LEGISLATURE OF THE STATE OF IDAHO

Sixty-third Legislature — Second Regular Session - 2016

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 432

BY BUSINESS COMMITTEE

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-612, IDAHO CODE, TO DEFINE TERMS AND TO REVISE THE PROCEDURE FOR HOW INSURANCE POLICIES ARE VALUED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-1927, IDAHO CODE, TO DEFINE A TERM AND TO PROVIDE NONFORFEITURE STANDARDS; AND AMENDING SECTION 74-107, IDAHO CODE, TO PROVIDE THAT CERTAIN INFORMATION SUBMITTED TO INSURANCE COMPANIES SHALL BE EXEMPT FROM DISCLOSURE AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-612, Idaho Code, be, and the same is hereby amended to read as follows:

41-612. STANDARD VALUATION LAW -- LIFE INSURANCE.

(1) (a) This section shall be known as the standard valuation law.

(b) For the purposes of this section the following definitions shall apply on or after the operative date of the valuation manual:

(i) "Accident and health insurance" means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness or medical conditions and as may be specified in the valuation manual. As used in this section and in the valuation manual, this term is synonymous with disability insurance as defined in section 41-503, Idaho Code.

(ii) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in subsection (12)(b) of this section.

(iii) "Company" means an entity, which (a) has written, issued or reinsured life insurance contracts, accident and health insurance contracts or deposit-type contracts in this state and has at least one (1) such policy in force or on claim or (b) has written, issued or reinsured life insurance contracts, accident and health insurance contracts or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance or deposit-type contracts in this state.

(iv) "Deposit-type contract" means contracts that do not incorporate mortality or morbidity risks, and as may be specified in the valuation manual.

(v) "Life insurance" means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.

(vi) "NAIC" means the national association of insurance commissioners.

(vii) "Policyholder behavior" means any action a policyholder, contract holder or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this section including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract, but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(viii) "Principle-based valuation" means a reserve valuation that uses one (1) or more methods or one (1) or more assumptions determined by the insurer and is required to comply with subsection (15) of this section as specified in the valuation manual.

(ix) "Qualified actuary" means an individual who 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 who meets the requirements specified in the valuation manual.

(x) "Tail risk" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(xi) "Valuation manual" means the manual of valuation instructions adopted by the NAIC as specified in this section or as subsequently amended.

(2) Annual valuation.

(a) Policies and contracts issued prior to the operative date of the valuation manual.

(i) The director shall annually value, or cause to be valued, the reserve liabilities (hereinafter ~~called~~ "reserves") for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, and ~~may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or others) used in the calculation of such reserves~~ issued on or after the operative date specified in section 41-1927, Idaho Code, and prior to the operative date of the valuation manual. In the case of an alien insurer, such valuation shall be limited to its insurance transactions in the United States. In calculating such reserves, the director may use group methods and approximate averages for fractions of a year or otherwise. He may accept in his discretion the insurer's calculation of such reserves. In lieu of the valuation of the reserves ~~herein~~ required of any foreign or alien insurer, he may accept any valuation made or caused to be made by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard ~~herein~~ provided~~, and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the director when such certificate states the valuation to have been made in~~

~~a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction~~ in this section. Where any such valuation is made by the director, he may use the actuary of the department or employ an actuary for the purpose, and the reasonable compensation and expenses of the actuary, at a rate approved by the director, upon demand by the director supported by an itemized statement of such compensation and expenses, shall be paid by the insurer. When a domestic insurer furnishes the director with a valuation of its outstanding policies as computed by its own actuary or by an actuary deemed satisfactory for the purpose by the director, the valuation shall be verified by the actuary of the department without costs to the insurer.

(ii) The provisions set forth in subsections (4), (4a), (4b), (5), (6), (7), (8), (9), (10), (11) and (13) of this section shall apply to all policies and contracts, as appropriate, subject to this section, issued on or after the operative date specified in section 41-1927, Idaho Code, and prior to the operative date of the valuation manual, and the provisions set forth in subsections (14) and (15) of this section shall not apply to any such policies and contracts.

(iii) The minimum standard for the valuation of policies and contracts issued prior to January 1, 1914, shall be that provided by the laws in effect immediately prior to that date.

(b) Policies and contracts issued on or after the operative date of the valuation manual.

(i) The director shall annually value, or cause to be valued, the reserve liabilities (hereinafter "reserves") for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the director may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this section.

(ii) The provisions set forth in subsections (14) and (15) of this section shall apply to all policies and contracts issued on or after the operative date of the valuation manual.

(3) Except as ~~otherwise~~ provided in subsections (4) and (4a) of this section, the minimum standard for the valuation of ~~all~~ such policies and contracts issued on and after January 1, 1914, and prior to the operative date of section 41-1927, Idaho Code, (standard nonforfeiture law) shall be the American experience table of mortality and interest at three and one-half percent ($3^1/_2$%) per annum. Not more than one (1) year shall be used as a preliminary term. Extra charges may be made in particular cases of invalid lives and other extra hazards, policies may be valued in groups, and approximate averages may be used for fractions of a year. Policies other than ordinary and twenty (20) payment life may be valued according to the modified preliminary term, with twenty (20) payment life policies as a basis for such valuation.

This subsection applies only as to policies and contracts issued prior to the operative date of section 41-1927, Idaho Code.

(4) Except as otherwise provided in subsections (4a) and (4b) of this section, the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of section 41-1927, Idaho Code, (standard nonforfeiture law) shall be the commissioners reserve valuation methods defined in subsections (5), (6) and (10) of this section, three and one-half percent ($3^1/_2$%) interest for all other such policies and contracts, except that the rate shall be four and one-half percent ($4^1/_2$%) for individual annuity contracts, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, four percent (4%) interest for such policies issued prior to July 1, 1977, five and one-half percent ($5^1/_2$%) interest for single premium life insurance policies and four and one-half percent ($4^1/_2$%) interest for all other such policies issued on or after July 1, 1977, but prior to the operative date of subsection (9)(d) of the standard nonforfeiture law for life insurance as amended, seven percent (7%) interest for such policies issued on and after the operative date of subsection (9)(d) of the standard nonforfeiture law for life insurance as amended, and the following tables:

(a) For ~~all~~ ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioners 1941 standard ordinary mortality table for such policies issued prior to the operative date of subsection (9)(b) of section 41-1927, Idaho Code; the commissioners 1958 standard ordinary mortality table for such policies issued on or after the operative date of subsection (9)(b) of the standard nonforfeiture law for life insurance as amended and prior to the operative date of subsection (9)(d) of the standard nonforfeiture law for life insurance as amended; except, that for any category of such policies issued on female risks, all modified net premiums and present values, referred to in subsections (5) and (10) of this section, may be calculated according to an age not more than six (6) years younger than the actual age of the insured; and for such policies issued on or after the operative date of subsection (9)(d) of the standard nonforfeiture law for life insurance as amended:

(i) The commissioners 1980 standard ordinary mortality table, or

(ii) At the election of the company for any one (1) or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors, or

(iii) Any ordinary mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, ~~that~~ which is approved by ~~regulation~~ rule promulgated by the director for use in determining the minimum standard of valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 standard industrial mortality table for such policies issued prior to the operative date of subsection (9)(c) of section 41-1927, Idaho Code, and for such policies issued on or after such operative date the commissioners 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the ~~national~~

~~association of insurance commissioners~~ NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 standard annuity mortality table or, at the insurer's option, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the director.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the group annuity mortality table for 1951, any modification of such table approved by the director, or, at the insurer's option, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, 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 any tables of disablement rates and termination rates, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that are approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after the operative date of section 41-1927, Idaho Code, (standard nonforfeiture law) and prior to January 1, 1966, either such tables or, at the insurer's option, the class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies; for policies issued on or after the operative date of section 41-1927, Idaho Code, (standard nonforfeiture law) and prior to January 1, 1966, either such table or, at the insurer's option, the intercompany double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the director as being sufficient with relation to the benefits provided by such policies.

(4a) Except as provided in subsection (4b) of this section, the minimum standard ~~for the~~ of valuation ~~of~~ for all individual annuity and pure endowment contracts issued on or after the operative date of this subsection ~~(4a)~~, as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the commissioners reserve valuation methods defined in subsections (5) and (6) of this section and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued prior to July 1, 1977, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the director, and six percent (6%) interest for single premium immediate annuity contracts, and four and one-half percent ($4^1/_2$%) interest for all other individual annuity and pure endowment contracts.

(b) For individual single premium immediate annuity contracts issued on or after July 1, 1977, but prior to January 1, 1982, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the director, and seven and one-half percent ($7^1/_2$%) interest.

(c) For individual single premium immediate annuity contracts issued on or after January 1, 1982, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and eleven percent (11%) interest.

(d) For individual annuity and pure endowment contracts issued on or after July 1, 1977, but prior to January 1, 1982, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the director, and five and one-half percent ($5^1/_2$%) interest for single premium deferred annuity and pure endowment contracts and four and one-half percent ($4^1/_2$%) interest for all other such individual annuity and pure endowment contracts.

(e) For individual annuity and pure endowment contracts issued on or after January 1, 1982, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and eight percent (8%) interest.

(f) For ~~all~~ annuities and pure endowments purchased prior to July 1, 1977, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table, or any modification of this table approved by the director, and six percent (6%) interest.

(g) For ~~all~~ annuities and pure endowments purchased on or after July 1, 1977, but prior to January 1, 1982, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table, or any modification of this table approved by the director, and seven and one-half percent ($7^{1}/_{2}$%) interest.

(h) For ~~all~~ annuities and pure endowments purchased on or after January 1, 1982, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table or any group annuity mortality table, adopted after 1980 by the ~~national association of insurance commissioners~~ NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the director, and eleven percent (11%) interest.

After July 1, 1973, any insurer may file with the director a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1979, which shall be the operative date of this subsection for such insurer, provided that an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January 1, 1979.

(4b) For any calendar year on or after the effective date of subsection (9)(d) of the standard nonforfeiture law for life insurance in the case of life insurance policies issued on or after such effective date, and for any calendar year on or after January 1, 1982, in the case of:

(a) Individual annuity and pure endowment contracts issued on or after January 1, 1982;

(b) Annuities and pure endowments purchased on or after January 1, 1982, under group annuity and pure endowment contracts; and

(c) The net increase, if any, in any particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts, the company may elect, for the purpose of determining the minimum standard for valuation, for any category of policy or contract, the calendar year statutory valuation interest rate as defined in this subsection in lieu of the interest rate specified in subsection (4) or (4a) of this section.

The provisions of this subsection shall be applicable to:

A. The interest rates used in determining the minimum standard for the valuation of:

a. ~~All l~~Life insurance policies issued in a particular calendar year, on or after the operative date of subsection (9)(d) of the standard nonforfeiture law for life insurance;

b. ~~All i~~Individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982;

c. ~~All a~~Annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts; and

d. The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation interest rates as defined in this subsection.

B. Calendar year statutory valuation interest rates:

a. The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of one percent ($^1/_4$ of 1%).

1. For life insurance,
$I = .03 + W(R_1 - .03) + {}^W/_2(R_2 - .09)$;

2. For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,
$I = .03 + W (R - .03)$
where R_1 is the lesser of R and .09;
R_2 is the greater of R and .09;
R is the reference interest rate defined in this subsection and W is the weighting factor defined in this subsection,

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

4. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in 2. above shall apply,

5. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in 2. above shall apply.

b. However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent ($^1/_2$ of 1%), the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when subsection (9)(d) of the standard nonforfeiture law for life insurance becomes operative.

C. Weighting factors

a. The weighting factors referred to in the formulas stated above are given in the following tables:

1. Weighting factors for life insurance:

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

For life insurance, the guarantee duration is 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 or nonforfeiture values, or both, which are guaranteed in the original policy;

2. Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

.80

3. Weighting factors for other annuities and for guaranteed interest contracts, except as stated in 2. above, shall be as specified in tables (i), (ii) and (iii) below, according to the rules and definitions in (iv), (v) and (vi) below:

(i) For annuities and guaranteed interest contracts valued on an issue year basis:

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

	Plan Type		
(ii)	A	B	C
For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (i) above increased by:	.15	.25	.05

(iii)

For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one (1) year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve (12) months beyond the valuation date, the factors shown in (i) or derived in (ii) increased by:	.05	.05	.05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is 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 twenty (20) years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only:

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

(2) without such adjustment but in installments over five (5) years or more; or

(3) as an immediate life annuity; or

(4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only:

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

(2) without such adjustment but in installments over five (5) years or more; or

(3) no withdrawal permitted.

At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five (5) years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five (5) years, either:

(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.

(vi) An insurer may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this subsection, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

D. Reference interest rate

a. The reference interest rate referred to in paragraph B. of this subsection shall be defined as follows:

1. For ~~all~~ life insurance, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

b. For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

c. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options valued on a year of issue basis, except as stated in b. above, with guarantee duration in excess of ten (10) years, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

d. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in b. above, with guarantee duration of ten (10) years or less, the average over a period of twelve (12) months, ending June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

e. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

f. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in b. above, the average over a period of twelve (12) months, ending on June 30 of the calendar year of the change in the fund, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

E. Alternative method for determining reference interest rates

a. In the event that Moody's corporate bond yield average -- monthly average corporates is no longer published by Moody's Investors Service, Inc., or in the event that the ~~national association of insurance commissioners~~ NAIC determines that Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the ~~national association of insurance commissioners~~ NAIC and approved by regulation promulgated by the director, may be substituted.

(5) Commissioners reserve valuation method.

(a) Except as otherwise provided in subsections (6) and (10) of this section reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (i) over (ii) as follows:

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

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

Provided that for any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subsection (10) of this section, be the greater of the reserve as of such policy anniversary calculated as described in the preceding paragraph and the reserve as of such policy anniversary calculated as described in that paragraph, but with (a) the value defined in subparagraph (i) of that paragraph being reduced by fifteen percent (15%) of the amount of such excess first year premium, (b) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (c) the policy being assumed to mature on such date as an endowment, and (d) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest basis stated in subsections (4) and (4b) of this section shall be used.

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

(i) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums,

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

(iii) Disability and accidental death benefits in all policies and contracts, and

(iv) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts,

shall be calculated by a method consistent with the principles of subsection (5)(a) of this section, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

(6) Individual annuity and pure endowment reserves.

(a) This subsection ~~(6)~~ shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

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

(7) Minimum aggregate reserves. In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of section 41-1927, Idaho Code, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (5), (6), (10) and (11) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(8) Optional reserve basis.

(a) Reserves for ~~all~~ policies and contracts issued prior to the operative date of section 41-1927, Idaho Code, may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(b) For any category of policies, contracts or benefits specified in subsections (4), (4a) and (4b) of this section, issued on or after the operative date of section 41-1927, Idaho Code, (the standard nonforfeiture law), reserves may be calculated, at the option of the insurer, according to any standard or standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be ~~higher~~ greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for ~~therein~~ in the policies or contracts.

(9) Lower valuations. An insurer which at any time had adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard ~~herein~~ provided under this section may, with the approval of the director, adopt any lower standard of valuation, but not lower than the minimum ~~herein~~ provided under this section.

(10) Minimum reserve. If in any contract year the gross premium charged by any life insurer on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon, but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subsections (4) and (4b) of this section.

Provided that for any life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection ~~(10)~~ shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subsection (5) of this section, ignoring the second paragraph of subsection (5) of this section. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subsection (5) of this section, including the second paragraph of that subsection, and the minimum reserve calculated in accordance with this subsection ~~(10)~~.

(11) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on the then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections (5), (6) and (10) of this section, the reserves which are held under any such plan must:

(a) Be appropriate in relation to the benefits and the pattern of premiums for that plan, and

(b) Be computed by a method which is consistent with the principles of this standard valuation law,

as determined by rules promulgated by the director.

(12) Actuarial opinion of reserves.

(a) Actuarial opinion prior to the operative date of the valuation manual.

(~~a~~i) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the director by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The director by rule shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

(~~b~~ii) Actuarial analysis of reserves and assets supporting such reserves.

~~(i)~~1. Every life insurance company, except as exempted by or pursuant to rule, shall also annually include in the opinion required by subparagraph (~~a~~i) of this sub~~section~~paragraph, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the director by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts including, but not limited to, the benefits under and expenses associated with the policies and contracts.

~~(ii)~~2. The director may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required in this subsection.

(~~c~~iii) Requirements for opinion in subparagraph (~~b~~ii) of this ~~subsection~~ paragraph. Each opinion required in subparagraph (~~b~~ii) of this ~~subsection~~ paragraph shall be governed by the following provisions:

~~(i)~~1. A memorandum, in form and substance acceptable to the director as specified by rule, shall be prepared to support each actuarial opinion.

~~(ii)~~2. If the insurance company fails to provide a supporting memorandum at the request of the director within a period specified by rule or the director determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rules or otherwise unacceptable to the director, the director may engage a qualified actuary at the expense of the company to review the opinion and prepare such supporting memorandum as is required by the director.

(~~d~~iv) Requirements for all opinions subject to paragraph (a) of this subsection. Every opinion subject to paragraph (a)of this subsection shall be governed by the following provisions:

~~(i)~~1. The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1995.

~~(ii)~~2. The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the director as specified by rule.

~~(iii)~~3. The opinion shall be based on standards adopted from time to time by the actuarial standards board and on such additional standards as the director may by rule prescribe.

~~(iv)~~4. In the case of an opinion required to be submitted by a foreign or alien company, the director may accept the opinion filed by that company with the insurance supervisory official of another state if the director determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

~~(v)~~5. For the purposes of this subsection, "qualified actuary" means a member in good standing of the American academy of actuaries who meets the requirements set forth in such regulations.

~~(vi)~~6. Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person (other than the insurance company and the director) for any act, error, omission, decision or conduct with respect to the actuary's opinion.

~~(vii)~~7. Disciplinary action by the director against the company or the qualified actuary shall be defined by rule by the director.

~~(viii)~~8. Any memorandum in support of the opinion, and any other material provided by the company to the director in connection therewith, shall be kept confidential by the director and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required in this subsection or by rule promulgated hereunder; provided however, that the memorandum or other material may otherwise be released by the director (A) with the written consent of the company or (B) to the American academy of actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the director for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall no longer be confidential.

(b) Actuarial opinion of reserves after the operative date of the valuation manual.

(i) Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this state and subject to regulation by the director shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The valuation manual will prescribe the specifics of this opinion, including any items deemed to be necessary to its scope.

(ii) Actuarial analysis of reserves and assets supporting reserves. Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this state and subject to regulation by the director, except as exempted in the valuation manual, shall also annually include in the opinion required by subparagraph (i) of this paragraph, an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(iii) Requirements for opinions subject to paragraph (b)(ii) of this subsection. Each opinion required by paragraph (b)(ii) of this subsection shall be governed by the following provisions:

1. A memorandum, in form and substance as specified in the valuation manual, and acceptable to the director, shall be prepared to support each actuarial opinion.

2. If the insurance company fails to provide a supporting memorandum at the request of the director within a period specified in the valuation manual or the director determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the director, the director may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the director.

(iv) Requirements for opinions subject to this paragraph. Every opinion shall be governed by the following provisions:

1. The opinion shall be in form and substance as specified in the valuation manual and acceptable to the director.

2. The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.

3. The opinion shall apply to all policies and contracts subject to subparagraph (ii) of this paragraph, plus other actuarial liabilities as may be specified in the valuation manual.

4. The opinion shall be based on standards adopted from time to time by the actuarial standards board or its successor, and on such additional standards as may be prescribed in the valuation manual.

5. In the case of an opinion required to be submitted by a foreign or alien company, the director may accept the opinion filed by that company with the insurance supervisory official of another state if the director determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

6. Except in cases of fraud or willful misconduct, the appointed actuary shall not be liable for damages to any person, other than the insurance company and the director, for any act, error, omission, decision or conduct with respect to the appointed actuary's opinion.

7. Disciplinary action by the director against the company or the qualified actuary shall be defined by rule by the director.

(13) Minimum standard for accident and health insurance contracts. For disability insurance contracts issued on or after the operative date specified in section 41-1927, Idaho Code, and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the director by regulation. For accident and health insurance 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 required under subsection (2)(b) of this section.

(14) Valuation manual for policies issued on or after the operative date of the valuation manual.

(a) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection (2)(b) of this section, except as provided under paragraph (e) or (g) of this subsection.

(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:

(i) The valuation manual has been adopted by the NAIC by an affirmative vote of at least forty-two (42) members, or three-fourths (3/4) of the members voting, whichever is greater.

(ii) The standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five percent (75%) of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health annual statements; health annual statements; or fraternal annual statements.

(iii) The standard valuation law, as amended by the NAIC in 2009, or legislation, including substantially similar terms and provisions, has been enacted by at least forty-two (42) of the following fifty-five (55) jurisdictions: the fifty (50) states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam and Puerto Rico.

The director may confirm the operative date of the valuation manual by bulletin or otherwise.

(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 both of the following have occurred:

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

1. At least three-fourths (3/4) of the members of the NAIC voting, but not less than a majority of the total membership; and

2. Members of the NAIC representing jurisdictions totaling greater than seventy-five percent (75%) of the direct premiums written as reported in the following annual statements most recently available prior to the vote specified in this paragraph: life, accident and health annual statements; health annual statements; or fraternal annual statements;

(ii) The change to the valuation manual has been adopted by the director by rule, administrative order or bulletin.

(d) The valuation manual must specify all of the following:

(i) Minimum valuation standards for and definitions of the policies or contracts subject to subsection (2)(b) of this section. Such minimum valuation standards shall be:

1. The commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to subsection (2)(b) of this section;

2. The commissioners annuity reserve valuation method for annuity contracts subject to subsection (2)(b) of this section; and

3. Minimum reserves for all other policies or contracts subject to subsection (2)(b) of this section.

(ii) Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in subsection (15)(a) of this section and the minimum valuation standards consistent with those requirements;

(iii) For policies and contracts subject to a principle-based valuation under subsection (15) of this section:

1. Requirements for the format of reports to the director under subsection (15)(b)(iii) of this section and which shall include information necessary to determine if the valuation is appropriate and in compliance with this section;

2. Assumptions shall be prescribed for risks over which the company does not have significant control or influence.

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

(iv) For policies not subject to a principle-based valuation under subsection (15) of this section the minimum valuation standard shall either:

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

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

(v) Other requirements including, but not limited to, those 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 memorandums, transition rules and internal controls; and

(vi) The data and form of the data required under subsection (16) of this section, with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.

(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 director, in compliance with this section, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the director by rule.

(f) The director may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this section. The director may rely upon the opinion, regarding provisions contained within this section, of a qualified actuary engaged by the commissioner of another state, district or territory of the United States. As used in this paragraph, the term "engage" includes employment and contracting.

(g) The director may require a company to change any assumption or method that in the opinion of the director is necessary in order to comply with the requirements of the valuation manual or this section, and the company shall adjust the reserves as required by the director. The director may take other disciplinary action as permitted pursuant to chapter 2, title 41, Idaho Code.

(15) Requirements of a principle-based valuation.

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

(i) Quantify the benefits and guarantees, and the funding, associated with the 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 contracts. Policies or contracts with significant tail risk shall reflect conditions appropriately adverse to quantify the tail risk;

(ii) Incorporate assumptions, risk analysis methods and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods;

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

1. The assumption is prescribed in the valuation manual.

2. For assumptions that are not prescribed, the assumptions shall:

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

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

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

(b) A company using a principle-based valuation for one (1) or more policies or contracts subject to this subsection as specified in the valuation manual 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 director and the company's board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. Such controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year;

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

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

(16) Experience reporting for policies in force on or after the operative date of the valuation manual. A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

(17) Confidentiality.

(a) For purposes of this subsection, "confidential information" means:

(i) A memorandum in support of an opinion submitted under subsection (12) of this section and any other documents, materials and other information including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the director or any other person in connection with such memorandum;

(ii) All documents, materials and other information including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the director or any other person in the course of an examination made under subsection (14)(f) of this section; provided however, that if an examination report or other material prepared in connection with an examination made under chapter 2, title 41, Idaho Code, is not held as private and confidential information under chapter 2, title 41, Idaho Code, an examination report or other material prepared in connection with an examination made under subsection (14)(f) of this section shall not be confidential information to the same extent as if such examination report or other material had been prepared under chapter 2, title 41, Idaho Code.

(iii) 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 subsection (15)(b)(ii) of this section evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials and other information including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the director or any other person in connection with such reports, documents, materials and other information;

(iv) Any principle-based valuation report developed under subsection (15)(b)(iii) of this section and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the director or any other person in connection with such report; and

(v) Any documents, materials, data and other information submitted by a company under subsection (16) of this section (collectively, "experience data") and any other documents, materials, data and other information including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data, in each case that includes any potentially company-identifying or personally identifiable information, that is provided to or obtained by the director (together with any "experience data," the "experience materials") and any other documents, materials, data and other information including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the director or any other person in connection with such experience materials.

(b) Privilege for, and confidentiality of, confidential information.

(i) Except as provided in this subsection, a company's confidential information is confidential by law and privileged, and shall not be subject to public disclosure under chapter 1, title 74, Idaho Code, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action; provided however, that the director is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the director's official duties;

(ii) Neither the director nor any person who received confidential information while acting under the authority of the director shall be permitted or required to testify in any private civil action concerning any confidential information;

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

1. With other state, federal and international regulatory agencies and with the NAIC and its affiliates and subsidiaries; and

2. In the case of confidential information specified in paragraph (a)(i) and (iv) of this subsection only, with the actuarial board for counseling and discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal and international law enforcement officials.

In the case of paragraph (b)(iii)1. and 2. of this subsection, provided that such recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data and other information in the same manner and to the same extent as required for the director.

(iv) The director may receive documents, materials, data and other information, including otherwise confidential and privileged documents, materials, data or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the actuarial board for counseling and discipline or its successor and shall maintain as confidential or 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 or other information.

(v) The director may enter into agreements governing sharing and use of information consistent with this paragraph.

(vi) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the director under this subsection or as a result of sharing as authorized in subparagraph (iii) of this paragraph.

(vii) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this paragraph shall be available and enforced in any proceeding in, and in any court of, this state.

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

(c) Notwithstanding paragraph (b) of this subsection, any confidential information specified in paragraph (a)(i) and (iv) of this subsection:

(i) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under subsection (12) of this section or principle-based valuation report developed under subsection (15)(b)(iii) of this section by reason of an action required by this section or by rule promulgated hereunder;

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

(iii) Once any portion of a memorandum in support of an opinion submitted under subsection (12) of this section or a principle-based valuation report developed under subsection (15)(b)(iii) of this section is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential.

(18) Single state examination:

(a) The director may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in Idaho from the requirements of subsection (14) of this section provided:

(i) The director has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and

(ii) The company computes reserves using assumptions and methods used prior to the operative date of the valuation manual, in addition to any requirements established by the director and promulgated by rule.

(b) For any company granted an exemption under this section, subsections (4), (4a), (4b), (5), (6), (7), (8), (9), (10), (11), (12) and (13) of this section shall be applicable. With respect to any company applying this exemption, any reference to subsection (14) found in subsections (4), (4a), (4b), (5), (6), (7), (8), (9), (10), (11), (12) and (13) of this section shall not be applicable.

SECTION 2. That Section 41-1927, Idaho Code, be, and the same is hereby amended to read as follows:

41-1927. STANDARD NONFORFEITURE LAW -- LIFE INSURANCE.

(1) (a) This section shall be known as the standard nonforfeiture law for life insurance.

(b) "Operative date of the valuation manual" means January 1 of the first calendar year that the valuation manual, as defined in section 41-612, Idaho Code, is effective.

(2) Nonforfeiture provisions: In the case of policies issued on or after the operative date of this section as defined in subsection (14) of this section, no policy of life insurance, except as set forth in subsection (13) of this section, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified and are essentially in compliance with subsection (12) of this law:

(a) That in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be hereinafter specified. In lieu of such stipulated paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty (60) days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(b) That upon surrender of the policy within sixty (60) days after the due date of any premium payment in default after premiums have been paid for at least three (3) full years in the case of ordinary insurance, and five (5) full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty (60) days after the due date of the premium in default.

(d) That if the policy shall have become paid up by completion of all premium payments, or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance, or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty (30) days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(e) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first twenty (20) policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of this state; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

(3) Any of the provisions or portions thereof set forth in subdivisions (a) through (f) of the foregoing subsection (2) which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six (6) months after demand therefor with surrender of the policy. If the insurer defers payment of a cash surrender value under the provisions of this section, the insurer shall pay interest to the policyholder at the rate specified in section 28-22-104(2), Idaho Code, as established and in existence at the time of the surrender demand.

(4) Cash surrender value: Any cash surrender value available under the policy in the event of default in the premium payment due on any policy anniversary, whether or not required by subsection (2) of this section, shall be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions if there had been no default, over the sum of:

(a) The then present value of the adjusted premiums as defined in subsections (6) through (9) of this section, corresponding to premiums which would have fallen due on and after such anniversary, and

(b) The amount of any indebtedness to the insurer on account of or secured by the policy. Provided, however, that for any policy issued on or after the operative date of subsection (9)(d) as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision. Provided, further, that for any family policy issued on or after the operative date of subsection (9)(d) as defined therein, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one (71), the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

Any cash surrender value available within thirty (30) days after any policy anniversary under any policy paid up by completion of all premium payments, or any policy continued under any paid-up nonforfeiture benefits, whether or not required by such subsection (2), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

(5) Paid-up nonforfeiture benefits: Any paid-up nonforfeiture benefit available under the policy in the event of default in the premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy, or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the conditions that premiums shall have been paid for at least a specified period.

(6) The adjusted premium: This subsection ~~(6)~~ shall not apply to policies issued on or after the operative date of subsection (9)(d) as defined therein. Except as provided in subsection (8) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

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

(b) Two per cent (2%) of the amount of the insurance if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with the duration of the policy;

(c) Forty per cent (40%) of the adjusted premium for the first policy year;

(d) Twenty-five per cent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less, provided, however, that in applying the percentages specified in subdivisions (c) and (d) above, no adjusted premiums shall be deemed to exceed four per cent (4%) of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of issue of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy. The date of issue of a policy for the purposes of this subsection shall be the date as of which the rated age of the insured is determined.

(7) In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purpose of the preceding subsection (6) shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy for a varying amount of insurance issued on the life of a child under age ten (10), the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten (10) were the amount provided by such policy at age ten (10).

(8) The adjusted premiums for any policy providing term insurance benefits by any rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in subsections (6) and (7) except that, for the purposes of subdivisions (b), (c) and (d) of subsection (6), the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (4)(a).

(9)(a) Except as provided in subdivisions (b), (c) and (d) of this subsection, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the commissioners 1941 standard ordinary mortality table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated, at the option of the insurer according to an age not more than three (3) years younger than the actual age of the insured and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half per cent (3 1/2%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty per cent (130%) of the rates of mortality according to such applicable table, provided further that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

(b) This subsection (9)(b) shall not apply to ordinary policies issued on or after the operative date of subsection (9)(d) as defined therein. In the case of ordinary policies issued on or after the operative date of this subdivision as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners' 1958 standard ordinary mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed three and one-half per cent (3 1/2%) per annum except that a rate of interest not exceeding four per cent (4%) per annum may be used for policies issued on or after July 1, 1973, and prior to July 1, 1977, and a rate of interest not exceeding five and one-half per cent (5 1/2%) per annum may be used for policies issued on or after July 1, 1977, except that for any single premium whole life or endowment insurance policy at a rate of interest not exceeding six and one-half per cent (6 1/2%) per annum may be used and provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six (6) years younger than the actual age of the insured. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners' 1958 extended term insurance table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

On or after the operative date of this section as defined in subsection (14) of this section, any insurer may file with the director a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision for such insurer), this subdivision shall become operative with respect to the ordinary policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subdivision for such insurer shall be January 1, 1966.

(c) This subsection (9)(c) shall not apply to industrial policies issued on or after the operative date of subsection (9)(d) as defined therein. In the case of industrial policies issued on or after the operative date of this subdivision as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners' 1961 standard industrial mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half per cent (3 1/2%) per annum except that a rate of interest not exceeding four per cent (4%) per annum may be used for policies issued on or after July 1, 1973, and prior to July 1, 1977, and a rate of interest not exceeding five and one-half per cent (5 1/2%) per annum may be used for policies issued on or after July 1, 1977, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half per cent (6 1/2%) per annum may be used. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners' 1961 industrial extended term insurance table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

After the effective date of this amendatory act, any insurer may file with the director a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision for such insurer), this subdivision shall become operative with respect to the industrial policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subdivision for such insurer shall be January 1, 1968.

(d) (i) Subsection (9)(d) shall apply to all policies issued on or after the operative date of this subsection (9)(d) as defined herein. Except as provided in paragraph vii of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (A) the then present value of the future guaranteed benefits provided for by the policy; (B) one per cent (1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and (C) one hundred twenty-five per cent (125%) of the nonforfeiture net level premium as hereinafter defined. Provided, however, that in applying the percentage specified in (C) above, no nonforfeiture net level premium shall be deemed to exceed four per cent (4%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

(ii) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one (1) per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

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

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

(v) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (A) one per cent (1%) of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten (10) policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten (10) policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (B) one hundred twenty-five per cent (125%) of the increase, if positive, in the nonforfeiture net level premium.

(vi) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (A) by (B) where

(A) equals the sum of

1. the nonforfeiture net level premium applicable prior to the change, times the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of the change

on which a premium would have fallen due had the change not occurred, and

2. the present value of the increase in future guaranteed benefits provided for by the policy, and

(B) equals the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

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

(viii) All adjusted premiums and present values referred to in this section shall, for all policies of ordinary insurance, be calculated on the basis of (A) the commissioners 1980 standard ordinary mortality table or (B) 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; shall, for all policies of industrial insurance, be calculated on the basis of the commissioners 1961 standard industrial mortality table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection, for policies issued in that calendar year. Provided, however, that:

1. At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year.

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

3. An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

4. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mor-

tality assumed may be not more than those shown in the commissioners 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioners 1961 industrial extended term insurance table for policies of industrial insurance.

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

6. (A) ~~Any~~ For policies issued prior to the operative date of the valuation manual, any commissioners standard ordinary mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the director for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table.

(B) 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 the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table. If the director approves by regulation any commissioners standard ordinary mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

7. (A) ~~Any~~ For policies issued prior to the operative date of the valuation manual, any commissioners standard industrial mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table.

(B) 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 the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table. If the director approves by regulation any commissioners standard industrial mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(ix) The nonforfeiture interest rate is defined below:

1. For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five ~~per cent~~ percent (125%) of the interest rate used in determining the minimum standard for the valuation of such policy as defined in the standard valuation law, rounded to the nearer one-quarter of one ~~per cent~~ percent (1/4 of 1%).

2. For policies issued on and after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.

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

(xi) After the effective date of subsection (9)(d), any insurer may file with the director a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1989, which shall be the operative date of this subsection for such insurer. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January 1, 1989.

(10) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on the then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in subsections (2) through (9) herein, then:

(a) The director must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsections (2) through (9) herein;

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

(c) The cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this standard nonforfeiture law for life insurance, as determined by regulations promulgated by the director.

(11) Calculation of values: Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (4) through (9) of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide such additions. Notwithstanding the provisions of subsection (4) of this section, additional benefits payable:

(a) In the event of death or dismemberment by accident or accidental means,

(b) In the event of total and permanent disability,

(c) As reversionary annuity or deferred reversionary annuity benefits,

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

(e) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six (26), is uniform in amount after the child's age is one (1), and has not become paid-up by reason of the death of a parent of the child, and

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

(12) This subsection, in addition to all other applicable subsections of this section, shall apply to all policies issued on or after January 1, 1986. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one per cent (2/10 of 1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years, from the sum of:

(a) The greater of zero and the basic cash value hereinafter specified; and

(b) The present value of any existing paid-up additions less the amount of any indebtedness to the insurer under the policy.

The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the insurer, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which would have fallen due on and after such anniversary. Provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection (4) or (8), whichever is applicable, shall be the same as are the effects specified in subsection (4) or (8), whichever is applicable, on the cash surrender values defined in that subsection.

The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subsection (6) or (9)(d), whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage:

(a) Must be the same percentage for each policy year between the second policy anniversary and the later of (i) the fifth policy anniversary and (ii) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one per cent (2/10 of 1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and

(b) Must be such that no percentage after the later of the two (2) policy anniversaries specified in the preceding paragraph (a) may apply to fewer than five (5) consecutive policy years.

Provided, that no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subsection (6) or (9)(d), whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

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

Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subsections (2), (3), (4), (5), (9)(d) and (11). The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed as items (a) through (f) in subsection (11) shall conform with the principles of this subsection (12).

(13) Exceptions. This section shall not apply to any of the following:

(a) Reinsurance,

(b) Group insurance,

(c) Variable life insurance,

(d) Pure endowment,

(e) Annuity or reversionary annuity contract,

(f) Term policy of uniform amount which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of the policy,

(g) Term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in subsections (6) through (9) of this section, is less than the adjusted premiums so calculated on a policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of the policy;

(h) Policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subsections (4) through (9) of this section, exceeds two and one-half per cent (2 1/2%) of the amount of insurance at the beginning of the same policy year;

(i) Policy which shall be delivered outside this state through an agent or other representative of the insurer issuing the policy.

For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

(14) Operative date. After January 1, 1962, any insurer may file with the director a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1963. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer) this section shall become operative with respect to the policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be January 1, 1963.

SECTION 3. That Section 74-107, Idaho Code, be, and the same is hereby amended to read as follows:

74-107. RECORDS EXEMPT FROM DISCLOSURE -- TRADE SECRETS, PRODUCTION RECORDS, APPRAISALS, BIDS, PROPRIETARY INFORMATION. The following records are exempt from disclosure:

(1) Trade secrets including those contained in response to public agency or independent public body corporate and politic requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in-progress research that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(2) Production records, housing production, rental and financing records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency or submitted to or otherwise obtained by an independent public body corporate and politic. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

(3) Records relating to the appraisal of real property, timber or mineral rights prior to its acquisition, sale or lease by a public agency or independent public body corporate and politic.

(4) Any estimate prepared by a public agency or independent public body corporate and politic that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(5) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency or independent public body corporate and politic responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(6) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(7) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(8) Financial statements and business information and reports submitted by a legal entity to a port district organized under title 70, Idaho Code, in connection with a business agreement, or with a development proposal or with a financing application for any industrial, manufacturing, or other business activity within a port district.

(9) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code, nor shall this exemption apply to

information regarding specific property locations subject to an open burning of crop residue pursuant to section 39-114, Idaho Code, names of persons responsible for the open burn, acreage and crop type to be burned, and time frames for burning.

(10) Information obtained from books, records and accounts required in chapter 47, title 22, Idaho Code, to be maintained by the Idaho oilseed commission and pertaining to the individual production records of oilseed growers.

(11) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency or independent public body corporate and politic.

(12) Records of laboratory test results provided by or retained by the Idaho food quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(13) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

(14) Voluntarily prepared environmental audits, and voluntary disclosures of information submitted on or before December 31, 1997, to an environmental agency, which are claimed to be confidential business information.

(15) Computer programs developed or purchased by or for any public agency or independent public body corporate and politic for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

(a) The original data including, but not limited to, numbers, text, voice, graphics and images;

(b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

(16) Active investigative records and trademark usage audits of the Idaho potato commission specifically relating to the enforcement of chapter 12, title 22, Idaho Code, until the commencement of formal proceedings as provided by rules of the commission; purchase and sales information sub-

mitted to the Idaho potato commission during a trademark usage audit, and investigation or enforcement proceedings. Inactive investigatory records shall be disclosed unless the disclosure would violate the standards set forth in subsection~~s~~ (1)(a) through (f) of section 74-124, Idaho Code. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(17) All records copied or obtained by the director of the department of agriculture or his designee as a result of an inspection pursuant to section 25-3806, Idaho Code, except:

(a) Records otherwise deemed to be public records not exempt from disclosure pursuant to this chapter; and

(b) Inspection reports, determinations of compliance or noncompliance and all other records created by the director or his designee pursuant to section 25-3806, Idaho Code.

(18) All data and information collected by the division of animal industries or the state brand board pursuant to the provisions of section 25-207B, Idaho Code, or rules promulgated thereunder.

(19) Records disclosed to a county official by the state tax commission pursuant to subsection (4)(c) of section 63-3029B, Idaho Code.

(20) Records, data, information and materials collected, developed, generated, ascertained or discovered during the course of academic research at public institutions of higher education if the disclosure of such could reasonably affect the conduct or outcome of the research, or the ability of the public institution of higher education to patent or copyright the research or protect intellectual property.

(21) Records, data, information and materials collected or utilized during the course of academic research at public institutions of higher education provided by any person or entity other than the public institution of higher education or a public agency.

(22) The exemptions from disclosure provided in subsections (20) and (21) of this section shall apply only until the academic research is publicly released, copyrighted or patented, or until the academic research is completed or terminated. At such time, the records, data, information, and materials shall be subject to public disclosure unless: (a) another exemption in this chapter applies; (b) such information was provided to the institution subject to a written agreement of confidentiality; or (c) public disclosure would pose a danger to persons or property.

(23) The exemptions from disclosure provided in subsections (20) and (21) of this section do not include basic information about a particular research project that is otherwise subject to public disclosure, such as the nature of the academic research, the name of the researcher, and the amount and source of the funding provided for the project.

(24) Records of a county assessor, the state tax commission, a county board of equalization or the state board of tax appeals containing the following information: (i) lists of personal property required to be filed pursuant to section 63-302, Idaho Code, and operating statements required to be filed pursuant to section 63-404, Idaho Code, and (ii) confidential commercial or financial information including trade secrets. Except with respect to lists of personal property required to be filed pursuant to section

63-302, Idaho Code, and the operator statements required to be filed pursuant to section 63-404, Idaho Code, it shall be the responsibility of the taxpayer to give notice of its claim to exemption by stamping or marking each page or the first page of each portion of documents so claimed. No records that are exempt pursuant to this subsection shall be disclosed without the consent of the taxpayer except as follows:

(a) To any officer, employee or authorized representative of the state or the United States, under a continuing claim of confidentiality, as necessary to carry out the provisions of state or federal law or when relevant to any proceeding thereunder.

(b) In the publication of statistics or reports as long as the statistics or reports do not reasonably lead to the identification of the specific taxpayer or information submitted by taxpayers exempt pursuant to this subsection.

(c) To the board of tax appeals or the district court as evidence or otherwise in connection with an appeal of the taxpayer's property tax assessment, but only if the board or the court, as applicable, has entered a protective order specifying that the taxpayer information may not be disclosed by any person conducting or participating in the action or proceeding, except as authorized by the board or the court in accordance with applicable law.

(d) Nothing in this subsection shall prevent disclosure of the following information:

(i) Name and mailing address of the property owner;

(ii) A parcel number;

(iii) A legal description of real property;

(iv) The square footage and acreage of real property;

(v) The assessed value of taxable property;

(vi) The tax district and the tax rate; and

(vii) The total property tax assessed.

(25) Results of laboratory tests which have no known adverse impacts to human health conducted by the Idaho state department of agriculture animal health laboratory, related to diagnosis of animal diseases of individual animals or herds, on samples submitted by veterinarians or animal owners unless:

(a) The laboratory test results indicate the presence of a state or federally reportable or regulated disease in animals;

(b) The release of the test results is required by state or federal law; or

(c) The test result is identified as representing a threat to animal or human health or to the livestock industry by the Idaho state department of agriculture or the United States department of agriculture. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding, or the duty of any person to report contagious or infectious diseases as required by state or federal law.

(26) Results of laboratory tests conducted by the Idaho state department of agriculture seed laboratory on samples submitted by seed producers or seed companies. Nothing in this subsection shall limit the use which can

be made, or availability of such information pursuant to the provisions of subsections (9) and (10) of section 22-418, Idaho Code.

(27) For policies that are owned by private persons, and not by a public agency of the state of Idaho, records of policies, endorsements, affidavits and any records that discuss policies, endorsements and affidavits that may be required to be filed with or by a surplus line association pursuant to chapter 12, title 41, Idaho Code.

(28) Individual financial statements of a postsecondary educational institution or a proprietary school submitted to the state board of education, its director or a representative thereof, for the purpose of registering the postsecondary educational institution or proprietary school pursuant to section 33-2402 or 33-2403, Idaho Code, or provided pursuant to an administrative rule of the board adopted pursuant to such sections.

(29) Information submitted to insurance companies pursuant to section 42-612(17), Idaho Code.