notice of its election to comply with the provisions of this

408 subsection after a specified date before January 1, 1989, which shall be the  
409 operative date of this subsection for such company. If a company makes no such  
410 election, the operative date of this subsection for such company shall be January  
411 1, 1989.

412 [10c.] 15. In the case of any plan of life insurance which provides for  
413 future premium determination, the amounts of which are to be determined by the  
414 insurance company based on then estimates of future experience, or in the case  
415 of any plan of life insurance which is of such a nature that minimum values  
416 cannot be determined by the methods described in subsections 1 to [10b] 14 of  
417 this section, then:

418 (1) The director must be satisfied that the benefits provided under the  
419 plan are substantially as favorable to policyholders and insureds as the minimum  
420 benefits otherwise required by subsections 1 to [10b] 14 of this section;

421 (2) The director must be satisfied that the benefits and the pattern of  
422 premiums of that plan are not such as to mislead prospective policyholders or  
423 insureds;

424 (3) The cash surrender values and paid-up nonforfeiture benefits provided  
425 by the plan must not be less than the minimum values and benefits required for  
426 the plan computed by a method consistent with the principles of this section, as  
427 determined by regulations promulgated by the director.

428 [11.] 16. Any cash surrender value and any paid-up nonforfeiture benefit,  
429 available under the policy in the event of default in a premium payment due at  
430 any time other than on the policy anniversary, shall be calculated with allowance  
431 for the lapse of time and the payment of fractional premiums beyond the last  
432 preceding policy anniversary. All values referred to in subsections [4, 5, 6, 7, 8,  
433 8a, 9, 10, 10a and 10b] 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 of this section may  
434 be calculated upon the assumption that any death benefit is payable at the end  
435 of the policy year of death. The net value of any paid-up additions, other than  
436 paid-up term additions, shall be not less than the amounts used to provide such  
437 additions.

438 [12.] 17. Notwithstanding the provisions of subsection [4] 5 of this  
439 section, additional benefits payable:

440 (1) In the event of death or dismemberment by accident or accidental  
441 means;

442 (2) In the event of total and permanent disability;

443 (3) As reversionary annuity or deferred reversionary annuity benefits;

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

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

451 (6) As other policy benefits additional to life insurance and endowment  
452 benefits, and premiums for all such additional benefits; shall be disregarded in  
453 ascertaining cash surrender values and nonforfeiture benefits required by this  
454 section, and no such additional benefits shall be required to be included in any  
455 paid-up nonforfeiture benefits.

456 [12a.] **18.** (1) This subsection, in addition to all other applicable  
457 subsections of this section, shall apply to all policies issued on or after January  
458 1, 1986. Any cash surrender value available under the policy in the event of  
459 default in a premium payment due on any policy anniversary shall be in an  
460 amount which does not differ by more than two-tenths of one percent of either the  
461 amount of insurance, if the insurance be uniform in amount, or the average  
462 amount of insurance at the beginning of each of the first ten policy years, from  
463 the sum of the greater of zero and the basic cash value hereinafter specified and  
464 the present value of any existing paid-up additions less the amount of any  
465 indebtedness to the company under the policy.

466 (2) The basic cash value shall be equal to the present value, on such  
467 anniversary, of the future guaranteed benefits which would have been provided  
468 for by the policy, excluding any existing paid-up additions and before deduction  
469 of any indebtedness to the company, if there had been no default, less the then  
470 present value of the nonforfeiture factors, as defined in subdivision (3) of this  
471 subsection, corresponding to premiums which would have fallen due on and after  
472 such anniversary. The effects on the basic cash value of supplemental life  
473 insurance or annuity benefits or of family coverage, as described in subsection [4]  
474 **5** of this section or in subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11** of this  
475 section, whichever is applicable, shall be the same as are the effects specified in  
476 subsection [4] **5** of this section or in subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10,**  
477 **and 11** of this section, whichever is applicable on the cash surrender values  
478 defined in that subsection.

479 (3) The nonforfeiture factor for each policy year shall be an amount equal

480 to a percentage of the adjusted premium for the policy year, as defined in  
481 subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11** of this section or in subsection  
482 [10b] **14** of this section, whichever is applicable. Except as is required by  
483 subdivision (4) of this subsection, such percentage:

484 (a) Must be the same percentage for each policy year between the second  
485 policy anniversary and the later of the fifth policy anniversary or the first policy  
486 anniversary at which there is available under the policy a cash surrender value  
487 in an amount, before including any paid-up additions and before deducting any  
488 indebtedness, of at least two-tenths of one percent of either the amount of  
489 insurance, if the insurance be uniform in amount, or the average amount of  
490 insurance at the beginning of each of the first ten policy years; and

491 (b) Must be such that no percentage after the later of the two policy  
492 anniversaries specified in paragraph (a) of this subdivision may apply to fewer  
493 than five consecutive policy years. No basic cash value may be less than the  
494 value which would be obtained if the adjusted premiums for the policy, as defined  
495 in subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11** of this section or in  
496 subsection [10b] **14** of this section, whichever is applicable, were substituted for  
497 the nonforfeiture factors in the calculation of the basic cash value.

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

503 (5) Any cash surrender value available other than in the event of default  
504 in a premium payment due on a policy anniversary, and the amount of any  
505 paid-up nonforfeiture benefit available under the policy in the event of default in  
506 a premium payment shall be determined in manners consistent with the manners  
507 specified for determining the analogous minimum amounts in subsections [3, 4,  
508 5, 10b and 11] **4, 5, 6, 14, and 16** of this section. The amounts of any cash  
509 surrender values and of any paid-up nonforfeiture benefits granted in connection  
510 with additional benefits such as those listed as subdivisions (1) to (6) in  
511 subsection [12] **17** shall conform with the principles of this subsection.

512 [13.] **19.** (1) This section shall not apply to any of the following:

513 (a) Reinsurance;

514 (b) Group insurance;

515 (c) Pure endowments;

516 (d) Annuities or reversionary annuity contracts;  
517 (e) Term policies of uniform amounts, which provide no guaranteed  
518 nonforfeiture or endowment benefits, or renewals thereof of twenty years or less  
519 expiring before age seventy-one, for which uniform premiums are payable during  
520 the entire term of the policy;

521 (f) Term policies of decreasing amounts, which provide no guaranteed  
522 nonforfeiture or endowment benefits, on which each adjusted premium calculated  
523 as specified in subsections [6, 7, 8, 8a, 9, 10, 10a, and 10b] **7, 8, 9, 10, 11, 12, 13,**  
524 **and 14 of this section** is less than the adjusted premium so calculated on a  
525 term policy of uniform amount, or renewal thereof, which provides no guaranteed  
526 nonforfeiture or endowment benefits, issued at the same age and for the same  
527 initial amount of insurance, and for a term of twenty years or less expiring before  
528 age seventy-one, for which uniform premiums are payable during the entire term  
529 of the policy;

530 (g) Policies, which provide no guaranteed nonforfeiture or endowment  
531 benefits, for which no cash surrender value, if any, or present value of any  
532 paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as  
533 specified in subsections [4 to 10b] **5 to 14** of this section, exceeds two and  
534 one-half percent of the amount of insurance at the beginning of the same policy  
535 year;

536 (h) Policies which shall be delivered outside this state through an agent  
537 or other representative of the company issuing the policies.

538 (2) For purposes of determining the applicability of this section, the  
539 expiration date for a joint term life insurance policy shall be the age at expiry of  
540 the oldest life.

541 [14.] **20.** After the effective date of this section, any company may file  
542 with the director a written notice of its election to comply with the provisions of  
543 this section after a specified date before January 1, 1948. After the filing of such  
544 notice, then upon such specified date, which shall be the operative date for such  
545 company, this section shall become operative with respect to the policies  
546 thereafter issued by such company. If a company makes no such election, the  
547 operative date of this section for such company shall be January 1, 1948.

456.950. 1. As used in this section, "qualified spousal trust" means a  
2 trust:

3 (1) The settlors of which are [husband and wife] **married to each other**  
4 at the time of the creation of the trust; and



5 (2) The terms of which provide that during the joint lives of the settlors  
6 all property [or interests in property] transferred to, or held by, the trustee are:

7 (a) Held and administered in one trust for the benefit of both settlors,  
8 revocable by either **settlor** or both settlors [acting together] while either or both  
9 are alive, and each settlor having the right to receive distributions of income or  
10 principal, whether mandatory or within the discretion of the trustee, from the  
11 entire trust for the joint lives of the settlors and for the survivor's life; or

12 (b) Held and administered in two separate shares of one trust for the  
13 benefit of each of the settlors, with the trust revocable by each settlor with  
14 respect to that settlor's separate share of that trust without the participation or  
15 consent of the other settlor, and each settlor having the right to receive  
16 distributions of income or principal, whether mandatory or within the discretion  
17 of the trustee, from that settlor's separate share for that settlor's life; or

18 (c) Held and administered under the terms and conditions contained in  
19 paragraphs (a) and (b) of this subdivision.

20 2. A qualified spousal trust may contain any other trust terms that are  
21 not inconsistent with the provisions of this section, **including, without**  
22 **limitation, a discretionary power to distribute trust property to a**  
23 **person in addition to a settlor.**

24 3. [Any property or interests in property that are at any time transferred  
25 to the trustee of a qualified spousal trust of which the husband and wife are the  
26 settlors, shall thereafter be administered as provided by the trust terms in  
27 accordance with paragraph (a), (b), or (c) of subdivision (2) of subsection 1 of this  
28 section. All trust property and interests in property that is deemed for purposes  
29 of this section to be held as tenants by the entirety, including the proceeds  
30 thereof, the income thereon, and any property into which such property, proceeds,  
31 or income may be converted, shall have the same immunity from the claims of the  
32 separate creditors of the settlors as would have existed if the settlors had  
33 continued to hold that property as husband and wife as tenants by the  
34 entirety. Property or interests in property held by a husband and wife as tenants  
35 by the entirety or as joint tenants or other form of joint ownership with right of  
36 survivorship shall be conclusively deemed for purposes of this section to be held  
37 as tenants by the entirety upon its transfer to the qualified spousal trust. All  
38 such transfers shall retain said immunity, so long as:

39 (1) Both settlors are alive and remain married; and

40 (2) The property, proceeds, or income continue to be held in trust by the

41 trustee of the qualified spousal trust] **All property at any time held in a**  
42 **qualified spousal trust, without regard to how such property was titled**  
43 **prior to it being so held, shall have the same immunity from the claims**  
44 **of a separate creditor of either settlor as if such property were held**  
45 **outside the trust by the settlors as tenants by the entirety, unless**  
46 **otherwise provided in writing by the settlor or settlors who transferred**  
47 **such property to the trust, and such property shall be treated for that**  
48 **purpose, including without limitation, federal and state bankruptcy**  
49 **laws, as tenants by entirety property. Property held in a qualified**  
50 **spousal trust shall cease to receive immunity from the claims of**  
51 **creditors upon the dissolution of marriage of the settlors by a court.**

52 4. [Property or interests in property held by a husband and wife or held  
53 in the sole name of a husband or wife that are not held as tenants by the entirety  
54 or deemed held as tenants by the entirety for purposes of this section and are  
55 transferred to a qualified spousal trust shall be held as directed in the qualified  
56 spousal trust's governing instrument or in the instrument of transfer and the  
57 rights of any claimant to any interest in that property shall not be affected by  
58 this section] **As used in this section, "property" means any interest in any**  
59 **type of property held in a qualified spousal trust, the income thereon,**  
60 **and any property into which such interest, proceeds, or income may be**  
61 **converted.**

62 5. Upon the death of each settlor, all property [and interests in property]  
63 held by the trustee of the qualified spousal trust shall be distributed as directed  
64 by the then current terms of the governing instrument of such trust. Upon the  
65 death of the first settlor to die, if immediately prior to death the predeceased  
66 settlor's interest in the qualified spousal trust was then held in such settlor's  
67 separate share, the property [or interests in property] **held** in such settlor's  
68 separate share may pass into an irrevocable trust for the benefit of the surviving  
69 settlor upon such terms as the governing instrument shall direct, including  
70 without limitation a spendthrift provision as provided in section 456.5-502.

71 6. **The respective rights of settlors who are married to each other**  
72 **in any property for purposes of a dissolution of the settlors' marriage**  
73 **shall not be affected or changed by reason of the transfer of that**  
74 **property to, or its subsequent administration as an asset of, a qualified**  
75 **spousal trust during the marriage of the settlors, unless both settlors**  
76 **expressly agree otherwise in writing.**

77           7. No transfer [by a husband and wife as settlors] to a qualified spousal  
78 trust shall [affect or change either settlor's marital property rights to the  
79 transferred property or interest therein immediately prior to such transfer in the  
80 event of dissolution of marriage of the spouses, unless both spouses otherwise  
81 expressly agree in writing] **avoid or defeat the Missouri uniform transfer**  
82 **act in chapter 428.**

83           [7.] 8. This section shall apply to all trusts which fulfill the criteria set  
84 forth in this section for a qualified spousal trust regardless of whether such trust  
85 was created before, **on**, or after August 28, 2011.

**456.1-113. Any transfer of an asset to a trustee of a trust, to such**  
2 **trust itself, or to a share of such trust, in a manner that is reasonably**  
3 **calculated to identify such trust or that share of such trust, subjects**  
4 **that asset to the terms of such trust or that share.**

513.430. 1. The following property shall be exempt from attachment and  
2 execution to the extent of any person's interest therein:

3           (1) Household furnishings, household goods, wearing apparel, appliances,  
4 books, animals, crops or musical instruments that are held primarily for personal,  
5 family or household use of such person or a dependent of such person, not to  
6 exceed three thousand dollars in value in the aggregate;

7           (2) A wedding ring not to exceed one thousand five hundred dollars in  
8 value and other jewelry held primarily for the personal, family or household use  
9 of such person or a dependent of such person, not to exceed five hundred dollars  
10 in value in the aggregate;

11           (3) Any other property of any kind, not to exceed in value six hundred  
12 dollars in the aggregate;

13           (4) Any implements or professional books or tools of the trade of such  
14 person or the trade of a dependent of such person not to exceed three thousand  
15 dollars in value in the aggregate;

16           (5) Any motor vehicles, not to exceed three thousand dollars in value in  
17 the aggregate;

18           (6) Any mobile home used as the principal residence but not attached to  
19 real property in which the debtor has a fee interest, not to exceed five thousand  
20 dollars in value;

21           (7) Any one or more unmatured life insurance contracts owned by such  
22 person, other than a credit life insurance contract, **and up to fifteen thousand**  
23 **dollars of any matured life insurance proceeds for actual funeral,**

24 **cremation, or burial expenses where the deceased is the spouse, child,**  
25 **or parent of the beneficiary;**

26 (8) The amount of any accrued dividend or interest under, or loan value  
27 of, any one or more unmaturred life insurance contracts owned by such person  
28 under which the insured is such person or an individual of whom such person is  
29 a dependent; provided, however, that if proceedings under Title 11 of the United  
30 States Code are commenced by or against such person, the amount exempt in  
31 such proceedings shall not exceed in value one hundred fifty thousand dollars in  
32 the aggregate less any amount of property of such person transferred by the life  
33 insurance company or fraternal benefit society to itself in good faith if such  
34 transfer is to pay a premium or to carry out a nonforfeiture insurance option and  
35 is required to be so transferred automatically under a life insurance contract with  
36 such company or society that was entered into before commencement of such  
37 proceedings. No amount of any accrued dividend or interest under, or loan value  
38 of, any such life insurance contracts shall be exempt from any claim for child  
39 support. Notwithstanding anything to the contrary, no such amount shall be  
40 exempt in such proceedings under any such insurance contract which was  
41 purchased by such person within one year prior to the commencement of such  
42 proceedings;

43 (9) Professionally prescribed health aids for such person or a dependent  
44 of such person;

45 (10) Such person's right to receive:

46 (a) A Social Security benefit, unemployment compensation or a public  
47 assistance benefit;

48 (b) A veteran's benefit;

49 (c) A disability, illness or unemployment benefit;

50 (d) Alimony, support or separate maintenance, not to exceed seven  
51 hundred fifty dollars a month;

52 (e) Any payment under a stock bonus plan, pension plan, disability or  
53 death benefit plan, profit-sharing plan, nonpublic retirement plan or any plan  
54 described, defined, or established pursuant to section 456.014, the person's right  
55 to a participant account in any deferred compensation program offered by the  
56 state of Missouri or any of its political subdivisions, or annuity or similar plan or  
57 contract on account of illness, disability, death, age or length of service, to the  
58 extent reasonably necessary for the support of such person and any dependent of  
59 such person unless:

60 a. Such plan or contract was established by or under the auspices of an  
61 insider that employed such person at the time such person's rights under such  
62 plan or contract arose;

63 b. Such payment is on account of age or length of service; and

64 c. Such plan or contract does not qualify under Section 401(a), 403(a),  
65 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26  
66 U.S.C. Section 401(a), 403(a), 403(b), 408, 408A or 409);

67 except that any such payment to any person shall be subject to attachment or  
68 execution pursuant to a qualified domestic relations order, as defined by Section  
69 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in  
70 any proceeding for dissolution of marriage or legal separation or a proceeding for  
71 disposition of property following dissolution of marriage by a court which lacked  
72 personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of  
73 marital property at the time of the original judgment of dissolution;

74 (f) Any money or assets, payable to a participant or beneficiary from, or  
75 any interest of any participant or beneficiary in, a retirement plan, profit-sharing  
76 plan, health savings plan, or similar plan, including an inherited account or plan,  
77 that is qualified under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the  
78 Internal Revenue Code of 1986, as amended, whether such participant's or  
79 beneficiary's interest arises by inheritance, designation, appointment, or  
80 otherwise, except as provided in this paragraph. Any plan or arrangement  
81 described in this paragraph shall not be exempt from the claim of an alternate  
82 payee under a qualified domestic relations order; however, the interest of any and  
83 all alternate payees under a qualified domestic relations order shall be exempt  
84 from any and all claims of any creditor, other than the state of Missouri through  
85 its department of social services. As used in this paragraph, the terms "alternate  
86 payee" and "qualified domestic relations order" have the meaning given to them  
87 in Section 414(p) of the Internal Revenue Code of 1986, as amended. If  
88 proceedings under Title 11 of the United States Code are commenced by or  
89 against such person, no amount of funds shall be exempt in such proceedings  
90 under any such plan, contract, or trust which is fraudulent as defined in  
91 subsection 2 of section 428.024 and for the period such person participated within  
92 three years prior to the commencement of such proceedings. For the purposes of  
93 this section, when the fraudulently conveyed funds are recovered and after, such  
94 funds shall be deducted and then treated as though the funds had never been  
95 contributed to the plan, contract, or trust;

96           (11) The debtor's right to receive, or property that is traceable to, a  
97 payment on account of the wrongful death of an individual of whom the debtor  
98 was a dependent, to the extent reasonably necessary for the support of the debtor  
99 and any dependent of the debtor.

100           2. Nothing in this section shall be interpreted to exempt from attachment  
101 or execution for a valid judicial or administrative order for the payment of child  
102 support or maintenance any money or assets, payable to a participant or  
103 beneficiary from, or any interest of any participant or beneficiary in, a retirement  
104 plan which is qualified pursuant to Section 408A of the Internal Revenue Code  
105 of 1986, as amended.

Unofficial



Bill

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