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§5–306. IN EFFECT

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

(2) "Change in fund basis" means a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in a fund held under an annuity or under a guaranteed interest contract is the calendar year statutory valuation interest rate for the year of the change in the fund.

(3) "Guarantee duration" means:

(i) for life insurance, the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates, nonforfeiture values, or both, that are guaranteed in the original policy; and

(ii) for an annuity or for a guaranteed interest contract:

1. if the annuity or the guaranteed interest contract has a cash settlement option, the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years; and

2. if the annuity or the guaranteed interest contract does not have a cash settlement option, the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(4) "Issue year basis" means a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or of the guaranteed interest contract is the calendar year statutory valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract.

(b) This section applies to:

(1) all life insurance policies issued on or after the operative date of § 16–309 of this article;

(2) all individual annuity contracts and pure endowment contracts issued on or after January 1, 1983;

(3) all annuities and pure endowments purchased on or after January 1, 1983, under group annuity contracts or pure endowment contracts; and

(4) the net increase, on or after January 1, 1983, in amounts held under

guaranteed interest contracts.

(c) Instead of the interest rates specified in §§ 5–304 and 5–305 of this subtitle, the interest rates used to determine the minimum standard for the valuation of a policy, contract, annuity, or pure endowment, or net increase described in subsection (b) of this section shall be:

(1) for a life insurance policy or an individual annuity contract or pure endowment contract, the calendar year statutory valuation interest rate as determined under this section for the calendar year in which the policy or contract was issued;

(2) for an annuity or pure endowment purchased under a group annuity contract or pure endowment contract, the calendar year statutory valuation interest rate as determined under this section for the calendar year in which the annuity or pure endowment was purchased; or

(3) for a net increase in an amount held under a guaranteed interest contract, the calendar year statutory valuation interest rate as determined under this section for the calendar year in which the net increase occurred.

(d) (1) For purposes of the formulas under paragraph (2) of this subsection:

(i) "I" is the calendar year statutory valuation interest rate;

(ii) "R1" is the lesser of R and .09;

(iii) "R2" is the greater of R and .09;

(iv) "R" is the reference interest rate determined under subsection (f) of this section; and

(v) "W" is the weighting factor determined under subsection (e) of this section.

(2) (i) Except as provided in paragraph (3) of this subsection, the calendar year statutory valuation interest rates shall be determined as provided in this paragraph, rounding the results to the nearest 1/4 percent.

(ii) The calendar year statutory valuation interest rate for life insurance is:

$$I = .03 + W(R1 - .03) + W/2(R2 - .09).$$

(iii) The calendar year statutory valuation interest rate for a single premium immediate annuity or for an annuity benefit involving a life contingency arising from another annuity or guaranteed interest contract that has a cash settlement option is:

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

(iv) Except as provided in subparagraph (iii) of this paragraph, for an annuity or guaranteed interest contract that has a cash settlement option and is valued on an issue year basis:

1. the formula for life insurance under subparagraph (ii) of this paragraph applies if the annuity or guaranteed interest contract has a guarantee duration greater than 10 years; and

2. the formula for single premium annuities under subparagraph (iii) of this paragraph applies if the annuity or guaranteed interest contract has a guarantee duration of 10 years or less.

(v) The formula for single premium annuities under subparagraph (iii) of this paragraph applies to any other annuity or guaranteed interest contract that does not have a cash settlement option.

(vi) The formula for single premium annuities under subparagraph (iii) of this paragraph applies to any other annuity or guaranteed interest contract that has a cash settlement option and is valued on a change in fund basis.

(3) (i) If the calendar year statutory valuation interest rate for a life insurance policy issued in any calendar year determined without reference to this paragraph differs from the corresponding actual rate for a similar policy issued in the immediately preceding calendar year by less than 0.5%, the calendar year statutory valuation interest rate for that life insurance policy shall equal the corresponding actual rate for the immediately preceding calendar year.

(ii) For purposes of this paragraph, the calendar year statutory valuation interest rate for a life insurance policy issued in a calendar year shall be:

1. determined for 1980 using the reference interest rate determined for 1979; and

2. determined for each calendar year since 1980 regardless of when § 16–309 of this article became operative.

(e) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Plan Type A” means a plan type under which:

1. at any time the policyholder may withdraw funds only:

A. with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer;

B. without the adjustment required by subitem A of this item but in installments over 5 years or more; or

C. as an immediate life annuity; or

2. no withdrawal is allowed at any time.

(iii) "Plan Type B" means a plan type under which:

1. before the expiration of the interest rate guarantee:

A. the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer;

B. the policyholder may withdraw funds without the adjustment required by subitem A of this item but in installments over 5 years or more; or

C. no withdrawal of funds is allowed; and

2. at the end of interest rate guarantee, the policyholder may withdraw funds without the adjustment required by item 1A of this subparagraph in a single sum or installments over less than 5 years.

(iv) "Plan Type C" means a plan type under which a policyholder may withdraw funds before the expiration of the interest rate guarantee in a single sum or in installments over less than 5 years:

1. without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or

2. subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(2) For the purposes of this subsection, an insurer:

(i) may elect to value annuities or guaranteed interest contracts that have cash settlement options on an issue year basis or a change in fund basis; and

(ii) shall value annuities or guaranteed interest contracts that do not have cash settlement options on an issue year basis.

(3) The weighting factor in the formulas under subsection (d) of this section shall be determined as provided in this subsection.

(4) The weighting factor for life insurance is determined based on the guarantee duration of the life insurance as follows:

Guarantee Duration (Years)	Weighting Factor
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

(5) The weighting factor for a single premium immediate annuity or for an annuity benefit involving a life contingency arising from another annuity or guaranteed interest contract that has a cash settlement option is .80.

(6) Except as provided in paragraphs (5) and (8) of this subsection, the weighting factor for an annuity or guaranteed interest contract valued on an issue year basis is determined based on the guarantee duration of the annuity or contract as follows:

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

(7) Except as provided in paragraphs (5) and (8) of this subsection, the weighting factor for an annuity or guaranteed interest contract valued on a change in fund basis is the weighting factor as determined under paragraph (6) of this subsection, increased by:

(i) for Plan Type A, .15;

(ii) for Plan Type B, .25; and

(iii) for Plan Type C, .05.

(8) The weighting factor as determined under paragraph (6) or (7) of this subsection shall be increased by .05 for:

(i) an annuity or guaranteed interest contract that is valued on an issue year basis, has a cash settlement option, and does not guarantee interest rates on amounts received more than 12 months after issue or purchase; or

(ii) an annuity or guaranteed interest contract that is valued on a change in fund basis and does not guarantee interest rates on amounts received more than 12 months beyond the valuation date.

(f) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Moody's corporate bond yield average" means Moody's corporate bond yield average – monthly average corporates, as published by Moody's Investors Service, Inc.

(iii) "12–month Moody's corporate bond yield average" means the average of Moody's corporate bond yield average over the 12–month period that ends:

1. for life insurance, on June 30 of the calendar year immediately preceding the year of issue;

2. for an annuity or guaranteed interest contract other than one described in item 3 of this subparagraph, on June 30 of the calendar year of issue or purchase; and

3. for an annuity or guaranteed interest contract that has a cash settlement option, is valued on a change in fund basis, is not a single premium immediate annuity, and is not an annuity benefit involving a life contingency arising from another annuity or guaranteed interest contract that has a cash settlement option, on June 30 of the calendar year of the change in the fund.

(iv) "36–month Moody's corporate bond yield average" means the average of Moody's corporate bond yield average over the 36–month period that ends:

1. for life insurance, on June 30 of the calendar year immediately preceding the year of issue; and

2. for an annuity or a guaranteed interest contract, on June 30 of the calendar year of issue or purchase.

(2) The reference interest rate in the formulas under subsection (d) of this section shall be determined as provided in this subsection.

(3) For life insurance, the reference interest rate is the lesser of:

(i) the 36–month Moody's corporate bond yield average; or

(ii) the 12–month Moody's corporate bond yield average.

(4) For a single premium immediate annuity or for an annuity benefit involving a life contingency arising from another annuity or guaranteed interest contract that has a cash settlement option, the reference interest rate is the 12–month Moody's corporate bond yield average.

(5) Except as provided in paragraph (4) of this subsection, for an annuity or guaranteed interest contract that has a cash settlement option, is valued on an issue year basis, and has a guarantee duration greater than 10 years, the reference interest rate is the lesser of:

(i) the 36–month Moody's corporate bond yield average; or

(ii) the 12–month Moody's corporate bond yield average.

(6) Except as provided in paragraph (4) of this subsection, the reference interest rate is the 12–month Moody's corporate bond yield average for any other annuity or guaranteed interest contract that:

(i) has a cash settlement option, is valued on an issue year basis, and has a guarantee duration of 10 years or less;

(ii) does not have a cash settlement option; or

(iii) has a cash settlement option and is valued on a change in fund basis.

(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 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 to determine the reference interest rate.

5–306. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 367 OF 2015 **

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

(2) "Change in fund basis" means a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in a fund held under an annuity or under a guaranteed interest contract is the calendar year statutory valuation interest rate for the year of the change in the fund.

(3) "Guarantee duration" means:

(i) for life insurance, the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates, nonforfeiture values, or both, that are guaranteed in the original policy; and

(ii) for an annuity or for a guaranteed interest contract:

1. if the annuity or the guaranteed interest contract has a cash settlement option, the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years; and

2. if the annuity or the guaranteed interest contract does not have a cash settlement option, the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(4) "Issue year basis" means a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or of the guaranteed interest contract is the calendar year statutory valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract.

(b) This section applies to:

(1) all life insurance policies issued on or after the operative date of § 16–309 of this article;

(2) all individual annuity contracts and pure endowment contracts issued on or after January 1, 1983;

(3) all annuities and pure endowments purchased on or after January 1, 1983, under group annuity contracts or pure endowment contracts; and

(4) the net increase, on or after January 1, 1983, in amounts held under guaranteed interest contracts.

(c) Instead of the interest rates specified in §§ 5–304 and 5–305 of this subtitle, the interest rates used to determine the minimum standard for the valuation of a policy, contract, annuity, or pure endowment, or net increase described in subsection (b) of this section shall be:

(1) for a life insurance policy or an individual annuity contract or pure endowment contract, the calendar year statutory valuation interest rate as determined under this section for the calendar year in which the policy or contract was issued;

(2) for an annuity or pure endowment purchased under a group annuity contract or pure endowment contract, the calendar year statutory valuation interest rate as determined under this section for the calendar year in which the annuity or pure endowment was purchased; or

(3) for a net increase in an amount held under a guaranteed interest contract, the calendar year statutory valuation interest rate as determined under this section for the calendar year in which the net increase occurred.

(d) (1) For purposes of the formulas under paragraph (2) of this subsection:

(i) "I" is the calendar year statutory valuation interest rate;

(ii) "R1" is the lesser of R and .09;

(iii) "R2" is the greater of R and .09;

(iv) "R" is the reference interest rate determined under subsection (f) of this section; and

(v) "W" is the weighting factor determined under subsection (e) of this section.

(2) (i) Except as provided in paragraph (3) of this subsection, the calendar year statutory valuation interest rates shall be determined as provided in this paragraph, rounding the results to the nearest 1/4 percent.

(ii) The calendar year statutory valuation interest rate for life insurance is:

$$I = .03 + W(R1 - .03) + W/2(R2 - .09).$$

(iii) The calendar year statutory valuation interest rate for a single premium immediate annuity or for an annuity benefit involving a life contingency arising from another annuity or guaranteed interest contract that has a cash settlement option is:

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

(iv) Except as provided in subparagraph (iii) of this paragraph, for an annuity or guaranteed interest contract that has a cash settlement option and is valued on an issue year basis:

1. the formula for life insurance under subparagraph (ii) of this paragraph applies if the annuity or guaranteed interest contract has a guarantee duration greater than 10 years; and

2. the formula for single premium annuities under subparagraph (iii) of this paragraph applies if the annuity or guaranteed interest contract has a guarantee duration of 10 years or less.

(v) The formula for single premium annuities under subparagraph (iii) of this paragraph applies to any other annuity or guaranteed interest contract that does not have a cash settlement option.

(vi) The formula for single premium annuities under subparagraph (iii) of this paragraph applies to any other annuity or guaranteed interest contract that has a cash settlement option and is valued on a change in fund basis.

(3) (i) If the calendar year statutory valuation interest rate for a life insurance policy issued in any calendar year determined without reference to this paragraph differs from the corresponding actual rate for a similar policy issued in the immediately preceding calendar year by less than 0.5%, the calendar year statutory valuation interest rate for that life insurance policy shall equal the corresponding actual rate for the immediately preceding calendar year.

(ii) For purposes of this paragraph, the calendar year statutory valuation interest rate for a life insurance policy issued in a calendar year shall be:

1. determined for 1980 using the reference interest rate determined for 1979; and

2. determined for each calendar year since 1980 regardless of when § 16–309 of this article became operative.

(e) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Plan Type A" means a plan type under which:

1. at any time the policyholder may withdraw funds only:

A. with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer;

B. without the adjustment required by subitem A of this item but in installments over 5 years or more; or

C. as an immediate life annuity; or

2. no withdrawal is allowed at any time.

(iii) "Plan Type B" means a plan type under which:

1. before the expiration of the interest rate guarantee:

A. the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer;

B. the policyholder may withdraw funds without the adjustment required by subitem A of this item but in installments over 5 years or more; or

C. no withdrawal of funds is allowed; and

2. at the end of interest rate guarantee, the policyholder may withdraw funds without the adjustment required by item 1A of this subparagraph in a single sum or installments over less than 5 years.

(iv) "Plan Type C" means a plan type under which a policyholder may withdraw funds before the expiration of the interest rate guarantee in a single sum or in installments over less than 5 years:

1. without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or

2. subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(2) For the purposes of this subsection, an insurer:

(i) may elect to value annuities or guaranteed interest contracts that have cash settlement options on an issue year basis or a change in fund basis; and

(ii) shall value annuities or guaranteed interest contracts that do not have cash settlement options on an issue year basis.

(3) The weighting factor in the formulas under subsection (d) of this section shall be determined as provided in this subsection.

(4) The weighting factor for life insurance is determined based on the guarantee duration of the life insurance as follows:

Guarantee Duration (Years)	Weighting Factor
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

(5) The weighting factor for a single premium immediate annuity or for an annuity benefit involving a life contingency arising from another annuity or guaranteed interest contract that has a cash settlement option is .80.

(6) Except as provided in paragraphs (5) and (8) of this subsection, the weighting factor for an annuity or guaranteed interest contract valued on an issue year basis is determined based on the guarantee duration of the annuity or contract as follows:

Guarantee	Weighting Factor	

Duration	For Plan Type		
(Years)	A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

(7) Except as provided in paragraphs (5) and (8) of this subsection, the weighting factor for an annuity or guaranteed interest contract valued on a change in fund basis is the weighting factor as determined under paragraph (6) of this subsection, increased by:

(i) for Plan Type A, .15;

(ii) for Plan Type B, .25; and

(iii) for Plan Type C, .05.

(8) The weighting factor as determined under paragraph (6) or (7) of this subsection shall be increased by .05 for:

(i) an annuity or guaranteed interest contract that is valued on an issue year basis, has a cash settlement option, and does not guarantee interest rates on amounts received more than 12 months after issue or purchase; or

(ii) an annuity or guaranteed interest contract that is valued on a change in fund basis and does not guarantee interest rates on amounts received more than 12 months beyond the valuation date.

(f) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Moody's corporate bond yield average" means Moody's corporate bond yield average – monthly average corporates, as published by Moody's Investors Service, Inc.

(iii) "12–month Moody's corporate bond yield average" means the average of Moody's corporate bond yield average over the 12–month period that ends:

1. for life insurance, on June 30 of the calendar year immediately preceding the year of issue;

2. for an annuity or guaranteed interest contract other than

one described in item 3 of this subparagraph, on June 30 of the calendar year of issue or purchase; and

3. for an annuity or guaranteed interest contract that has a cash settlement option, is valued on a change in fund basis, is not a single premium immediate annuity, and is not an annuity benefit involving a life contingency arising from another annuity or guaranteed interest contract that has a cash settlement option, on June 30 of the calendar year of the change in the fund.

(iv) "36–month Moody's corporate bond yield average" means the average of Moody's corporate bond yield average over the 36–month period that ends:

1. for life insurance, on June 30 of the calendar year immediately preceding the year of issue; and

2. for an annuity or a guaranteed interest contract, on June 30 of the calendar year of issue or purchase.

(2) The reference interest rate in the formulas under subsection (d) of this section shall be determined as provided in this subsection.

(3) For life insurance, the reference interest rate is the lesser of:

(i) the 36–month Moody's corporate bond yield average; or

(ii) the 12–month Moody's corporate bond yield average.

(4) For a single premium immediate annuity or for an annuity benefit involving a life contingency arising from another annuity or guaranteed interest contract that has a cash settlement option, the reference interest rate is the 12–month Moody's corporate bond yield average.

(5) Except as provided in paragraph (4) of this subsection, for an annuity or guaranteed interest contract that has a cash settlement option, is valued on an issue year basis, and has a guarantee duration greater than 10 years, the reference interest rate is the lesser of:

(i) the 36–month Moody's corporate bond yield average; or

(ii) the 12–month Moody's corporate bond yield average.

(6) Except as provided in paragraph (4) of this subsection, the reference interest rate is the 12–month Moody's corporate bond yield average for any other annuity or guaranteed interest contract that:

(i) has a cash settlement option, is valued on an issue year basis, and has a guarantee duration of 10 years or less;

(ii) does not have a cash settlement option; or

(iii) has a cash settlement option and is valued on a change in fund basis.

(7) If Moody's corporate bond yield average is no longer published by Moody's Investors Service, Inc. or if 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 NAIC to determine the reference interest rate.

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