

## Chapter 367

**(Senate Bill 573)**

AN ACT concerning

**Insurance – Standard Valuation Law and Reserve and Nonforfeiture Requirements**

FOR the purpose of establishing certain requirements relating to the reserves and opinions relating to the reserves for certain life insurance policies, accident and health insurance contracts, and deposit-type contracts issued by certain companies on or after the operative date of a certain valuation manual; clarifying the scope of certain provisions of law relating to the reserve requirements and opinions relating to the reserve requirements for certain policies, contracts, and benefit agreements required before the operative date of the valuation manual; requiring certain companies to submit annually a certain opinion relating to the reserves and related actuarial items held in support of certain policies and contracts; requiring the valuation manual to prescribe the contents of the opinion and certain other items; requiring certain companies to include with the opinion an additional opinion of a certain actuary, except under certain circumstances; requiring the obligations of a company under certain policies and contracts to include certain benefits and expenses; requiring a certain actuary to consider certain investment earnings and other consideration in reviewing certain assets held by a certain company; requiring a certain memorandum to be prepared to support a certain opinion; authorizing the Maryland Insurance Commissioner to engage a certain actuary at the expense of a certain company under certain circumstances; establishing certain requirements for certain opinions; limiting the liability for damages of certain actuaries under certain circumstances; requiring the Commissioner to adopt regulations to establish disciplinary action against a certain company or certain actuary that violates certain provisions of this Act; repealing certain provisions of law authorizing the Commissioner to certify the amount of certain reserves; altering the circumstances under which the Commissioner may accept a certain valuation; requiring the Commissioner to annually value or cause to be valued the reserves of certain policies and contracts issued by a company on or after the operative date of the valuation manual; establishing the minimum standard for valuation of the policies and contracts; specifying the manner in which the operative date of the valuation manual is determined; providing for the effective date of changes to the valuation manual; requiring the valuation manual to specify certain minimum valuation standards, the format for certain reports, certain other requirements, and certain data and the form of the data that must be submitted under a certain provision of this Act; authorizing a company, under certain circumstances, to comply with a minimum standard of valuation prescribed by the Commissioner by regulation; authorizing the Commissioner to rely on a certain opinion under certain circumstances; authorizing the Commissioner to require a company to change any assumption or method used by the company under certain circumstances; requiring a company to adjust the company's reserves as required by the Commissioner; requiring a company, for

policies and contracts specified in the valuation manual, to establish reserves using a certain principle-based valuation; establishing certain requirements for a company that uses a principle-based valuation; requiring a company to submit certain information as prescribed in the valuation manual; providing that certain information of a company is confidential and privileged, is not subject to the Maryland Public Information Act, and is not subject to subpoena or discovery or admission in evidence in a certain civil action, subject to certain exceptions; authorizing the Commissioner to share and use certain confidential information under certain circumstances and to enter into agreements governing the sharing and use of the information; authorizing the Commissioner to receive certain documents, materials, data, and other information; providing that a certain privilege or claim of confidentiality in confidential information is not waived as a result of a certain disclosure or sharing of the confidential information; authorizing the Commissioner to exempt a specific product form or product line of a certain company under certain circumstances; authorizing the Commissioner to exempt a domestic company from certain reserve requirements and certain information submission requirements under certain circumstances; requiring a domestic company that meets the requirements for exemption to compute reserves in accordance with certain requirements and file a certain statement with the Commissioner before a certain date each year; authorizing the Commissioner to reject the statement before a certain date and require the domestic company to comply with the valuation manual requirements; specifying the mortality tables that may be substituted for certain other mortality tables to be used in determining the minimum nonforfeiture standard for certain policies issued on or after the operative date of the valuation manual; establishing the nonforfeiture interest rate for certain policies issued on or after the operative date of the valuation manual; altering the nonforfeiture interest rate for certain policies issued before the operative date of the valuation manual; providing for the resolution of any conflict between Maryland law and the valuation manual; making this Act subject to certain contingencies; requiring the Commissioner to give certain notice to the Department of Legislative Services; providing that this Act is null and void under certain circumstances; defining certain terms; making certain conforming and clarifying changes; and generally relating to the Maryland Standard Valuation Law and reserve and nonforfeiture requirements for insurance policies and contracts issued in the State.

BY renumbering

Article – Insurance

Section 5–301

to be Section 5–301.1

Annotated Code of Maryland

(2011 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 5–201, 5–303, 5–304(b)(3), (c), (f), and (g), 5–305(c), (d), and (f), 5–306(f)(7), and 16–309

Annotated Code of Maryland  
(2011 Replacement Volume and 2014 Supplement)

BY adding to

Article – Insurance  
Section 5–201.1, 5–301, and 5–313 through 5–317  
Annotated Code of Maryland  
(2011 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance  
Section 5–301.1  
Annotated Code of Maryland  
(2011 Replacement Volume and 2014 Supplement)  
(As enacted by Section 1 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 5–301 of Article – Insurance of the Annotated Code of Maryland be renumbered to be Section(s) 5–301.1.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

### Article – Insurance

5–201.

(a) (1) In this section the following words have the meanings indicated.

**(2) “OPERATIVE DATE OF THE VALUATION MANUAL” HAS THE MEANING STATED IN § 5–201.1 OF THIS SUBTITLE.**

[(2)] **(3) “Opinion” means an opinion issued by a qualified actuary and developed in accordance with the standards of practice of the Actuarial Standards Board.**

[(3)] **(4) “Qualified actuary” means a member in good standing of the American Academy of Actuaries who meets the qualification standards of the Academy for issuing an opinion required by this section.**

**(B) THIS SECTION APPLIES TO RESERVE REQUIREMENTS AND OPINIONS RELATING TO RESERVE REQUIREMENTS FOR POLICIES, CONTRACTS, AND BENEFIT AGREEMENTS OF LIFE INSURERS, NONPROFIT HEALTH SERVICE PLANS, AND FRATERNAL BENEFIT SOCIETIES REQUIRED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL.**

**[(b)] (C)** (1) In addition to the requirement of paragraph (2) of this subsection, the aggregate reserves for all policies, contracts, and benefit agreements of a life insurer may not be less than the aggregate reserves computed under Subtitle 3 of this title.

(2) (i) The aggregate reserves for all policies, contracts, and benefit agreements of a life insurer, nonprofit health service plan, or fraternal benefit society may not be less than the aggregate reserves that a qualified actuary determines to be necessary under subsection **[(d)] (E)** of this section.

(ii) By regulation, the Commissioner may provide for a transition period to establish any higher reserves required by this paragraph.

**[(c)] (D)** Each life insurer, nonprofit health service plan, and fraternal benefit society that does business in the State shall submit annually the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the life insurer's policies, contracts, and benefit agreements are:

- (1) computed appropriately;
- (2) based on assumptions that satisfy contractual provisions;
- (3) consistent with prior reported amounts; and
- (4) in compliance with applicable laws of the State.

**[(d)] (E)** (1) Except as exempted by regulations adopted by the Commissioner, each life insurer, nonprofit health service plan, and fraternal benefit society shall include with the opinion required by subsection **[(c)] (D)** of this section an additional opinion of the same qualified actuary, stating whether the reserves and related actuarial items that are held in support of the policies, contracts, and benefit agreements by the life insurer, nonprofit health service plan, or fraternal benefit society are adequate to meet its obligations under its policies, contracts, and benefit agreements, in light of the assets held with respect to the reserves and related actuarial items.

(2) The obligations of a life insurer, nonprofit health service plan, or fraternal benefit society under its policies, contracts, and benefit agreements include benefits to be provided and associated expenses that may reasonably be expected.

(3) In reviewing the assets held by the life insurer, nonprofit health service plan, or fraternal benefit society with respect to the reserves and related actuarial items, the qualified actuary shall consider the expected investment earnings on the assets and other consideration that the life insurer, nonprofit health service plan, or fraternal benefit society expects to receive and retain under the policies, contracts, and benefit agreements.

**[(e)] (F)** (1) A memorandum acceptable to the Commissioner shall be prepared to support each opinion required under this section.

(2) The supporting memorandum shall be in the form and contain the information that is specified by regulation.

(3) The life insurer, nonprofit health service plan, or fraternal benefit society shall:

(i) keep the supporting memorandum in its home office; and

(ii) on request, submit a copy of the memorandum to the Commissioner.

(4) The Commissioner may engage a qualified actuary at the expense of the life insurer, nonprofit health service plan, or fraternal benefit society to review each opinion and prepare a supporting memorandum if:

(i) the life insurer, nonprofit health service plan, or fraternal benefit society fails to provide a supporting memorandum within the period specified by regulation; or

(ii) the Commissioner determines that the supporting memorandum that the life insurer, nonprofit health service plan, or fraternal benefit society provides fails to meet necessary standards or is unacceptable.

**[(f)] (G)** (1) Each opinion required by this section shall:

(i) be submitted with the annual statement required by this article and reflect the valuation of the reserve liabilities of the life insurer, nonprofit health service plan, or fraternal benefit society;

(ii) apply to all business in force, including individual and group health insurance plans; and

(iii) be based on standards adopted by the Actuarial Standards Board.

(2) The Commissioner may adopt regulations to establish additional requirements for an opinion.

(3) For a foreign insurer or alien insurer, the Commissioner may accept an opinion that the foreign insurer or alien insurer files with the insurance supervisory official of another state if the Commissioner determines that the opinion reasonably meets the requirements applicable to a life insurer, nonprofit health service plan, or fraternal benefit society domiciled in this State.

**[(g)] (H)** (1) Except as provided in subsection **[(h)] (I)** of this section, the Commissioner shall keep confidential and may not make public any memorandum or other material that the life insurer, nonprofit health service plan, or fraternal benefit society provides in connection with an opinion issued under this section.

(2) A memorandum or other material provided to the Commissioner is not subject to a subpoena except for defending in a suit that:

- (i) seeks damages from any person; and
- (ii) is based on an action required by this section.

**[(h)] (I)** (1) The Commissioner may release a memorandum or other material provided to the Commissioner:

(i) with the written consent of the life insurer, nonprofit health service plan, or fraternal benefit society that provides the memorandum or material; or

(ii) to the American Academy of Actuaries, if the Academy:

1. requests the memorandum or other material for professional disciplinary proceedings; and

2. sets forth procedures satisfactory to the Commissioner to preserve the confidentiality of the memorandum or other material.

(2) All parts of a memorandum or other material are no longer confidential if any part of the memorandum or material is:

(i) cited by the life insurer, nonprofit health service plan, or fraternal benefit society in its marketing;

(ii) cited before a governmental unit other than a State insurance department; or

(iii) released by the life insurer, nonprofit health service plan, or fraternal benefit society to the news media.

**[(i)] (J)** Except for fraud, willful misconduct, or gross negligence, a qualified actuary is not liable for damages to any person other than the life insurer, nonprofit health service plan, fraternal benefit society, or the Commissioner for any act, error, omission, decision, or conduct related to an opinion that the qualified actuary issues under this section.

**[(j)] (K)** The Commissioner shall adopt regulations to establish disciplinary action against a life insurer, nonprofit health service plan, fraternal benefit society, or qualified actuary that violates this section.

**5-201.1.**

**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(2) “ACCIDENT AND HEALTH INSURANCE CONTRACT” MEANS A CONTRACT, AS SPECIFIED IN THE VALUATION MANUAL, THAT:**

**(I) INCORPORATES MORBIDITY RISK; AND**

**(II) PROVIDES PROTECTION AGAINST ECONOMIC LOSS RESULTING FROM ACCIDENT, SICKNESS, OR MEDICAL CONDITIONS.**

**(3) “APPOINTED ACTUARY” MEANS A QUALIFIED ACTUARY WHO IS APPOINTED IN ACCORDANCE WITH THE VALUATION MANUAL TO ISSUE AN OPINION REQUIRED BY THIS SECTION.**

**(4) “COMPANY” MEANS AN ENTITY THAT:**

**(I) 1. HAS WRITTEN, ISSUED, OR REINSURED LIFE INSURANCE POLICIES, ACCIDENT AND HEALTH INSURANCE CONTRACTS, OR DEPOSIT-TYPE CONTRACTS IN THE STATE; AND**

**2. HAS AT LEAST ONE OF THE POLICIES OR CONTRACTS SPECIFIED IN ITEM 1 OF THIS ITEM IN FORCE OR ON CLAIM; OR**

**(II) 1. HAS WRITTEN, ISSUED, OR REINSURED LIFE INSURANCE POLICIES, ACCIDENT AND HEALTH INSURANCE CONTRACTS, OR DEPOSIT-TYPE CONTRACTS IN ANY STATE; AND**

**2. IS REQUIRED TO HOLD A CERTIFICATE OF AUTHORITY TO WRITE LIFE INSURANCE POLICIES, ACCIDENT AND HEALTH INSURANCE CONTRACTS, OR DEPOSIT-TYPE CONTRACTS IN THIS STATE.**

**(5) “DEPOSIT-TYPE CONTRACT” MEANS A CONTRACT, AS SPECIFIED IN THE VALUATION MANUAL, THAT DOES NOT INCORPORATE MORTALITY OR MORBIDITY RISKS.**

**(6) (I) “LIFE INSURANCE POLICY” MEANS A POLICY, AS SPECIFIED IN THE VALUATION MANUAL, THAT INCORPORATES MORTALITY RISK.**

**(II) “LIFE INSURANCE POLICY” INCLUDES:**

- 1. AN ANNUITY CONTRACT; AND**
- 2. A PURE ENDOWMENT CONTRACT.**

**(7) “OPERATIVE DATE OF THE VALUATION MANUAL” MEANS THE DATE DETERMINED IN ACCORDANCE WITH § 5-313 OF THIS TITLE.**

**(8) “QUALIFIED ACTUARY” MEANS AN INDIVIDUAL WHO:**

**(I) IS QUALIFIED TO SIGN THE APPLICABLE STATEMENT OF ACTUARIAL OPINION IN ACCORDANCE WITH THE AMERICAN ACADEMY OF ACTUARIES QUALIFICATION STANDARDS FOR ACTUARIES SIGNING SUCH STATEMENTS; AND**

**(II) MEETS THE REQUIREMENTS SPECIFIED IN THE VALUATION MANUAL.**

**(9) “VALUATION MANUAL” MEANS THE MANUAL OF VALUATION INSTRUCTIONS ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS IN THE MANNER SPECIFIED IN § 5-313(B)(1) OF THIS TITLE.**

**(B) THIS SECTION APPLIES TO EACH COMPANY THAT, ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL:**

**(1) HAS OUTSTANDING LIFE INSURANCE POLICIES, ACCIDENT AND HEALTH INSURANCE CONTRACTS, OR DEPOSIT-TYPE CONTRACTS IN THE STATE; AND**

**(2) IS SUBJECT TO REGULATION BY THE COMMISSIONER.**

**(C) (1) A COMPANY SUBJECT TO THIS SECTION SHALL SUBMIT ANNUALLY THE OPINION OF AN APPOINTED ACTUARY AS TO WHETHER THE RESERVES AND RELATED ACTUARIAL ITEMS HELD IN SUPPORT OF THE COMPANY’S LIFE INSURANCE POLICIES, ACCIDENT AND HEALTH INSURANCE CONTRACTS, AND DEPOSIT-TYPE CONTRACTS ARE:**

**(I) COMPUTED APPROPRIATELY;**

**(II) BASED ON ASSUMPTIONS THAT SATISFY CONTRACTUAL PROVISIONS;**



**(III) CONSISTENT WITH PRIOR REPORTED AMOUNTS; AND**

**(IV) IN COMPLIANCE WITH APPLICABLE LAWS OF THE STATE.**

**(2) THE VALUATION MANUAL SHALL PRESCRIBE THE CONTENTS OF THE OPINION AND ANY OTHER ITEMS CONSIDERED NECESSARY TO THE SCOPE OF THE OPINION.**

**(D) (1) EXCEPT AS EXEMPTED IN THE VALUATION MANUAL, A COMPANY SUBJECT TO THIS SECTION SHALL INCLUDE WITH THE OPINION REQUIRED BY SUBSECTION (C) OF THIS SECTION AN ADDITIONAL OPINION OF THE SAME APPOINTED ACTUARY, STATING WHETHER THE RESERVES AND RELATED ACTUARIAL ITEMS THAT ARE HELD IN SUPPORT OF THE COMPANY'S LIFE INSURANCE POLICIES, ACCIDENT AND HEALTH INSURANCE CONTRACTS, AND DEPOSIT-TYPE CONTRACTS ARE ADEQUATE TO MEET THE COMPANY'S OBLIGATIONS UNDER THE LIFE INSURANCE POLICIES, ACCIDENT AND HEALTH INSURANCE CONTRACTS, AND DEPOSIT-TYPE CONTRACTS, IN LIGHT OF THE ASSETS HELD WITH RESPECT TO THE RESERVES AND RELATED ACTUARIAL ITEMS.**

**(2) THE OBLIGATIONS OF A COMPANY UNDER ITS LIFE INSURANCE POLICIES, ACCIDENT AND HEALTH INSURANCE CONTRACTS, AND DEPOSIT-TYPE CONTRACTS INCLUDE BENEFITS TO BE PROVIDED AND ASSOCIATED EXPENSES THAT MAY REASONABLY BE EXPECTED.**

**(3) IN REVIEWING THE ASSETS HELD BY A COMPANY WITH RESPECT TO THE RESERVES AND RELATED ACTUARIAL ITEMS, THE APPOINTED ACTUARY SHALL CONSIDER THE EXPECTED INVESTMENT EARNINGS ON THE ASSETS AND OTHER CONSIDERATION THAT THE COMPANY EXPECTS TO RECEIVE AND RETAIN UNDER THE COMPANY'S LIFE INSURANCE POLICIES, ACCIDENT AND HEALTH INSURANCE CONTRACTS, AND DEPOSIT-TYPE CONTRACTS.**

**(E) (1) A MEMORANDUM SHALL BE PREPARED TO SUPPORT EACH OPINION REQUIRED UNDER THIS SECTION.**

**(2) THE SUPPORTING MEMORANDUM SHALL BE:**

**(I) IN THE FORM AND CONTAIN THE INFORMATION THAT IS SPECIFIED IN THE VALUATION MANUAL; AND**

**(II) ACCEPTABLE TO THE COMMISSIONER.**

**(3) THE COMMISSIONER MAY ENGAGE A QUALIFIED ACTUARY AT THE EXPENSE OF A COMPANY SUBJECT TO THIS SECTION TO REVIEW EACH OPINION AND THE BASIS FOR THE OPINION AND PREPARE A SUPPORTING MEMORANDUM IF:**

**(I) THE COMPANY FAILS TO PROVIDE A SUPPORTING MEMORANDUM, AT THE REQUEST OF THE COMMISSIONER, WITHIN THE PERIOD SPECIFIED IN THE VALUATION MANUAL; OR**

**(II) THE COMMISSIONER DETERMINES THAT THE SUPPORTING MEMORANDUM THAT THE COMPANY PROVIDES FAILS TO MEET THE STANDARDS PRESCRIBED BY THE VALUATION MANUAL OR IS OTHERWISE UNACCEPTABLE TO THE COMMISSIONER.**

**(F) (1) EACH OPINION REQUIRED BY THIS SECTION SHALL:**

**(I) BE IN THE FORM AND CONTAIN THE INFORMATION THAT IS SPECIFIED IN THE VALUATION MANUAL;**

**(II) BE ACCEPTABLE TO THE COMMISSIONER;**

**(III) BE SUBMITTED WITH THE ANNUAL STATEMENT REQUIRED BY THIS ARTICLE;**

**(IV) REFLECT THE VALUATION OF THE RESERVE LIABILITIES OF A COMPANY SUBJECT TO THIS SECTION FOR EACH YEAR ENDING ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL;**

**(V) APPLY TO ALL LIFE INSURANCE POLICIES, ACCIDENT AND HEALTH INSURANCE CONTRACTS, AND DEPOSIT-TYPE CONTRACTS SUBJECT TO SUBSECTION (D) OF THIS SECTION AND ANY OTHER ACTUARIAL LIABILITIES AS MAY BE SPECIFIED IN THE VALUATION MANUAL; AND**

**(VI) BE BASED ON STANDARDS ADOPTED BY THE ACTUARIAL STANDARDS BOARD AND ANY ADDITIONAL STANDARDS AS MAY BE PRESCRIBED IN THE VALUATION MANUAL.**

**(2) FOR A FOREIGN COMPANY OR AN ALIEN COMPANY, THE COMMISSIONER MAY ACCEPT AN OPINION THAT THE FOREIGN OR ALIEN COMPANY FILES WITH THE INSURANCE SUPERVISORY OFFICIAL OF ANOTHER STATE IF THE COMMISSIONER DETERMINES THAT THE OPINION REASONABLY MEETS THE REQUIREMENTS APPLICABLE TO A COMPANY DOMICILED IN THIS STATE.**

**(G) EXCEPT FOR FRAUD OR WILLFUL MISCONDUCT, AN APPOINTED ACTUARY IS NOT LIABLE FOR DAMAGES TO ANY PERSON OTHER THAN THE COMPANY OR THE COMMISSIONER FOR ANY ACT, ERROR, OMISSION, DECISION, OR CONDUCT RELATED TO THE APPOINTED ACTUARY'S OPINION.**

(H) THE COMMISSIONER SHALL ADOPT REGULATIONS TO ESTABLISH DISCIPLINARY ACTION AGAINST A COMPANY OR AN APPOINTED ACTUARY THAT VIOLATES THIS SECTION.

**5-301.**

(A) IN THIS ~~SECTION~~ SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ACCIDENT AND HEALTH INSURANCE CONTRACT” HAS THE MEANING STATED IN § 5-201.1(A) OF THIS TITLE.

(C) “APPOINTED ACTUARY” MEANS A QUALIFIED ACTUARY WHO IS APPOINTED IN ACCORDANCE WITH THE VALUATION MANUAL TO PREPARE AN OPINION REQUIRED BY § 5-201.1 OF THIS TITLE.

(D) “COMPANY” HAS THE MEANING STATED IN § 5-201.1(A) OF THIS TITLE.

(E) “DEPOSIT-TYPE CONTRACT” HAS THE MEANING STATED IN § 5-201.1(A) OF THIS TITLE.

(F) “LIFE INSURANCE POLICY” HAS THE MEANING STATED IN § 5-201.1(A) OF THIS TITLE.

(G) “NAIC” MEANS THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

(H) “OPERATIVE DATE OF THE VALUATION MANUAL” HAS THE MEANING STATED IN § 5-201.1(A) OF THIS TITLE.

(I) (1) “POLICYHOLDER BEHAVIOR” MEANS ANY ACTION A POLICYHOLDER, CONTRACT HOLDER, OR ANY OTHER PERSON WITH THE RIGHT TO ELECT OPTIONS, INCLUDING A CERTIFICATE HOLDER, MAY TAKE UNDER A LIFE INSURANCE POLICY, AN ACCIDENT AND HEALTH INSURANCE CONTRACT, OR A DEPOSIT-TYPE CONTRACT ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL.

(2) “POLICYHOLDER BEHAVIOR” INCLUDES BEHAVIOR RELATING TO LAPSE, WITHDRAWAL, TRANSFER, DEPOSIT, PREMIUM PAYMENT, LOAN, ANNUITIZATION, ~~AND~~ OR BENEFIT ELECTIONS PRESCRIBED BY A LIFE INSURANCE POLICY, AN ACCIDENT AND HEALTH INSURANCE CONTRACT, OR A DEPOSIT-TYPE CONTRACT ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL.

**(3) “POLICYHOLDER BEHAVIOR” DOES NOT INCLUDE AN EVENT OF MORTALITY OR MORBIDITY THAT RESULTS IN BENEFITS PRESCRIBED IN THEIR ESSENTIAL ASPECTS BY THE TERMS OF A LIFE INSURANCE POLICY, AN ACCIDENT AND HEALTH INSURANCE CONTRACT, OR A DEPOSIT–TYPE CONTRACT ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL.**

**(J) “PRINCIPLE–BASED VALUATION” MEANS A RESERVE VALUATION THAT:**

**(1) USES ONE OR MORE METHODS OR ONE OR MORE ASSUMPTIONS DETERMINED BY A COMPANY; AND**

**(2) MEETS THE REQUIREMENTS OF § 5–314 OF THIS SUBTITLE.**

**(K) “QUALIFIED ACTUARY” HAS THE MEANING STATED IN § 5–201.1(A) OF THIS TITLE.**

**(L) “TAIL RISK” MEANS A RISK THAT OCCURS WHEN:**

**(1) THE FREQUENCY OF LOW PROBABILITY EVENTS IS HIGHER THAN EXPECTED UNDER A NORMAL PROBABILITY DISTRIBUTION; OR**

**(2) EVENTS OF VERY SIGNIFICANT SIZE OR MAGNITUDE ARE OBSERVED.**

**(M) “VALUATION MANUAL” HAS THE MEANING STATED IN § 5–201.1(A) OF THIS TITLE.**

5–301.1.

(a) (1) (i) Subject to subparagraph (ii) of this paragraph, the Commissioner annually shall value or cause to be valued the reserves for all outstanding life insurance policies, annuity contracts, and pure endowment contracts [of] **ISSUED BY** each life insurer doing business in the State **BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL.**

(ii) For an alien insurer, the valuation required by this [section] **SUBSECTION** shall be limited to the alien insurer’s United States business.

**[(2)]** The Commissioner may certify the amount of reserves valued under this section, specifying the mortality tables, rates of interest, and methods used to calculate the reserves.

(b) (2) To calculate reserves under this [section] SUBSECTION, the Commissioner may use group methods and approximate averages for fractions of a year or otherwise.

[(c)] (3) For a foreign insurer or alien insurer, instead of the valuation of reserves required by [subsection (a) of this section] PARAGRAPH (1) OF THIS SUBSECTION, the Commissioner may accept a valuation made or caused to be made by the insurance supervisory official of another state or other jurisdiction if[:

(1)] the valuation complies with the minimum standard under this subtitle[; and

(2) the insurance supervisory official of the other state or other jurisdiction accepts as sufficient and valid for all legal purposes the Commissioner's certificate of valuation if the Commissioner's certificate states that the valuation is made in a specified manner by which the aggregate reserves are at least as large as if they had been computed as prescribed by the law of that state or jurisdiction].

[(d)] (4) Subject to the approval of the Commissioner, an insurer that has adopted a standard of valuation producing greater aggregate reserves than the aggregate reserves calculated under the minimum standard provided in this subtitle may adopt a lower standard of valuation if it is not lower than the minimum standard provided in this subtitle.

**(B) (1) THE COMMISSIONER ANNUALLY SHALL VALUE OR CAUSE TO BE VALUED THE RESERVES FOR ALL OUTSTANDING LIFE INSURANCE POLICIES, ACCIDENT AND HEALTH INSURANCE CONTRACTS, AND DEPOSIT-TYPE CONTRACTS ISSUED BY A COMPANY ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL.**

**(2) FOR A FOREIGN COMPANY OR AN ALIEN COMPANY, INSTEAD OF THE VALUATION OF RESERVES REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER MAY ACCEPT A VALUATION MADE OR CAUSED TO BE MADE BY THE INSURANCE SUPERVISORY OFFICIAL OF ANOTHER STATE IF THE VALUATION COMPLIES WITH THE MINIMUM STANDARD UNDER THIS SUBTITLE.**

5-303.

**(A)** Except as otherwise provided in §§ 5-305 and 5-306 of this subtitle for group annuity contracts and pure endowment contracts issued before the operative date of the Maryland Standard Nonforfeiture Law for Life Insurance[.]:

**(1) §§ 5–304 through 5–312 of this subtitle apply only to policies and contracts, AS APPROPRIATE, issued on or after that operative date AND BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL; AND**

**(2) §§ 5–313 AND 5–314 OF THIS SUBTITLE DO NOT APPLY TO THE POLICIES AND CONTRACTS.**

**(B) SECTIONS 5–313 AND 5–314 OF THIS SUBTITLE APPLY TO ALL LIFE INSURANCE POLICIES, ACCIDENT AND HEALTH INSURANCE CONTRACTS, AND DEPOSIT–TYPE CONTRACTS ISSUED BY A COMPANY ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL.**

5–304.

(b) For an ordinary policy of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policy, the applicable table for the minimum standard for the valuation of the policy is:

(3) if the policy was issued on or after the operative date of § 16–309 of this article:

(i) the Commissioners 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten–Year Select Mortality Factors; or

(ii) any ordinary mortality table, adopted after 1980 by [the National Association of Insurance Commissioners] **NAIC** and approved by a regulation of the Commissioner for use in determining the minimum standard of valuation for the policy.

(c) For an industrial life insurance policy issued on the standard basis, excluding any disability and accidental death benefits in the policy, the applicable table for the minimum standard for the valuation of the policy is:

(1) if the policy was issued before the operative date of § 16–308(d) of this article, the 1941 Standard Industrial Mortality Table; and

(2) if the policy was issued on or after the operative date of § 16–308(d) of this article:

(i) the Commissioners 1961 Standard Industrial Mortality Table; or

(ii) any industrial mortality table, adopted after 1980 by [the National Association of Insurance Commissioners] **NAIC** and approved by regulation of the Commissioner for use in determining the minimum standard of valuation for the policy.

(f) (1) For total and permanent disability benefits in or supplementary to an ordinary policy or contract, the applicable table for the minimum standard for the valuation of the policy or contract is:

(i) if the policy or contract was issued on or before December 31, 1960, the Class (3) Disability Table (1926);

(ii) if the policy or contract was issued any time from January 1, 1961 to December 31, 1965, both inclusive:

1. the tables specified by item (i) of this paragraph; or
2. at the option of the insurer, the Class (3) Disability Table (1926); and

(iii) if the policy or contract was issued on or after January 1, 1966:

1. the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit; or

2. any tables of disablement rates and termination rates adopted after 1980 by [the National Association of Insurance Commissioners] NAIC and approved by regulation of the Commissioner for use in determining the minimum standard of valuation for the policy or contract.

(2) For active lives, the table used under this subsection shall be combined with a mortality table allowed for calculating the reserves for life insurance policies.

(g) (1) For accidental death benefits in or supplementary to a policy, the applicable table for the minimum standard for the valuation of the policy is:

(i) if the policy was issued on or before December 31, 1960, the Intercompany Double Indemnity Mortality Table;

(ii) if the policy was issued any time from January 1, 1961 to December 31, 1965, both inclusive:

1. a table specified by item (i) of this paragraph; or
2. at the option of the insurer, the Intercompany Double Indemnity Mortality Table; and

(iii) if the policy was issued on or after January 1, 1966:

1. the 1959 Accidental Death Benefits Table; or
2. an accidental death benefits table adopted after 1980 by [the National Association of Insurance Commissioners] **NAIC** and approved by regulation of the Commissioner for use in determining the minimum standard of valuation for the policy.

(2) The table used under this subsection shall be combined with a mortality table allowed for calculating the reserves for life insurance policies.

5-305.

(c) For an individual single premium immediate annuity contract issued on or after July 1, 1980, the applicable table and interest rate for the minimum standard for the valuation of the contract are:

- (1) (i) the 1971 Individual Annuity Mortality Table;
- (ii) an individual annuity mortality table adopted after 1980 by [the National Association of Insurance Commissioners] **NAIC** and approved by regulation of the Commissioner for use in determining the minimum standard of valuation for the contract; or
- (iii) a modification of a table specified by subitem (i) or (ii) of this item approved by the Commissioner; and

(2) interest at 7.5% per year.

(d) For an individual annuity contract or pure endowment contract issued on or after July 1, 1980, other than a single premium immediate annuity contract, the applicable table and interest rate for the minimum standard for the valuation of the contract are:

- (1) (i) the 1971 Individual Annuity Mortality Table;
- (ii) an individual annuity mortality table adopted after 1980 by [the National Association of Insurance Commissioners] **NAIC** and approved by regulation of the Commissioner for use in determining the minimum standard of valuation for the contract; or
- (iii) a modification of a table specified in subitem (i) or (ii) of this item approved by the Commissioner; and

(2) interest at:

(i) 5.5% per year for a single premium deferred annuity contract or pure endowment contract; and



(ii) 4.5% per year for any other individual annuity contract or pure endowment contract.

(f) For an annuity or pure endowment purchased on or after July 1, 1980, under a group annuity contract or pure endowment contract, the applicable table and interest rate for the minimum standard for the valuation of the contract are:

(1) (i) the 1971 Group Annuity Mortality Table;

(ii) a group annuity mortality table adopted after 1980 by [the National Association of Insurance Commissioners] NAIC and approved by regulation of the Commissioner for use in determining the minimum standard of valuation for the annuity or pure endowment; or

(iii) a modification of a table specified in subitem (i) or (ii) of this item approved by the Commissioner; and

(2) interest at 7.5% per year.

5-306.

(f) (7) If Moody's corporate bond yield average is no longer published by Moody's Investors Service, Inc. or if [the National Association of Insurance Commissioners] NAIC determines that Moody's corporate bond yield average is no longer appropriate to determine the reference interest rate, the Commissioner shall approve by regulation an alternative method adopted by [the National Association of Insurance Commissioners] NAIC to determine the reference interest rate.

5-313.

**(A) EXCEPT AS PROVIDED IN SUBSECTION (E) OR (G) OF THIS SECTION, FOR LIFE INSURANCE POLICIES, ACCIDENT AND HEALTH INSURANCE CONTRACTS, AND DEPOSIT-TYPE CONTRACTS ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE STANDARD PRESCRIBED IN THE VALUATION MANUAL IS THE MINIMUM STANDARD OF VALUATION.**

**(B) THE OPERATIVE DATE OF THE VALUATION MANUAL IS JANUARY 1 OF THE FIRST CALENDAR YEAR FOLLOWING THE FIRST JULY 1 AS OF WHICH ALL OF THE FOLLOWING HAVE OCCURRED:**

**(1) THE VALUATION MANUAL HAS BEEN ADOPTED BY NAIC BY AN AFFIRMATIVE VOTE OF AT LEAST 42 MEMBERS OR 75% OF THE MEMBERS VOTING, WHICHEVER IS GREATER;**

**(2) THE STANDARD VALUATION LAW, AS AMENDED BY NAIC IN 2009, OR LEGISLATION INCLUDING SUBSTANTIALLY SIMILAR TERMS AND PROVISIONS, HAS BEEN ENACTED BY STATES REPRESENTING GREATER THAN 75% OF THE DIRECT PREMIUMS WRITTEN, AS REPORTED IN THE FOLLOWING ANNUAL STATEMENTS SUBMITTED FOR 2008:**

- (I) LIFE, ACCIDENT, AND HEALTH ANNUAL STATEMENTS;**
- (II) HEALTH ANNUAL STATEMENTS; OR**
- (III) FRATERNAL ANNUAL STATEMENTS; AND**

**(3) THE STANDARD VALUATION LAW, AS AMENDED BY NAIC IN 2009, OR LEGISLATION INCLUDING SUBSTANTIALLY SIMILAR TERMS AND PROVISIONS, HAS BEEN ENACTED BY AT LEAST 42 OF THE FOLLOWING 55 JURISDICTIONS:**

- (I) THE 50 STATES OF THE UNITED STATES;**
- (II) AMERICAN SAMOA;**
- (III) THE U.S. VIRGIN ISLANDS;**
- (IV) THE DISTRICT OF COLUMBIA;**
- (V) GUAM; AND**
- (VI) PUERTO RICO.**

**(C) UNLESS A CHANGE IN THE VALUATION MANUAL SPECIFIES A LATER EFFECTIVE DATE, CHANGES TO THE VALUATION MANUAL SHALL BE EFFECTIVE ON JANUARY 1 FOLLOWING THE DATE WHEN THE CHANGE TO THE VALUATION MANUAL HAS BEEN ADOPTED BY NAIC BY AN AFFIRMATIVE VOTE REPRESENTING:**

**(1) AT LEAST 75% OF THE MEMBERS OF NAIC VOTING, BUT NOT LESS THAN A MAJORITY OF THE TOTAL MEMBERSHIP; AND**

**(2) MEMBERS OF NAIC REPRESENTING JURISDICTIONS TOTALING GREATER THAN 75% OF THE DIRECT PREMIUMS WRITTEN, AS REPORTED IN THE FOLLOWING ANNUAL STATEMENTS MOST RECENTLY AVAILABLE BEFORE THE VOTE UNDER ITEM (1) OF THIS SUBSECTION:**

- (I) LIFE, ACCIDENT, AND HEALTH ANNUAL STATEMENTS;**
- (II) HEALTH ANNUAL STATEMENTS; OR**

**(III) FRATERNAL ANNUAL STATEMENTS.**

**(D) (1) THE VALUATION MANUAL SHALL SPECIFY THE FOLLOWING:**

**(I) THE MINIMUM VALUATION STANDARDS FOR EACH TYPE OF LIFE INSURANCE POLICY, ACCIDENT AND HEALTH INSURANCE CONTRACT, AND DEPOSIT-TYPE CONTRACT ISSUED BY A COMPANY ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL;**

**(II) THE POLICIES AND CONTRACTS OR TYPES OF POLICIES AND CONTRACTS THAT ARE SUBJECT TO THE REQUIREMENTS OF A PRINCIPLE-BASED VALUATION UNDER § 5-314 OF THIS SUBTITLE AND THE MINIMUM VALUATION STANDARDS CONSISTENT WITH THOSE REQUIREMENTS;**

**(III) FOR POLICIES AND CONTRACTS SUBJECT TO A PRINCIPLE-BASED VALUATION UNDER § 5-314 OF THIS SUBTITLE:**

**1. REQUIREMENTS FOR THE FORMAT OF REPORTS TO THE COMMISSIONER REQUIRED UNDER § 5-314(B)(1)(III) OF THIS SUBTITLE, INCLUDING THE INFORMATION NECESSARY TO DETERMINE IF THE PRINCIPLE-BASED VALUATION IS APPROPRIATE AND IN COMPLIANCE WITH THIS SUBTITLE;**

**2. REQUIRED ASSUMPTIONS FOR RISKS OVER WHICH A COMPANY DOES NOT HAVE SIGNIFICANT CONTROL OR INFLUENCE; AND**

**3. PROCEDURES FOR CORPORATE GOVERNANCE AND OVERSIGHT OF THE ACTUARIAL FUNCTION AND A PROCESS FOR APPROPRIATE WAIVER OR MODIFICATION OF THOSE PROCEDURES;**

**(IV) ANY OTHER REQUIREMENTS, INCLUDING REQUIREMENTS RELATING TO RESERVE METHODS, MODELS FOR MEASURING RISK, GENERATION OF ECONOMIC SCENARIOS, ASSUMPTIONS, MARGINS, USE OF COMPANY EXPERIENCE, RISK MEASUREMENT, DISCLOSURE, CERTIFICATIONS, REPORTS, ACTUARIAL OPINIONS AND MEMORANDA, TRANSITION RULES, AND INTERNAL CONTROLS; AND**

**(V) THE DATA AND THE FORM OF THE DATA REQUIRED UNDER § 5-315 OF THIS SUBTITLE, THE PERSON TO WHOM THE DATA MUST BE SUBMITTED, AND ANY OTHER REQUIREMENTS CONSIDERED NECESSARY, INCLUDING REQUIREMENTS RELATING TO DATA ANALYSIS AND REPORTING OF ANALYSES.**

**(2) THE MINIMUM VALUATION STANDARDS REQUIRED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL BE KNOWN AS:**

**(I) THE COMMISSIONERS RESERVE VALUATION METHOD FOR LIFE INSURANCE POLICIES, OTHER THAN ANNUITY CONTRACTS;**

**(II) THE COMMISSIONERS ANNUITY RESERVE VALUATION METHOD FOR ANNUITY CONTRACTS; AND**

**(III) MINIMUM RESERVES FOR ALL OTHER POLICIES OR CONTRACTS.**

**(3) FOR POLICIES AND CONTRACTS NOT SUBJECT TO A PRINCIPLE-BASED VALUATION UNDER § 5-314 OF THIS SUBTITLE, THE MINIMUM VALUATION STANDARD SHALL:**

**(I) BE CONSISTENT WITH THE MINIMUM STANDARD OF VALUATION BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL; OR**

**(II) DEVELOP RESERVES THAT QUANTIFY THE BENEFITS AND GUARANTEES, AND THE FUNDING, ASSOCIATED WITH THE POLICIES AND CONTRACTS AND THEIR RISKS AT A LEVEL OF CONSERVATISM THAT REFLECTS CONDITIONS THAT INCLUDE UNFAVORABLE EVENTS THAT HAVE A REASONABLE PROBABILITY OF OCCURRING.**

**(E) IN THE ABSENCE OF A SPECIFIC VALUATION REQUIREMENT, OR IF A SPECIFIC VALUATION REQUIREMENT IN THE VALUATION MANUAL IS NOT, IN THE OPINION OF THE COMMISSIONER, IN COMPLIANCE WITH THIS SUBTITLE, A COMPANY, WITH RESPECT TO THE REQUIREMENT, SHALL COMPLY WITH THE MINIMUM VALUATION STANDARD PRESCRIBED BY THE COMMISSIONER BY REGULATION.**

**(F) (1) THE COMMISSIONER MAY ENGAGE A QUALIFIED ACTUARY AT THE EXPENSE OF THE COMPANY TO:**

**(I) PERFORM AN ACTUARIAL EXAMINATION OF A COMPANY AND OPINE ON THE APPROPRIATENESS OF ANY RESERVE ASSUMPTION OR METHOD USED BY THE COMPANY; OR**

**(II) REVIEW AND OPINE ON A COMPANY'S COMPLIANCE WITH ANY REQUIREMENT UNDER THIS SUBTITLE.**

**(2) THE COMMISSIONER MAY RELY ON THE OPINION OF A QUALIFIED ACTUARY ISSUED WHILE THE QUALIFIED ACTUARY WAS EMPLOYED BY OR UNDER CONTRACT WITH THE INSURANCE SUPERVISORY OFFICIAL OF ANOTHER STATE.**

**(G) (1) THE COMMISSIONER MAY REQUIRE A COMPANY TO CHANGE ANY ASSUMPTION OR METHOD USED BY THE COMPANY IF, IN THE OPINION OF THE COMMISSIONER, THE CHANGE IS NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THE VALUATION MANUAL OR THIS SUBTITLE.**

**(2) THE COMPANY SHALL ADJUST THE COMPANY'S RESERVES AS REQUIRED BY THE COMMISSIONER.**

**5-314.**

**(A) FOR POLICIES AND CONTRACTS SPECIFIED IN THE VALUATION MANUAL, A COMPANY SHALL ESTABLISH RESERVES USING A PRINCIPLE-BASED VALUATION THAT:**

**(1) QUANTIFIES THE BENEFITS AND GUARANTEES, AND THE FUNDING, ASSOCIATED WITH THE POLICIES OR CONTRACTS AND THEIR RISKS AT A LEVEL OF CONSERVATISM THAT REFLECTS CONDITIONS THAT INCLUDE UNFAVORABLE EVENTS THAT HAVE A REASONABLE PROBABILITY OF OCCURRING DURING THE LIFETIME OF THE POLICIES OR CONTRACTS;**

**(2) FOR POLICIES OR CONTRACTS WITH SIGNIFICANT TAIL RISK, REFLECTS CONDITIONS APPROPRIATELY ADVERSE TO QUANTIFY THE TAIL RISK;**

**(3) INCORPORATES ASSUMPTIONS, RISK ANALYSIS METHODS AND FINANCIAL MODELS, AND MANAGEMENT TECHNIQUES THAT ARE CONSISTENT WITH, BUT NOT NECESSARILY IDENTICAL TO, THOSE USED WITHIN THE COMPANY'S OVERALL RISK ASSESSMENT PROCESS, WHILE RECOGNIZING POTENTIAL DIFFERENCES IN FINANCIAL REPORTING STRUCTURES AND ANY PRESCRIBED ASSUMPTIONS OR METHODS;**

**(4) INCORPORATES ASSUMPTIONS THAT:**

**(I) ARE PRESCRIBED IN THE VALUATION MANUAL; OR**

**(II) IF NOT PRESCRIBED IN THE VALUATION MANUAL:**

**1. ARE ESTABLISHED USING THE COMPANY'S AVAILABLE EXPERIENCE, TO THE EXTENT IT IS RELEVANT AND STATISTICALLY CREDIBLE; OR**

**2. TO THE EXTENT THAT COMPANY DATA IS NOT AVAILABLE, RELEVANT, OR STATISTICALLY CREDIBLE, ARE ESTABLISHED USING OTHER RELEVANT, STATISTICALLY CREDIBLE EXPERIENCE; AND**

**(5) PROVIDES MARGINS FOR UNCERTAINTY, INCLUDING ADVERSE DEVIATION AND ESTIMATION ERROR, SUCH THAT THE GREATER THE UNCERTAINTY THE LARGER THE MARGIN AND RESULTING RESERVE.**

**(B) (1) A COMPANY THAT USES A PRINCIPLE-BASED VALUATION FOR ONE OR MORE POLICIES OR CONTRACTS SUBJECT TO THIS SECTION SHALL:**

**(I) ESTABLISH PROCEDURES FOR CORPORATE GOVERNANCE AND OVERSIGHT OF THE ACTUARIAL VALUATION FUNCTION CONSISTENT WITH THOSE DESCRIBED IN THE VALUATION MANUAL;**

**(II) PROVIDE TO THE COMMISSIONER AND THE BOARD OF DIRECTORS OF THE COMPANY AN ANNUAL CERTIFICATION OF THE EFFECTIVENESS OF THE COMPANY'S INTERNAL CONTROLS WITH RESPECT TO THE PRINCIPLE-BASED VALUATION; AND**

**(III) DEVELOP, AND FILE WITH THE COMMISSIONER ON REQUEST, A PRINCIPLE-BASED VALUATION REPORT THAT COMPLIES WITH STANDARDS PRESCRIBED IN THE VALUATION MANUAL.**

**(2) THE INTERNAL CONTROLS UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE DESIGNED TO ENSURE THAT:**

**(I) ALL MATERIAL RISKS INHERENT IN THE LIABILITIES AND ASSOCIATED ASSETS SUBJECT TO THE PRINCIPLE-BASED VALUATION ARE INCLUDED IN THE PRINCIPLE-BASED VALUATION; AND**

**(II) PRINCIPLE-BASED VALUATIONS ARE MADE IN ACCORDANCE WITH THE VALUATION MANUAL.**

**(3) THE ANNUAL CERTIFICATION REQUIRED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE BASED ON THE INTERNAL CONTROLS IN PLACE AS OF THE END OF THE PRECEDING CALENDAR YEAR.**

**(C) A PRINCIPLE-BASED VALUATION MAY INCLUDE A PRESCRIBED FORMULAIC RESERVE COMPONENT.**

**5-315.**

**A COMPANY SHALL SUBMIT THE MORTALITY DATA, MORBIDITY DATA, POLICYHOLDER BEHAVIOR, EXPENSE EXPERIENCE, AND OTHER DATA AS PRESCRIBED IN THE VALUATION MANUAL.**

5-316.

(A) IN THIS SECTION, “CONFIDENTIAL INFORMATION” MEANS:

(1) A MEMORANDUM IN SUPPORT OF AN OPINION SUBMITTED UNDER § 5-201.1 OF THIS TITLE AND ANY DOCUMENTS, MATERIALS, AND OTHER INFORMATION, INCLUDING ALL WORKING PAPERS AND COPIES OF ALL WORKING PAPERS, CREATED, PRODUCED, OR OBTAINED BY OR DISCLOSED TO THE COMMISSIONER OR ANY OTHER PERSON IN CONNECTION WITH THE MEMORANDUM;

(2) ANY DOCUMENTS, MATERIALS, AND OTHER INFORMATION, INCLUDING ALL WORKING PAPERS AND COPIES OF ALL WORKING PAPERS, CREATED, PRODUCED, OR OBTAINED BY OR DISCLOSED TO THE COMMISSIONER OR ANY OTHER PERSON IN THE COURSE OF AN EXAMINATION MADE UNDER § 5-313(F) OF THIS SUBTITLE;

(3) (I) ANY REPORTS, DOCUMENTS, MATERIALS, AND OTHER INFORMATION DEVELOPED BY A COMPANY IN SUPPORT OF, OR IN CONNECTION WITH, AN ANNUAL CERTIFICATION BY THE COMPANY UNDER § 5-314(B)(1)(II) OF THIS SUBTITLE EVALUATING THE EFFECTIVENESS OF THE COMPANY’S INTERNAL CONTROLS WITH RESPECT TO A PRINCIPLE-BASED VALUATION; AND

(II) ANY DOCUMENTS, MATERIALS, AND OTHER INFORMATION, INCLUDING ALL WORKING PAPERS AND COPIES OF ALL WORKING PAPERS, CREATED, PRODUCED, OR OBTAINED BY OR DISCLOSED TO THE COMMISSIONER OR ANY OTHER PERSON IN CONNECTION WITH THE REPORTS, DOCUMENTS, MATERIALS, AND INFORMATION SPECIFIED IN ITEM (I) OF THIS ITEM;

(4) A PRINCIPLE-BASED VALUATION REPORT DEVELOPED UNDER § 5-314(B)(1)(III) OF THIS SUBTITLE AND ANY DOCUMENTS, MATERIALS, AND OTHER INFORMATION, INCLUDING ALL WORKING PAPERS AND COPIES OF ALL WORKING PAPERS, CREATED, PRODUCED, OR OBTAINED BY OR DISCLOSED TO THE COMMISSIONER OR ANY OTHER PERSON IN CONNECTION WITH THE PRINCIPLE-BASED VALUATION REPORT; AND

(5) (I) ANY DOCUMENTS, MATERIALS, DATA, AND OTHER INFORMATION SUBMITTED TO THE COMMISSIONER OR ANY OTHER PERSON BY A COMPANY UNDER § 5-315 OF THIS SUBTITLE;

(II) ANY DOCUMENTS, MATERIALS, DATA, AND OTHER INFORMATION, INCLUDING ALL WORKING PAPERS AND COPIES OF ALL WORKING PAPERS, CREATED OR PRODUCED IN CONNECTION WITH THE DOCUMENTS, MATERIALS, DATA, AND INFORMATION SPECIFIED IN ITEM (I) OF THIS ITEM THAT

INCLUDE ANY POTENTIALLY COMPANY-IDENTIFYING OR PERSONALLY IDENTIFIABLE INFORMATION, THAT IS PROVIDED TO OR OBTAINED BY THE COMMISSIONER OR ANY OTHER PERSON; AND

(III) ANY DOCUMENTS, MATERIALS, DATA, AND OTHER INFORMATION, INCLUDING ALL WORKING PAPERS AND COPIES OF ALL WORKING PAPERS, CREATED, PRODUCED, OR OBTAINED BY OR DISCLOSED TO THE COMMISSIONER OR ANY OTHER PERSON IN CONNECTION WITH THE DOCUMENTS, MATERIALS, DATA, AND OTHER INFORMATION SPECIFIED IN ITEMS (I) AND (II) OF THIS ITEM.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A COMPANY'S CONFIDENTIAL INFORMATION:

(1) IS CONFIDENTIAL AND PRIVILEGED;

(2) IS NOT SUBJECT TO TITLE 4 OF THE GENERAL PROVISIONS ARTICLE; AND

(3) IS NOT SUBJECT TO SUBPOENA OR DISCOVERY OR ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION.

(C) (1) THE COMMISSIONER, AND ANY PERSON WHO RECEIVES CONFIDENTIAL INFORMATION WHILE ACTING UNDER THE AUTHORITY OF THE COMMISSIONER, MAY NOT TESTIFY OR BE REQUIRED TO TESTIFY IN ANY PRIVATE CIVIL ACTION CONCERNING ANY CONFIDENTIAL INFORMATION.

(2) THE COMMISSIONER MAY USE CONFIDENTIAL INFORMATION OF A COMPANY IN ANY REGULATORY OR LEGAL ACTION BROUGHT AGAINST THE COMPANY AS A PART OF THE COMMISSIONER'S OFFICIAL DUTIES.

(D) IF AN EXAMINATION REPORT OR MATERIAL PREPARED IN CONNECTION WITH AN EXAMINATION MADE UNDER TITLE 2, SUBTITLE 2 OF THIS ARTICLE IS NOT PRIVATE AND CONFIDENTIAL INFORMATION UNDER TITLE 2, SUBTITLE 2 OF THIS ARTICLE, AN EXAMINATION REPORT OR OTHER MATERIAL PREPARED IN CONNECTION WITH AN EXAMINATION MADE UNDER § 5-313(F) OF THIS SUBTITLE IS NOT "CONFIDENTIAL INFORMATION" TO THE SAME EXTENT AS IF THE EXAMINATION REPORT OR OTHER MATERIAL HAD BEEN PREPARED UNDER TITLE 2, SUBTITLE 2 OF THIS ARTICLE.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, TO ASSIST IN THE PERFORMANCE OF THE COMMISSIONER'S DUTIES, THE COMMISSIONER MAY SHARE CONFIDENTIAL INFORMATION SPECIFIED IN:



**(I) SUBSECTION (A)(1) THROUGH (5) OF THIS SECTION WITH:**

**1. ANY STATE, FEDERAL, OR INTERNATIONAL REGULATORY AGENCY AND THE EMPLOYEES, AGENTS, CONSULTANTS, AND CONTRACTORS OF ANY STATE, FEDERAL, OR INTERNATIONAL REGULATORY AGENCY; AND**

**2. NAIC AND THE EMPLOYEES, AGENTS, CONSULTANTS, CONTRACTORS, AFFILIATES, AND SUBSIDIARIES OF NAIC; AND**

**(II) SUBSECTION (A)(1) AND (4) OF THIS SECTION WITH:**

**1. THE ACTUARIAL BOARD FOR COUNSELING AND DISCIPLINE ON A REQUEST FROM THE ACTUARIAL BOARD STATING THAT THE CONFIDENTIAL INFORMATION IS REQUIRED FOR THE PURPOSE OF PROFESSIONAL DISCIPLINARY PROCEEDINGS; AND**

**2. ANY STATE, FEDERAL, OR INTERNATIONAL LAW ENFORCEMENT OFFICIAL AND THE EMPLOYEES, AGENTS, CONSULTANTS, AND CONTRACTORS OF ANY STATE, FEDERAL, OR INTERNATIONAL LAW ENFORCEMENT OFFICIAL.**

**(2) CONFIDENTIAL INFORMATION MAY BE SHARED BY THE COMMISSIONER UNDER PARAGRAPH (1) OF THIS SUBSECTION ONLY IF THE RECIPIENT OF THE CONFIDENTIAL INFORMATION AGREES, AND HAS THE LEGAL AUTHORITY TO AGREE, TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF ANY CONFIDENTIAL INFORMATION RECEIVED IN THE SAME MANNER AND TO THE SAME EXTENT AS REQUIRED FOR THE COMMISSIONER.**

**(F) (1) THE COMMISSIONER MAY RECEIVE DOCUMENTS, MATERIALS, DATA, AND OTHER INFORMATION, INCLUDING OTHERWISE CONFIDENTIAL OR PRIVILEGED DOCUMENTS, MATERIALS, DATA, AND INFORMATION, FROM:**

**(I) NAIC AND THE EMPLOYEES, AGENTS, CONSULTANTS, CONTRACTORS, AFFILIATES, AND SUBSIDIARIES OF NAIC;**

**(II) ANY STATE, FEDERAL, OR INTERNATIONAL REGULATORY AGENCY OR LAW ENFORCEMENT OFFICIAL AND THE EMPLOYEES, AGENTS, CONSULTANTS, AND CONTRACTORS OF THE REGULATORY AGENCY OR LAW ENFORCEMENT OFFICIAL; AND**

**(III) THE ACTUARIAL BOARD FOR COUNSELING AND DISCIPLINE.**

**(2) THE COMMISSIONER SHALL MAINTAIN AS CONFIDENTIAL AND PRIVILEGED ANY DOCUMENT, MATERIAL, DATA, OR OTHER INFORMATION RECEIVED WITH NOTICE OR THE UNDERSTANDING THAT IT IS CONFIDENTIAL OR PRIVILEGED UNDER THE LAWS OF THE JURISDICTION THAT IS THE SOURCE OF THE DOCUMENT, MATERIAL, DATA, OR OTHER INFORMATION.**

**(G) THE COMMISSIONER MAY ENTER INTO AGREEMENTS GOVERNING THE SHARING AND USE OF CONFIDENTIAL INFORMATION CONSISTENT WITH THIS SECTION.**

**(H) (1) ANY APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY IN CONFIDENTIAL INFORMATION IS NOT WAIVED AS A RESULT OF:**

**(I) THE DISCLOSURE OF THE CONFIDENTIAL INFORMATION TO THE COMMISSIONER UNDER THIS SECTION; OR**

**(II) THE SHARING OF THE CONFIDENTIAL INFORMATION AS AUTHORIZED UNDER SUBSECTION (E) OF THIS SECTION.**

**(2) A PRIVILEGE ESTABLISHED UNDER THE LAW OF ANOTHER STATE THAT IS SUBSTANTIALLY SIMILAR TO THE PRIVILEGE ESTABLISHED UNDER THIS SECTION SHALL BE AVAILABLE AND ENFORCED IN ANY PROCEEDING IN, AND IN ANY COURT OF, THE STATE.**

**(I) ANY CONFIDENTIAL INFORMATION SPECIFIED IN SUBSECTION (A)(1) AND (4) OF THIS SECTION:**

**(1) IS SUBJECT TO SUBPOENA FOR DEFENDING IN AN ACTION THAT:**

**(I) SEEKS DAMAGES FROM THE APPOINTED ACTUARY SUBMITTING THE RELATED MEMORANDUM IN SUPPORT OF AN OPINION SUBMITTED UNDER § 5-201.1 OF THIS TITLE OR A PRINCIPLE-BASED VALUATION REPORT DEVELOPED UNDER § 5-314(B)(1)(III) OF THIS SUBTITLE; AND**

**(II) IS BASED ON AN ACTION REQUIRED BY THIS SUBTITLE OR REGULATIONS ADOPTED UNDER THIS SUBTITLE; AND**

**(2) MAY BE RELEASED BY THE COMMISSIONER WITH THE WRITTEN CONSENT OF THE COMPANY.**

**(J) ALL PARTS OF A MEMORANDUM IN SUPPORT OF AN OPINION SUBMITTED UNDER § 5-201.1 OF THIS TITLE OR A PRINCIPLE-BASED VALUATION REPORT**

DEVELOPED UNDER § 5-314(B)(1)(III) OF THIS SUBTITLE ARE NO LONGER CONFIDENTIAL INFORMATION IF ANY PART OF THE MEMORANDUM OR REPORT IS:

- (1) CITED BY THE COMPANY IN ITS MARKETING;
- (2) PUBLICLY VOLUNTEERED TO OR BEFORE A GOVERNMENTAL UNIT OTHER THAN A STATE INSURANCE DEPARTMENT; OR
- (3) RELEASED BY THE COMPANY TO THE NEWS MEDIA.

5-317.

(A) THE COMMISSIONER MAY EXEMPT A SPECIFIC PRODUCT FORM OR PRODUCT LINE OF A DOMESTIC COMPANY THAT HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE COMMISSIONER AND IS DOING BUSINESS ONLY IN THE STATE FROM THE REQUIREMENTS OF § 5-313 OF THIS SUBTITLE IF:

- (1) THE COMMISSIONER HAS ISSUED AN EXEMPTION IN WRITING TO THE COMPANY;
- (2) THE EXEMPTION HAS NOT BEEN REVOKED IN WRITING BY THE COMMISSIONER; AND
- (3) THE COMPANY COMPUTES RESERVES:
  - (I) USING ASSUMPTIONS AND METHODS USED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL; AND
  - (II) IN ACCORDANCE WITH ANY REQUIREMENTS ESTABLISHED BY THE COMMISSIONER BY REGULATION.

(B) (1) A COMPANY THAT IS GRANTED AN EXEMPTION UNDER SUBSECTION (A) OF THIS SECTION IS SUBJECT TO § 5-201 OF THIS TITLE AND §§ 5-302 THROUGH 5-312 OF THIS SUBTITLE.

(2) WITH RESPECT TO A COMPANY THAT IS GRANTED AN EXEMPTION UNDER SUBSECTION (A) OF THIS SECTION, ANY REFERENCE TO § 5-313 OF THIS SUBTITLE FOUND IN § 5-201.1 OF THIS TITLE AND §§ 5-302 THROUGH 5-312 OF THIS SUBTITLE IS NOT APPLICABLE.

(C) THE COMMISSIONER MAY EXEMPT A DOMESTIC COMPANY THAT HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE COMMISSIONER AND IS DOING BUSINESS IN THE STATE FROM THE REQUIREMENTS OF §§ 5-314 AND 5-315 OF THIS SUBTITLE IF:

(1) THE DOMESTIC COMPANY HAS LESS THAN \$500,000,000 OF ORDINARY LIFE PREMIUMS AND, IF THE DOMESTIC COMPANY IS A MEMBER OF A GROUP OF LIFE INSURERS, THE GROUP HAS COMBINED ORDINARY LIFE PREMIUMS OF LESS THAN \$1,000,000,000;

(2) (I) THE DOMESTIC COMPANY REPORTED TOTAL ADJUSTED CAPITAL OF AT LEAST 450% OF THE AUTHORIZED CONTROL LEVEL RISK-BASED CAPITAL IN THE MOST RECENT RISK-BASED CAPITAL REPORT; AND

(II) THE APPOINTED ACTUARY HAS PROVIDED AN UNQUALIFIED OPINION ON THE RESERVES FOR THE PRIOR CALENDAR YEAR; AND

(3) ANY UNIVERSAL LIFE INSURANCE POLICIES WITH SECONDARY GUARANTEES ISSUED OR ASSUMED BY THE DOMESTIC COMPANY WITH AN ISSUE DATE ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL DO NOT EXCEED 5% OF THE TOTAL IN-FORCE RESERVES FOR THE DOMESTIC COMPANY.

(D) FOR PURPOSES OF SUBSECTION (C) OF THIS SECTION, ORDINARY LIFE PREMIUMS ARE MEASURED AS DIRECT PREMIUM PLUS REINSURANCE ASSUMED FROM AN UNAFFILIATED COMPANY, AS REPORTED IN THE ANNUAL STATEMENT FOR THE PRIOR CALENDAR YEAR.

(E) (1) A DOMESTIC COMPANY THAT MEETS THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION SHALL:

(I) COMPUTE RESERVES:

1. USING ASSUMPTIONS AND METHODS USED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL; AND

2. IN ACCORDANCE WITH ANY REQUIREMENTS ESTABLISHED BY THE COMMISSIONER IN REGULATION; AND

(II) FILE, BEFORE JULY 1 OF EACH YEAR, A STATEMENT WITH THE COMMISSIONER CERTIFYING THAT THE DOMESTIC COMPANY MEETS THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION FOR THE CURRENT CALENDAR YEAR BASED ON PREMIUMS AND OTHER VALUES FROM THE FINANCIAL STATEMENTS FOR THE PRIOR CALENDAR YEAR.

(2) BEFORE SEPTEMBER 1 OF EACH YEAR, THE COMMISSIONER MAY REJECT A STATEMENT FILED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION AND

**REQUIRE A DOMESTIC COMPANY TO COMPLY WITH THE VALUATION MANUAL REQUIREMENTS FOR LIFE INSURANCE RESERVES.**

16-309.

**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(2) “OPERATIVE DATE OF THE VALUATION MANUAL” HAS THE MEANING STATED IN § 5-201.1(A) OF THIS ARTICLE.**

**(3) “VALUATION MANUAL” HAS THE MEANING STATED IN § 5-201.1(A) OF THIS ARTICLE.**

**[(a)] (B)** This section applies to policies of life insurance issued:

(1) on or after January 1, 1989; or

(2) on or after an operative date that is before January 1, 1989, as specified by the insurer if the insurer filed with the Commissioner written notice of an election to comply with this section on a date before January 1, 1989.

**[(b)] (C) (1)** For purposes of this section, the date of issue of a policy is the date as of which the rated age of the insured is determined.

(2) Except as provided in subsection (g) of this section, and subject to paragraph (3) of this subsection, the adjusted premiums for a policy shall be calculated on an annual basis and shall be a uniform percentage of the premiums specified in the policy for each policy year so that the present value of the adjusted premiums shall equal the sum of:

(i) the present value of the future guaranteed benefits, calculated as of the date of issue, provided by the policy;

(ii) 1% of either:

1. the amount of insurance if the insurance is a uniform amount; or

2. the average amount of insurance at the beginning of each of the first 10 policy years; and

(iii) subject to paragraphs (4) and (5) of this subsection, 125% of the nonforfeiture net level premium.

(3) In calculating adjusted premiums, any extra premium for impairments or special hazards or any uniform annual contract charge or policy fee specified in the policy in a statement of the method used to calculate cash surrender values and paid-up nonforfeiture benefits is excluded.

(4) The nonforfeiture net level premium shall equal the present value of the guaranteed benefits, calculated as of the date of issue, provided by the policy divided by the present value of an annuity of 1 per year, calculated as of the date of issue, payable on the date of issue of the policy and on each anniversary on which a premium is due.

(5) In applying the percentage specified in paragraph (2)(iii) of this subsection, a nonforfeiture net level premium may not be considered to exceed 4% of:

- (i) the amount of insurance if the insurance is a uniform amount; or
- (ii) the average amount of insurance at the beginning of each of the first 10 policy years.

**[(c)] (D)** (1) If a policy provides for unscheduled changes in benefits or premiums on a basis guaranteed by the policy or provides an option for changes in benefits or premiums, other than a change to a new policy, the adjusted premiums and present values initially shall be calculated on the assumption that future benefits and premiums will not change from those stipulated at the date of issue of the policy.

(2) When benefits or premiums are changed, the future adjusted premiums, nonforfeiture net level premiums, and present values shall be recalculated as of the date of the change in the policy in accordance with this section on the assumption that future benefits and premiums will not change from those stipulated by the policy immediately after the change.

**[(d)] (E)** (1) Except as provided in subsection **[(g)] (H)** of this section, the future adjusted premiums recalculated under subsection **[(c)(2)] (D)(2)** of this section shall be a uniform percentage of the future premiums specified in the policy for each policy year so that the present value of the future adjusted premiums, calculated as of the time of the change to the newly defined benefits or premiums, shall equal the remainder of:

- (i) the sum of the present value of the future guaranteed benefits, calculated as of the time of the change to the newly defined benefits or premiums, provided by the policy and any additional expense allowance; less
- (ii) any cash surrender value or the present value of any paid-up nonforfeiture benefit under the policy, calculated as of the time of the change to the newly defined benefits or premiums.

(2) In recalculating future adjusted premiums, any extra premium for impairments or special hazards or any uniform annual contract charge or policy fee

specified in the policy in a statement of the method used to calculate cash surrender values and paid-up nonforfeiture benefits is excluded.

**[(e)] (F)** The additional expense allowance, calculated as of the time of the change to the newly defined benefits or premiums, is the sum of:

(1) 1% of the remainder, if positive, of:

(i) the average amount of insurance at the beginning of each of the first 10 policy years subsequent to the change; less

(ii) the average amount of insurance before the change at the beginning of each of the first 10 policy years subsequent to the most recent previous change or, if there has not been a previous change, subsequent to the date of issue of the policy; and

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

**[(f)] (G)** The recalculated nonforfeiture net level premium equals the quotient of:

(1) the sum of:

(i) the nonforfeiture net level premium applicable before the change multiplied by the present value of an annuity of 1 per year payable on each anniversary of the policy on or subsequent to the date of change on which a premium would have been due had the change not occurred; and

(ii) the present value of the increase in future guaranteed benefits provided by the policy; divided by

(2) the present value of an annuity of 1 per year payable on each anniversary of the policy on or after the date of change on which a premium is due.

**[(g)] (H)** (1) This subsection applies only to policies issued on a substandard basis that provide reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on a standard basis that provides higher uniform amounts of insurance.

(2) Notwithstanding any other provision of this section, the adjusted premiums and present values for a substandard policy subject to this subsection may be calculated as if the policy was issued to provide the higher uniform amounts of insurance on the standard basis.

**[(h)] (I)** (1) (i) For policies of ordinary life insurance, the adjusted premiums and present values referred to in this subtitle shall be calculated based on:

1. the Commissioners 1980 Standard Ordinary Mortality Table; or

2. at the election of the insurer for one or more specified life insurance plans, the Commissioners 1980 Standard Ordinary Mortality Table with 10-year select mortality factors.

(ii) For policies of industrial life insurance, the adjusted premiums and present values referred to in this subtitle shall be calculated based on the Commissioners 1961 Standard Industrial Mortality Table.

(2) Adjusted premiums and present values for policies issued in any calendar year shall be calculated based on an interest rate that does not exceed the nonforfeiture interest rate calculated under this section:

(i) for that calendar year; or

(ii) at the option of the insurer, for the immediately preceding calendar year.

**[(i)] (J)** (1) Any cash surrender value available under a paid-up nonforfeiture benefit, including any paid-up dividend additions, regardless of whether required under § 16-303 of this subtitle, shall be calculated based on the mortality table and interest rate used to determine the amount of the paid-up nonforfeiture benefit and any paid-up dividend additions.

(2) An insurer may not calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy based on an interest rate lower than the rate specified in the policy for calculating cash surrender values.

(3) In calculating the present value of any paid-up term insurance with any accompanying pure endowment offered as a nonforfeiture benefit, an insurer may not assume a mortality rate greater than the mortality rates shown in:

(i) for policies of ordinary life insurance, the Commissioners 1980 Extended Term Insurance Table; and

(ii) for policies of industrial life insurance, the Commissioners 1961 Industrial Extended Term Insurance Table.

(4) The calculation of adjusted premiums and present values for insurance issued on a substandard basis may be based on appropriate modifications of the tables required under this section.



(5) (I) [In] FOR POLICIES ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL, IN determining the minimum nonforfeiture standard, an insurer may substitute [an] ANY COMMISSIONERS STANDARD ordinary mortality table adopted after 1980 by the National Association of Insurance Commissioners and approved by regulation of the Commissioner for the Commissioners 1980 Standard Ordinary Mortality Table, with or without 10-year select mortality factors or for the Commissioners 1980 Extended Term Insurance Table.

(II) 1. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE VALUATION MANUAL SHALL PROVIDE THE COMMISSIONERS STANDARD MORTALITY TABLE FOR USE IN DETERMINING THE MINIMUM NONFORFEITURE STANDARD THAT MAY BE SUBSTITUTED FOR:

A. THE COMMISSIONERS 1980 STANDARD ORDINARY MORTALITY TABLE, WITH OR WITHOUT 10-YEAR SELECT MORTALITY FACTORS; OR

B. THE COMMISSIONERS 1980 EXTENDED TERM INSURANCE TABLE.

2. IF THE COMMISSIONER APPROVES BY REGULATION ANY COMMISSIONERS STANDARD ORDINARY MORTALITY TABLE ADOPTED BY THE NAIC FOR USE IN DETERMINING THE MINIMUM NONFORFEITURE STANDARD FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE MINIMUM NONFORFEITURE STANDARD APPROVED BY THE COMMISSIONER SUPERSEDES THE MINIMUM NONFORFEITURE STANDARD PROVIDED BY THE VALUATION MANUAL.

(6) (I) [In] FOR POLICIES ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL, IN determining the minimum nonforfeiture standard, an insurer may substitute [an] ANY COMMISSIONERS STANDARD industrial mortality table adopted after 1980 by the National Association of Insurance Commissioners and approved by regulation of the Commissioner for the Commissioners 1961 Standard Industrial Mortality Table or for the Commissioners 1961 Industrial Extended Term Insurance Table.

(II) 1. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE VALUATION MANUAL SHALL PROVIDE THE COMMISSIONERS STANDARD MORTALITY TABLE FOR USE IN DETERMINING THE MINIMUM NONFORFEITURE STANDARD THAT MAY BE SUBSTITUTED FOR:

A. THE COMMISSIONERS 1961 STANDARD INDUSTRIAL MORTALITY TABLE; OR

**B. THE COMMISSIONERS 1961 INDUSTRIAL EXTENDED TERM INSURANCE TABLE.**

**2. IF THE COMMISSIONER APPROVES BY REGULATION ANY COMMISSIONERS STANDARD INDUSTRIAL MORTALITY TABLE ADOPTED BY THE NAIC FOR USE IN DETERMINING THE MINIMUM NONFORFEITURE STANDARD FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE MINIMUM NONFORFEITURE STANDARD APPROVED BY THE COMMISSIONER SUPERSEDES THE MINIMUM NONFORFEITURE STANDARD PROVIDED BY THE VALUATION MANUAL.**

(j) **(1) [The] FOR POLICIES ISSUED BEFORE THE OPERATIVE DATE OF THE VALUATION MANUAL, THE nonforfeiture interest rate per year for a policy issued during a calendar year shall equal THE GREATER OF:**

**(I) 4%; OR**

**(II) 125% of the calendar year statutory valuation interest rate for the policy, in accordance with the standard valuation law, set forth in Title 5, Subtitle 3 of this article, rounded to the nearest 0.25%.**

**(2) FOR POLICIES ISSUED ON OR AFTER THE OPERATIVE DATE OF THE VALUATION MANUAL, THE NONFORFEITURE INTEREST RATE PER YEAR FOR A POLICY ISSUED DURING A CALENDAR YEAR SHALL BE THE INTEREST RATE PROVIDED BY THE VALUATION MANUAL.**

(k) Notwithstanding any other provision of this article, an insurer that refiles nonforfeiture values or refiles the method of calculating nonforfeiture values for a policy form that has been previously approved need not refile any other provision of the policy form if the refile only involves a change in the interest rate or mortality table used to calculate nonforfeiture values.

SECTION 3. AND BE IT FURTHER ENACTED, That, in the event of a conflict between Maryland law and the valuation manual, as defined in § 5-201.1(a) of the Insurance Article, as enacted by Section 2 of this Act, the conflict shall be resolved in favor of Maryland law.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That:

(a) This Act is contingent on:

(1) the adoption of the valuation manual, as defined in § 5-201.1(a) of the Insurance Article, as enacted by Section 2 of this Act, in accordance with § 5-313(b)(1) of the Insurance Article, as enacted by Section 2 of this Act; and

(2) the occurrence of the events described in § 5–313(b)(2) and (3) of the Insurance Article, as enacted by Section 2 of this Act.

(b) The Maryland Insurance Commissioner shall notify the Department of Legislative Services within 5 days after the contingencies under subsection (a) have been met.

(c) If notice of the satisfaction of the contingencies under subsection (a) of this section is not received by the Department on or before January 1, 2017, this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That, subject to Section 3 of this Act, this Act shall take effect October 1, 2015.

**Approved by the Governor, May 12, 2015.**