

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 432

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO INSURANCE; AMENDING SECTION 41-612, IDAHO CODE, TO DEFINE TERMS  
2 AND TO REVISE THE PROCEDURE FOR HOW INSURANCE POLICIES ARE VALUED AND  
3 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-1927, IDAHO CODE, TO  
4 DEFINE A TERM AND TO PROVIDE NONFORFEITURE STANDARDS; AND AMENDING SEC-  
5 TION 74-107, IDAHO CODE, TO PROVIDE THAT CERTAIN INFORMATION SUBMITTED  
6 TO INSURANCE COMPANIES SHALL BE EXEMPT FROM DISCLOSURE AND TO MAKE TECH-  
7 NICAL CORRECTIONS.  
8

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

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

12 41-612. STANDARD VALUATION LAW -- LIFE INSURANCE.

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

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

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

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

25 (iii) "Company" means an entity, which (a) has written, issued or  
26 reinsured life insurance contracts, accident and health insurance  
27 contracts or deposit-type contracts in this state and has at least  
28 one (1) such policy in force or on claim or (b) has written, issued  
29 or reinsured life insurance contracts, accident and health insur-  
30 ance contracts or deposit-type contracts in any state and is re-  
31 quired to hold a certificate of authority to write life insurance,  
32 accident and health insurance or deposit-type contracts in this  
33 state.

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

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

40 (vi) "NAIC" means the national association of insurance commis-  
41 sioners.

1 (vii) "Policyholder behavior" means any action a policyholder,  
 2 contract holder or any other person with the right to elect op-  
 3 tions, such as a certificate holder, may take under a policy or  
 4 contract subject to this section including, but not limited to,  
 5 lapse, withdrawal, transfer, deposit, premium payment, loan, an-  
 6 nuitization, or benefit elections prescribed by the policy or con-  
 7 tract, but excluding events of mortality or morbidity that result  
 8 in benefits prescribed in their essential aspects by the terms of  
 9 the policy or contract.

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

14 (ix) "Qualified actuary" means an individual who is qualified to  
 15 sign the applicable statement of actuarial opinion in accordance  
 16 with the American academy of actuaries qualification standards  
 17 for actuaries signing such statements and who meets the require-  
 18 ments specified in the valuation manual.

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

23 (xi) "Valuation manual" means the manual of valuation instruc-  
 24 tions adopted by the NAIC as specified in this section or as sub-  
 25 sequently amended.

26 (2) Annual valuation.

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

29 (i) The director shall annually value, or cause to be valued, the  
 30 reserve liabilities (hereinafter called "reserves") for all out-  
 31 standing life insurance policies and annuity and pure endowment  
 32 contracts of every life insurer doing business in this state, and  
 33 may certify the amount of any such reserves, specifying the mor-  
 34 tality table or tables, rate or rates of interest and methods (net  
 35 level premium method or others) used in the calculation of such  
 36 reserves issued on or after the operative date specified in sec-  
 37 tion 41-1927, Idaho Code, and prior to the operative date of the  
 38 valuation manual. In the case of an alien insurer, such valua-  
 39 tion shall be limited to its insurance transactions in the United  
 40 States. In calculating such reserves, the director may use group  
 41 methods and approximate averages for fractions of a year or oth-  
 42 erwise. He may accept in his discretion the insurer's calculation  
 43 of such reserves. In lieu of the valuation of the reserves herein  
 44 required of any foreign or alien insurer, he may accept any valua-  
 45 tion made or caused to be made by the insurance supervisory offi-  
 46 cial of any state or other jurisdiction when such valuation compl-  
 47 ies with the minimum standard herein provided, and if the offi-  
 48 cial of such state or jurisdiction accepts as sufficient and valid  
 49 for all legal purposes the certificate of valuation of the direc-  
 50 tor when such certificate states the valuation to have been made in

1 ~~a specified manner according to which the aggregate reserves would~~  
 2 ~~be at least as large as if they had been computed in the manner pre-~~  
 3 ~~scribed by the law of that state or jurisdiction in this section.~~  
 4 Where any such valuation is made by the director, he may use the ac-  
 5 tuary of the department or employ an actuary for the purpose, and  
 6 the reasonable compensation and expenses of the actuary, at a rate  
 7 approved by the director, upon demand by the director supported by  
 8 an itemized statement of such compensation and expenses, shall be  
 9 paid by the insurer. When a domestic insurer furnishes the direc-  
 10 tor with a valuation of its outstanding policies as computed by its  
 11 own actuary or by an actuary deemed satisfactory for the purpose by  
 12 the director, the valuation shall be verified by the actuary of the  
 13 department without costs to the insurer.

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

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

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

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

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

40 (3) Except as otherwise provided in subsections (4) and (4a) of this  
 41 section, the minimum standard for the valuation of all such policies and con-  
 42 tracts issued on and after January 1, 1914, and prior to the operative date of  
 43 section 41-1927, Idaho Code, (standard nonforfeiture law) shall be the Amer-  
 44 ican experience table of mortality and interest at three and one-half per-  
 45 cent (3<sup>1</sup>/<sub>2</sub>%) per annum. Not more than one (1) year shall be used as a prelimi-  
 46 nary term. Extra charges may be made in particular cases of invalid lives and  
 47 other extra hazards, policies may be valued in groups, and approximate aver-  
 48 ages may be used for fractions of a year. Policies other than ordinary and  
 49 twenty (20) payment life may be valued according to the modified preliminary  
 50 term, with twenty (20) payment life policies as a basis for such valuation.

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

3 (4) Except as otherwise provided in subsections (4a) and (4b) of this  
4 section, the minimum standard for the valuation of all such policies and con-  
5 tracts issued on or after the operative date of section 41-1927, Idaho Code,  
6 (standard nonforfeiture law) shall be the commissioners reserve valuation  
7 methods defined in subsections (5), (6) and (10) of this section, three and  
8 one-half percent ( $3\frac{1}{2}\%$ ) interest for all other such policies and contracts,  
9 except that the rate shall be four and one-half percent ( $4\frac{1}{2}\%$ ) for indi-  
10 vidual annuity contracts, or in the case of policies and contracts, other  
11 than annuity and pure endowment contracts, issued on or after July 1, 1973,  
12 four percent (4%) interest for such policies issued prior to July 1, 1977,  
13 five and one-half percent ( $5\frac{1}{2}\%$ ) interest for single premium life insurance  
14 policies and four and one-half percent ( $4\frac{1}{2}\%$ ) interest for all other such  
15 policies issued on or after July 1, 1977, but prior to the operative date of  
16 subsection (9) (d) of the standard nonforfeiture law for life insurance as  
17 amended, seven percent (7%) interest for such policies issued on and after  
18 the operative date of subsection (9) (d) of the standard nonforfeiture law  
19 for life insurance as amended, and the following tables:

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

35 (i) The commissioners 1980 standard ordinary mortality table, or  
36 (ii) At the election of the company for any one (1) or more speci-  
37 fied plans of life insurance, the commissioners 1980 standard or-  
38 dinary mortality table with ten-year select mortality factors, or  
39 (iii) Any ordinary mortality table, adopted after 1980 by the  
40 ~~national association of insurance commissioners~~ NAIC, ~~that which~~  
41 ~~is approved by regulation rule~~ promulgated by the director for use  
42 in determining the minimum standard of valuation for such poli-  
43 cies.

44 (b) For all industrial life insurance policies issued on the standard  
45 basis, excluding any disability and accidental death benefits in such  
46 policies, the 1941 standard industrial mortality table for such poli-  
47 cies issued prior to the operative date of subsection (9) (c) of section  
48 41-1927, Idaho Code, and for such policies issued on or after such oper-  
49 ative date the commissioners 1961 standard industrial mortality table  
50 or any industrial mortality table, adopted after 1980 by the ~~national~~

1 ~~association of insurance commissioners~~ NAIC, that is approved by reg-  
2 ulation promulgated by the director for use in determining the minimum  
3 standard of valuation for such policies.

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

9 (d) For group annuity and pure endowment contracts, excluding any dis-  
10 ability and accidental death benefits in such policies, the group annu-  
11 ity mortality table for 1951, any modification of such table approved by  
12 the director, or, at the insurer's option, any of the tables or modifi-  
13 cations of tables specified for individual annuity and pure endowment  
14 contracts.

15 (e) For total and permanent disability benefits in or supplementary to  
16 ordinary policies or contracts, for policies or contracts issued on or  
17 after January 1, 1966, the tables of period 2 disablement rates and the  
18 1930 to 1950 termination rates of the 1952 disability study of the So-  
19 ciety of Actuaries, with due regard to the type of benefit, or any ta-  
20 bles of disablement rates and termination rates, adopted after 1980 by  
21 the ~~national association of insurance commissioners~~ NAIC, that are ap-  
22 proved by regulation promulgated by the director for use in determin-  
23 ing the minimum standard of valuation for such policies; for policies  
24 or contracts issued on or after the operative date of section 41-1927,  
25 Idaho Code, (standard nonforfeiture law) and prior to January 1, 1966,  
26 either such tables or, at the insurer's option, the class (3) disability  
27 table (1926). Any such table shall, for active lives, be combined with a  
28 mortality table permitted for calculating the reserves for life insur-  
29 ance policies.

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

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

46 (4a) Except as provided in subsection (4b) of this section, the minimum  
47 standard ~~for the~~ of valuation ~~of~~ for all individual annuity and pure endow-  
48 ment contracts issued on or after the operative date of this subsection ~~(4a)~~,  
49 as defined herein, and for all annuities and pure endowments purchased on or  
50 after such operative date under group annuity and pure endowment contracts,

1 shall be the commissioners reserve valuation methods defined in subsections  
2 (5) and (6) of this section and the following tables and interest rates:

3 (a) For individual annuity and pure endowment contracts issued prior  
4 to July 1, 1977, excluding any disability and accidental death bene-  
5 fits in such contracts, the 1971 individual annuity mortality table, or  
6 any modification of this table approved by the director, and six percent  
7 (6%) interest for single premium immediate annuity contracts, and four  
8 and one-half percent ( $4\frac{1}{2}\%$ ) interest for all other individual annuity  
9 and pure endowment contracts.

10 (b) For individual single premium immediate annuity contracts issued  
11 on or after July 1, 1977, but prior to January 1, 1982, excluding any  
12 disability and accidental death benefits in such contracts, the 1971  
13 individual annuity mortality table, or any modification of this table  
14 approved by the director, and seven and one-half percent ( $7\frac{1}{2}\%$ ) inter-  
15 est.

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

25 (d) For individual annuity and pure endowment contracts issued on or  
26 after July 1, 1977, but prior to January 1, 1982, other than single  
27 premium immediate annuity contracts, excluding any disability and  
28 accidental death benefits in such contracts, the 1971 individual an-  
29 nuity mortality table, or any modification of this table approved by  
30 the director, and five and one-half percent ( $5\frac{1}{2}\%$ ) interest for sin-  
31 gle premium deferred annuity and pure endowment contracts and four and  
32 one-half percent ( $4\frac{1}{2}\%$ ) interest for all other such individual annuity  
33 and pure endowment contracts.

34 (e) For individual annuity and pure endowment contracts issued on or  
35 after January 1, 1982, other than single premium immediate annuity con-  
36 tracts, excluding any disability and accidental death benefits in such  
37 contracts, the 1971 individual annuity mortality table or any individ-  
38 ual annuity mortality table, adopted after 1980 by the ~~national associ-  
39 ation of insurance commissioners~~ NAIC, that is approved by regulation  
40 promulgated by the director for use in determining the minimum standard  
41 of valuation for such contracts, or any modification of these tables ap-  
42 proved by the director, and eight percent (8%) interest.

43 (f) For ~~all~~ annuities and pure endowments purchased prior to July 1,  
44 1977, under group annuity and pure endowment contracts, excluding any  
45 disability and accidental death benefits purchased under such con-  
46 tracts, the 1971 group annuity mortality table, or any modification of  
47 this table approved by the director, and six percent (6%) interest.

48 (g) For ~~all~~ annuities and pure endowments purchased on or after July 1,  
49 1977, but prior to January 1, 1982, under group annuity and pure endow-  
50 ment contracts, excluding any disability and accidental death benefits

1 purchased under such contracts, the 1971 group annuity mortality table,  
 2 or any modification of this table approved by the director, and seven  
 3 and one-half percent (7 $\frac{1}{2}$ %) interest.

4 (h) For ~~all~~ annuities and pure endowments purchased on or after Jan-  
 5 uary 1, 1982, under group annuity and pure endowment contracts, exclud-  
 6 ing any disability and accidental death benefits purchased under such  
 7 contracts, the 1971 group annuity mortality table or any group annuity  
 8 mortality table, adopted after 1980 by the ~~national association of in-~~  
 9 ~~surance commissioners~~ NAIC, that is approved by regulation promulgated  
 10 by the director for use in determining the minimum standard of valuation  
 11 for such annuities and pure endowments, or any modification of these ta-  
 12 bles approved by the director, and eleven percent (11%) interest.

13 After July 1, 1973, any insurer may file with the director a written notice of  
 14 its election to comply with the provisions of this subsection after a spec-  
 15 ified date before January 1, 1979, which shall be the operative date of this  
 16 subsection for such insurer, provided that an insurer may elect a differ-  
 17 ent operative date for individual annuity and pure endowment contracts from  
 18 that elected for group annuity and pure endowment contracts. If an insurer  
 19 makes no such election, the operative date of this subsection for such in-  
 20 surer shall be January 1, 1979.

21 (4b) For any calendar year on or after the effective date of subsection  
 22 (9) (d) of the standard nonforfeiture law for life insurance in the case of  
 23 life insurance policies issued on or after such effective date, and for any  
 24 calendar year on or after January 1, 1982, in the case of:

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

27 (b) Annuities and pure endowments purchased on or after January 1,  
 28 1982, under group annuity and pure endowment contracts; and

29 (c) The net increase, if any, in any particular calendar year after Jan-  
 30 uary 1, 1982, in amounts held under guaranteed interest contracts, the  
 31 company may elect, for the purpose of determining the minimum standard  
 32 for valuation, for any category of policy or contract, the calendar year  
 33 statutory valuation interest rate as defined in this subsection in lieu  
 34 of the interest rate specified in subsection (4) or (4a) of this sec-  
 35 tion.

36 The provisions of this subsection shall be applicable to:

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

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

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

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

47 d. The net increase, if any, in a particular calendar year after  
 48 January 1, 1982, in amounts held under guaranteed interest con-  
 49 tracts

1 shall be the calendar year statutory valuation interest rates as de-  
2 fined in this subsection.

3 B. Calendar year statutory valuation interest rates:

4 a. The calendar year statutory valuation interest rates,  $I$ , shall  
5 be determined as follows and the results rounded to the nearer one-  
6 quarter of one percent ( $1/4$  of 1%).

7 1. For life insurance,

$$8 \quad I = .03 + W(R_1 - .03) + W/2(R_2 - .09);$$

9 2. For single premium immediate annuities and for annuity  
10 benefits involving life contingencies arising from other  
11 annuities with cash settlement options and from guaranteed  
12 interest contracts with cash settlement options,

$$13 \quad I = .03 + W(R - .03)$$

14 where  $R_1$  is the lesser of  $R$  and  $.09$ ;

15  $R_2$  is the greater of  $R$  and  $.09$ ;

16  $R$  is the reference interest rate defined in this subsection  
17 and  $W$  is the weighting factor defined in this subsection,

18 3. For other annuities with cash settlement options and  
19 guaranteed interest contracts with cash settlement options,  
20 valued on an issue year basis, except as stated in 2. above,  
21 the formula for life insurance stated in 1. above shall  
22 apply to annuities and guaranteed interest contracts with  
23 guarantee durations in excess of ten (10) years and the for-  
24 mula for single premium immediate annuities stated in 2.  
25 above shall apply to annuities and guaranteed interest con-  
26 tracts with guarantee duration of ten (10) years or less,

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

31 5. For other annuities with cash settlement options and  
32 guaranteed interest contracts with cash settlement options,  
33 valued on a change in fund basis, the formula for single pre-  
34 mium immediate annuities stated in 2. above shall apply.

35 b. However, if the calendar year statutory valuation interest  
36 rate for any life insurance policies issued in any calendar year  
37 determined without reference to this sentence differs from the  
38 corresponding actual rate for similar policies issued in the im-  
39 mediately preceding calendar year by less than one-half of one  
40 percent ( $1/2$  of 1%), the calendar year statutory valuation inter-  
41 est rate for such life insurance policies shall be equal to the  
42 corresponding actual rate for the immediately preceding calendar  
43 year. For purposes of applying the immediately preceding sen-  
44 tence, the calendar year statutory valuation interest rate for  
45 life insurance policies issued in a calendar year shall be de-  
46 termined for 1980 (using the reference interest rate defined for  
47 1979) and shall be determined for each subsequent calendar year  
48 regardless of when subsection (9) (d) of the standard nonforfei-  
49 ture law for life insurance becomes operative.

50 C. Weighting factors



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

3 1. Weighting factors for life insurance:

4 Guarantee	Weighting
5 Duration	Factors
6 (Years)	
7 10 or less	.50
8 More than 10, but not more than 20	.45
9 More than 20	.35

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

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

20 .80

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

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

27 Guarantee	28 Weighting Factor		
29 Duration	for Plan Type		
(Years)	A	B	C
30 5 or less	.80	.60	.50
31 More than 5, but not more			
32 than 10	.75	.60	.50
33 More than 10, but not more			
34 than 20	.65	.50	.45
35 More than 20	.45	.35	.35

36 Plan Type

37 (ii)

38 For annuities and guaranteed  
 39 interest contracts valued on  
 40 a change in fund basis, the  
 41 factors shown in (i) above  
 42 increased by:

	A	B	C
43 (iii)	.15	.25	.05

1 For annuities and guaranteed  
 2 interest contracts valued on  
 3 an issue year basis (other  
 4 than those with no cash  
 5 settlement options) which do  
 6 not guarantee interest on  
 7 considerations received more  
 8 than one (1) year after issue  
 9 or purchase and for annuities  
 10 and guaranteed interest  
 11 contracts valued on a change  
 12 in fund basis which do not  
 13 guarantee interest rates on  
 14 considerations received more  
 15 than twelve (12) months  
 16 beyond the valuation date,  
 17 the factors shown in (i) or  
 18 derived in (ii) increased by: .05 .05 .05

19 (iv) For other annuities with cash settlement options  
 20 and guaranteed interest contracts with cash settlement  
 21 options, the guarantee duration is the number of years  
 22 for which the contract guarantees interest rates in ex-  
 23 cess of the calendar year statutory valuation inter-  
 24 est rate for life insurance policies with guarantee du-  
 25 ration in excess of twenty (20) years. For other an-  
 26 nuities with no cash settlement options and for guar-  
 27 anteed interest contracts with no cash settlement op-  
 28 tions, the guarantee duration is the number of years  
 29 from the date of issue or date of purchase to the date  
 30 annuity benefits are scheduled to commence.

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

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

- 35 (1) with an adjustment to reflect changes in in-  
 36 terest rates or asset values since receipt of the  
 37 funds by the insurer; or
- 38 (2) without such adjustment but in installments  
 39 over five (5) years or more; or
- 40 (3) as an immediate life annuity; or
- 41 (4) no withdrawal permitted.

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

- 44 (1) with an adjustment to reflect changes in in-  
 45 terest rates or asset values since receipt of the  
 46 funds by the insurer; or

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

3 (3) no withdrawal permitted.

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

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

10 (1) without adjustment to reflect changes in in-  
11 terest rates or asset values since receipt of the  
12 funds by the insurer; or

13 (2) subject only to a fixed surrender charge  
14 stipulated in the contract as a percentage of the  
15 fund.

16 (vi) An insurer may elect to value guaranteed interest  
17 contracts with cash settlement options and annuities  
18 with cash settlement options on either an issue year  
19 basis or on a change in fund basis. Guaranteed interest  
20 contracts with no cash settlement options and other an-  
21 nuities with no cash settlement options must be valued  
22 on an issue year basis. As used in this subsection, an  
23 issue year basis of valuation refers to a valuation ba-  
24 sis under which the interest rate used to determine the  
25 minimum valuation standard for the entire duration of  
26 the annuity or guaranteed interest contract is the cal-  
27 endar year valuation interest rate for the year of is-  
28 sue or year of purchase of the annuity or guaranteed in-  
29 terest contract, and the change in fund basis of valua-  
30 tion refers to a valuation basis under which the inter-  
31 est rate used to determine the minimum valuation stan-  
32 dard applicable to each change in the fund held under  
33 the annuity or guaranteed interest contract is the cal-  
34 endar year valuation interest rate for the year of the  
35 change in the fund.

36 D. Reference interest rate

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

39 1. For ~~all~~ life insurance, the lesser of the average over a  
40 period of thirty-six (36) months and the average over a pe-  
41 riod of twelve (12) months, ending on June 30 of the calen-  
42 dar year next preceding the year of issue, of Moody's cor-  
43 porate bond yield average -- monthly average corporates, as  
44 published by Moody's Investors Service, Inc.

45 b. For single premium immediate annuities and for annuity benef-  
46 its involving life contingencies arising from other annuities  
47 with cash settlement options and guaranteed interest contracts  
48 with cash settlement options, the average over a period of twelve  
49 (12) months, ending on June 30 of the calendar year of issue or year  
50 of purchase, of Moody's corporate bond yield average -- monthly

1 average corporates, as published by Moody's Investors Service,  
2 Inc.

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

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

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

25 f. For other annuities with cash settlement options and guaran-  
26 teed interest contracts with cash settlement options, valued on a  
27 change in fund basis, except as stated in b. above, the average  
28 over a period of twelve (12) months, ending on June 30 of the calen-  
29 dar year of the change in the fund, of Moody's corporate bond yield  
30 average -- monthly average corporates, as published by Moody's In-  
31 vestors Service, Inc.

32 E. Alternative method for determining reference interest rates

33 a. In the event that Moody's corporate bond yield average --  
34 monthly average corporates is no longer published by Moody's  
35 Investors Service, Inc., or in the event that the ~~national asso-~~  
36 ~~ciation of insurance commissioners~~ NAIC determines that Moody's  
37 corporate bond yield average -- monthly average corporates, as  
38 published by Moody's Investors Service, Inc., is no longer appro-  
39 priate for the determination of the reference interest rate, then  
40 an alternative method for determination of the reference interest  
41 rate, which is adopted by the ~~national association of insurance~~  
42 ~~commissioners~~ NAIC and approved by regulation promulgated by the  
43 director, may be substituted.

44 (5) Commissioners reserve valuation method.

45 (a) Except as otherwise provided in subsections (6) and (10) of this  
46 section reserves according to the commissioners reserve valuation  
47 method, for the life insurance and endowment benefits of policies pro-  
48 viding for a uniform amount of insurance and requiring the payment of  
49 uniform premiums, shall be the excess, if any, of the present value, at  
50 the date of valuation, of such future guaranteed benefits provided for

1 by such policies, over the then present value of any future modified net  
2 premiums therefor. The modified net premiums for any such policy shall  
3 be such uniform percentage of the respective contract premiums for such  
4 benefits that the present value, at the date of issue of the policy,  
5 of all such modified net premiums shall be equal to the sum of the then  
6 present value of such benefits provided for by the policy and the excess  
7 of (i) over (ii) as follows:

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

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

19 Provided that for any life insurance policy issued on or after January  
20 1, 1986, for which the contract premium in the first policy year exceeds  
21 that of the second year and for which no comparable additional benefit  
22 is provided in the first year for such excess and which provides an en-  
23 dowment benefit or a cash surrender value or a combination thereof in an  
24 amount greater than such excess premium, the reserve according to the  
25 commissioners reserve valuation method as of any policy anniversary oc-  
26 ccurring on or before the assumed ending date defined herein as the first  
27 policy anniversary on which the sum of any endowment benefit and any  
28 cash surrender value then available is greater than such excess premium  
29 shall, except as otherwise provided in subsection (10) of this section,  
30 be the greater of the reserve as of such policy anniversary calculated  
31 as described in the preceding paragraph and the reserve as of such pol-  
32 icy anniversary calculated as described in that paragraph, but with (a)  
33 the value defined in subparagraph (i) of that paragraph being reduced by  
34 fifteen percent (15%) of the amount of such excess first year premium,  
35 (b) all present values of benefits and premiums being determined with-  
36 out reference to premiums or benefits provided for by the policy after  
37 the assumed ending date, (c) the policy being assumed to mature on such  
38 date as an endowment, and (d) the cash surrender value provided on such  
39 date being considered as an endowment benefit. In making the above com-  
40 parison the mortality and interest basis stated in subsections (4) and  
41 (4b) of this section shall be used.

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

44 (i) Life insurance policies providing for a varying amount of in-  
45 surance or requiring the payment of varying premiums,

46 (ii) Group annuity and pure endowment contracts purchased under a  
47 retirement plan or plan of deferred compensation, established or  
48 maintained by an employer (including a partnership or sole propri-  
49 etorship) or by an employee organization, or by both, other than  
50 a plan providing individual retirement accounts or individual re-

1           tirement annuities under section 408 of the Internal Revenue Code,  
2           as now or hereafter amended,

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

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

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

12          (6) Individual annuity and pure endowment reserves.

13          (a) This subsection ~~(6)~~ shall apply to all annuity and pure endow-  
14          ment contracts other than group annuity and pure endowment contracts  
15          purchased under a retirement plan or plan of deferred compensation, es-  
16          tablished or maintained by an employer (including a partnership or sole  
17          proprietorship) or by an employee organization, or by both, other than  
18          a plan providing individual retirement accounts or individual retire-  
19          ment annuities under section 408 of the Internal Revenue Code, as now or  
20          hereafter amended.

21          (b) Reserves according to the commissioners annuity reserve method  
22          for benefits under annuity or pure endowment contracts, excluding any  
23          disability and accidental death benefits in such contracts, shall be  
24          the greatest of the respective excesses of the present values, at the  
25          date of valuation, of the future guaranteed benefits, including guaran-  
26          teed nonforfeiture benefits, provided for by such contracts at the end  
27          of each respective contract year, over the present value, at the date  
28          of valuation, of any future valuation considerations derived from fu-  
29          ture gross considerations, required by the terms of such contract, that  
30          become payable prior to the end of such respective contract year. The  
31          future guaranteed benefits shall be determined by using the mortality  
32          table, if any, and the interest rate, or rates, specified in such con-  
33          tracts for determining guaranteed benefits. The valuation considera-  
34          tions are the portions of the respective gross considerations applied  
35          under the terms of such contracts to determine nonforfeiture values.

36          (7) Minimum aggregate reserves. In no event shall an insurer's aggre-  
37          gate reserves for all life insurance policies, excluding disability and ac-  
38          cidental death benefits, issued on or after the operative date of section  
39          41-1927, Idaho Code, be less than the aggregate reserves calculated in ac-  
40          cordance with the methods set forth in subsections (5), (6), (10) and (11) of  
41          this section and the mortality table or tables and rate or rates of interest  
42          used in calculating nonforfeiture benefits for such policies.

43          (8) Optional reserve basis.

44          (a) Reserves for all policies and contracts issued prior to the opera-  
45          tive date of section 41-1927, Idaho Code, may be calculated, at the op-  
46          tion of the insurer, according to any standards which produce greater  
47          aggregate reserves for all such policies and contracts than the minimum  
48          reserves required by the laws in effect immediately prior to such date.

49          (b) For any category of policies, contracts or benefits specified in  
50          subsections (4), (4a) and (4b) of this section, issued on or after the

1 operative date of section 41-1927, Idaho Code, (the standard nonfor-  
2 feiture law), reserves may be calculated, at the option of the insurer,  
3 according to any standard or standards which produce greater aggregate  
4 reserves for such category than those calculated according to the min-  
5 imum standard herein provided, but the rate or rates of interest used  
6 for policies and contracts, other than annuity and pure endowment con-  
7 tracts, shall not be ~~higher~~ greater than the corresponding rate or rates  
8 of interest used in calculating any nonforfeiture benefits provided for  
9 ~~therein~~ in the policies or contracts.

10 (9) Lower valuations. An insurer which at any time had adopted any  
11 standard of valuation producing greater aggregate reserves than those cal-  
12 culated according to the minimum standard ~~herein~~ provided under this section  
13 may, with the approval of the director, adopt any lower standard of valua-  
14 tion, but not lower than the minimum ~~herein~~ provided under this section.

15 (10) Minimum reserve. If in any contract year the gross premium charged  
16 by any life insurer on any policy or contract is less than the valuation net  
17 premium for the policy or contract calculated by the method used in calculat-  
18 ing the reserve thereon, but using the minimum valuation standards of mor-  
19 tality and rate of interest, the minimum reserve required for such policy or  
20 contract shall be the greater of either the reserve calculated according to  
21 the mortality table, rate of interest, and method actually used for such pol-  
22 icy or contract, or the reserve calculated by the method actually used for  
23 such policy or contract but using the minimum valuation standards of mortal-  
24 ity and rate of interest and replacing the valuation net premium by the ac-  
25 tual gross premium in each contract year for which the valuation net premium  
26 exceeds the actual gross premium. The minimum valuation standards of mor-  
27 tality and rate of interest referred to in this subsection are those stan-  
28 dards stated in subsections (4) and (4b) of this section.

29 Provided that for any life insurance policy issued on or after January  
30 1, 1986, for which the gross premium in the first policy year exceeds that of  
31 the second year and for which no comparable additional benefit is provided in  
32 the first year for such excess and which provides an endowment benefit or a  
33 cash surrender value or a combination thereof in an amount greater than such  
34 excess premium, the foregoing provisions of this subsection ~~(10)~~ shall be  
35 applied as if the method actually used in calculating the reserve for such  
36 policy were the method described in subsection (5) of this section, ignoring  
37 the second paragraph of subsection (5) of this section. The minimum reserve  
38 at each policy anniversary of such a policy shall be the greater of the min-  
39 imum reserve calculated in accordance with subsection (5) of this section,  
40 including the second paragraph of that subsection, and the minimum reserve  
41 calculated in accordance with this subsection ~~(10)~~.

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

49 (a) Be appropriate in relation to the benefits and the pattern of premi-  
50 ums for that plan, and

1 (b) Be computed by a method which is consistent with the principles of  
 2 this standard valuation law,  
 3 as determined by rules promulgated by the director.

4 (12) Actuarial opinion of reserves.

5 (a) Actuarial opinion prior to the operative date of the valuation man-  
 6 ual.

7 (ai) Every life insurance company doing business in this state  
 8 shall annually submit the opinion of a qualified actuary as to  
 9 whether the reserves and related actuarial items held in support  
 10 of the policies and contracts specified by the director by rule  
 11 are computed appropriately, are based on assumptions which sat-  
 12 isfy contractual provisions, are consistent with prior reported  
 13 amounts and comply with applicable laws of this state. The direc-  
 14 tor by rule shall define the specifics of this opinion and add any  
 15 other items deemed to be necessary to its scope.

16 (bii) Actuarial analysis of reserves and assets supporting such  
 17 reserves.

18 ~~(i)1.~~ Every life insurance company, except as exempted by or  
 19 pursuant to rule, shall also annually include in the opinion  
 20 required by subparagraph (ai) of this ~~subsection~~paragraph,  
 21 an opinion of the same qualified actuary as to whether the  
 22 reserves and related actuarial items held in support of the  
 23 policies and contracts specified by the director by rule,  
 24 when considered in light of the assets held by the company  
 25 with respect to the reserves and related actuarial items,  
 26 including, but not limited to, the investment earnings on  
 27 the assets and the considerations anticipated to be received  
 28 and retained under the policies and contracts, make adequate  
 29 provision for the company's obligations under the policies  
 30 and contracts including, but not limited to, the benefits  
 31 under and expenses associated with the policies and con-  
 32 tracts.

33 ~~(ii)2.~~ The director may provide by rule for a transition pe-  
 34 riod for establishing any higher reserves which the quali-  
 35 fied actuary may deem necessary in order to render the opin-  
 36 ion required in this subsection.

37 (ei) Requirements for opinion in subparagraph (bii) of this  
 38 ~~subsection~~ paragraph. Each opinion required in subparagraph  
 39 (bii) of this ~~subsection~~ paragraph shall be governed by the fol-  
 40 lowing provisions:

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

44 ~~(ii)2.~~ If the insurance company fails to provide a support-  
 45 ing memorandum at the request of the director within a period  
 46 specified by rule or the director determines that the sup-  
 47 porting memorandum provided by the insurance company fails  
 48 to meet the standards prescribed by the rules or otherwise  
 49 unacceptable to the director, the director may engage a  
 50 qualified actuary at the expense of the company to review



1 the opinion and prepare such supporting memorandum as is re-  
2 quired by the director.

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

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

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

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

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

22 ~~(v)~~5. For the purposes of this subsection, "qualified ac-  
23 tuary" means a member in good standing of the American acad-  
24 emy of actuaries who meets the requirements set forth in such  
25 regulations.

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

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

34 ~~(viii)~~8. Any memorandum in support of the opinion, and any  
35 other material provided by the company to the director in  
36 connection therewith, shall be kept confidential by the di-  
37 rector and shall not be made public and shall not be subject  
38 to subpoena, other than for the purpose of defending an ac-  
39 tion seeking damages from any person by reason of any action  
40 required in this subsection or by rule promulgated hereun-  
41 der; provided however, that the memorandum or other material  
42 may otherwise be released by the director (A) with the writ-  
43 ten consent of the company or (B) to the American academy of  
44 actuaries upon request stating that the memorandum or other  
45 material is required for the purpose of professional disci-  
46 plinary proceedings and setting forth procedures satisfac-  
47 tory to the director for preserving the confidentiality of  
48 the memorandum or other material. Once any portion of the  
49 confidential memorandum is cited by the company in its mar-  
50 keting or is cited before any governmental agency other than

1 a state insurance department or is released by the company to  
2 the news media, all portions of the confidential memorandum  
3 shall no longer be confidential.

4 (b) Actuarial opinion of reserves after the operative date of the valu-  
5 ation manual.

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

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

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

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

40 2. If the insurance company fails to provide a supporting  
41 memorandum at the request of the director within a period  
42 specified in the valuation manual or the director determines  
43 that the supporting memorandum provided by the insurance  
44 company fails to meet the standards prescribed by the valu-  
45 ation manual or is otherwise unacceptable to the director,  
46 the director may engage a qualified actuary at the expense  
47 of the company to review the opinion and the basis for the  
48 opinion and prepare the supporting memorandum required by  
49 the director.

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

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

5           2. The opinion shall be submitted with the annual statement  
6 reflecting the valuation of such reserve liabilities for  
7 each year ending on or after the operative date of the valua-  
8 tion manual.

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

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

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

23           6. Except in cases of fraud or willful misconduct, the ap-  
24 pointed actuary shall not be liable for damages to any per-  
25 son, other than the insurance company and the director, for  
26 any act, error, omission, decision or conduct with respect  
27 to the appointed actuary's opinion.

28           7. Disciplinary action by the director against the company  
29 or the qualified actuary shall be defined by rule by the di-  
30 rector.

31           (13) Minimum standard for accident and health insurance contracts. For  
32 disability insurance contracts issued on or after the operative date speci-  
33 fied in section 41-1927, Idaho Code, and prior to the operative date of the  
34 valuation manual, the minimum standard of valuation is the standard adopted  
35 by the director by regulation. For accident and health insurance contracts  
36 issued on or after the operative date of the valuation manual, the standard  
37 prescribed in the valuation manual is the minimum standard of valuation re-  
38 quired under subsection (2) (b) of this section.

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

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

45           (b) The operative date of the valuation manual is January 1 of the first  
46 calendar year following the first July 1 as of which all of the following  
47 have occurred:

48           (i) The valuation manual has been adopted by the NAIC by an affir-  
49 mative vote of at least forty-two (42) members, or three-fourths  
50 (3/4) of the members voting, whichever is greater.

1           (ii) The standard valuation law, as amended by the NAIC in 2009,  
 2 or legislation including substantially similar terms and provi-  
 3 sions, has been enacted by states representing greater than sev-  
 4 enty-five percent (75%) of the direct premiums written as reported  
 5 in the following annual statements submitted for 2008: life, ac-  
 6 cident and health annual statements; health annual statements; or  
 7 fraternal annual statements.

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

14 The director may confirm the operative date of the valuation manual by bul-  
 15 letin or otherwise.

16           (c) Unless a change in the valuation manual specifies a later effective  
 17 date, changes to the valuation manual shall be effective on January 1  
 18 following the date when both of the following have occurred:

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

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

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

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

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

33           (i) Minimum valuation standards for and definitions of the poli-  
 34 cies or contracts subject to subsection (2) (b) of this section.  
 35 Such minimum valuation standards shall be:

36           1. The commissioner's reserve valuation method for life in-  
 37 surance contracts, other than annuity contracts, subject to  
 38 subsection (2) (b) of this section;

39           2. The commissioner's annuity reserve valuation method for  
 40 annuity contracts subject to subsection (2) (b) of this sec-  
 41 tion; and

42           3. Minimum reserves for all other policies or contracts sub-  
 43 ject to subsection (2) (b) of this section.

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

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

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

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

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

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

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

15           2. Develop reserves that quantify the benefits and guar-  
16           antees, and the funding, associated with the contracts and  
17           their risks at a level of conservatism that reflects condi-  
18           tions that include unfavorable events that have a reasonable  
19           probability of occurring.

20          (v) Other requirements including, but not limited to, those re-  
21          lating to reserve methods, models for measuring risk, generation  
22          of economic scenarios, assumptions, margins, use of company ex-  
23          perience, risk measurement, disclosure, certifications, reports,  
24          actuarial opinions and memorandums, transition rules and internal  
25          controls; and

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

30          (e) In the absence of a specific valuation requirement or if a specific  
31          valuation requirement in the valuation manual is not, in the opinion of  
32          the director, in compliance with this section, then the company shall,  
33          with respect to such requirements, comply with minimum valuation stan-  
34          dards prescribed by the director by rule.

35          (f) The director may engage a qualified actuary, at the expense of the  
36          company, to perform an actuarial examination of the company and opine on  
37          the appropriateness of any reserve assumption or method used by the com-  
38          pany, or to review and opine on a company's compliance with any require-  
39          ment set forth in this section. The director may rely upon the opinion,  
40          regarding provisions contained within this section, of a qualified ac-  
41          tuary engaged by the commissioner of another state, district or terri-  
42          tory of the United States. As used in this paragraph, the term "engage"  
43          includes employment and contracting.

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

50          (15) Requirements of a principle-based valuation.

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

4 (i) Quantify the benefits and guarantees, and the funding, as-  
5 sociated with the contracts and their risks at a level of conser-  
6 vatism that reflects conditions that include unfavorable events  
7 that have a reasonable probability of occurring during the life-  
8 time of the contracts. Policies or contracts with significant  
9 tail risk shall reflect conditions appropriately adverse to quan-  
10 tify the tail risk;

11 (ii) Incorporate assumptions, risk analysis methods and finan-  
12 cial models and management techniques that are consistent with,  
13 but not necessarily identical to, those utilized within the com-  
14 pany's overall risk assessment process, while recognizing poten-  
15 tial differences in financial reporting structures and any pre-  
16 scribed assumptions or methods;

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

19 1. The assumption is prescribed in the valuation manual.

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

22 (A) Be established utilizing the company's available  
23 experience, to the extent it is relevant and statisti-  
24 cally credible; or

25 (B) To the extent that company data is not available,  
26 relevant or statistically credible, be established  
27 utilizing other relevant, statistically credible ex-  
28 perience;

29 (iv) Provide margins for uncertainty, including adverse devia-  
30 tion and estimation error, such that the greater the uncertainty  
31 the larger the margin and resulting reserve.

32 (b) A company using a principle-based valuation for one (1) or more  
33 policies or contracts subject to this subsection as specified in the  
34 valuation manual shall:

35 (i) Establish procedures for corporate governance and oversight  
36 of the actuarial valuation function consistent with those de-  
37 scribed in the valuation manual;

38 (ii) Provide to the director and the company's board of directors  
39 an annual certification of the effectiveness of the internal con-  
40 trols with respect to the principle-based valuation. Such con-  
41 trols shall be designed to assure that all material risks inher-  
42 ent in the liabilities and associated assets subject to such valua-  
43 tion are included in the valuation, and that valuations are made  
44 in accordance with the valuation manual. The certification shall  
45 be based on the controls in place as of the end of the preceding  
46 calendar year;

47 (iii) Develop, and file with the director upon request, a prin-  
48 ciple-based valuation report that complies with standards pre-  
49 scribed in the valuation manual.

1 (c) A principle-based valuation may include a prescribed formulaic re-  
2 serve component.

3 (16) Experience reporting for policies in force on or after the oper-  
4 ative date of the valuation manual. A company shall submit mortality, mor-  
5 idity, policyholder behavior, or expense experience and other data as pre-  
6 scribed in the valuation manual.

7 (17) Confidentiality.

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

9 (i) A memorandum in support of an opinion submitted under subsec-  
10 tion (12) of this section and any other documents, materials and  
11 other information including, but not limited to, all working pa-  
12 pers, and copies thereof, created, produced or obtained by or dis-  
13 closed to the director or any other person in connection with such  
14 memorandum;

15 (ii) All documents, materials and other information including,  
16 but not limited to, all working papers, and copies thereof, cre-  
17 ated, produced or obtained by or disclosed to the director or any  
18 other person in the course of an examination made under subsection  
19 (14) (f) of this section; provided however, that if an examination  
20 report or other material prepared in connection with an examina-  
21 tion made under chapter 2, title 41, Idaho Code, is not held as  
22 private and confidential information under chapter 2, title 41,  
23 Idaho Code, an examination report or other material prepared in  
24 connection with an examination made under subsection (14) (f) of  
25 this section shall not be confidential information to the same ex-  
26 tent as if such examination report or other material had been pre-  
27 pared under chapter 2, title 41, Idaho Code.

28 (iii) Any reports, documents, materials and other information de-  
29 veloped by a company in support of, or in connection with, an an-  
30 ual certification by the company under subsection (15) (b) (ii) of  
31 this section evaluating the effectiveness of the company's inter-  
32 nal controls with respect to a principle-based valuation and any  
33 other documents, materials and other information including, but  
34 not limited to, all working papers, and copies thereof, created,  
35 produced or obtained by or disclosed to the director or any other  
36 person in connection with such reports, documents, materials and  
37 other information;

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

44 (v) Any documents, materials, data and other information submit-  
45 ted by a company under subsection (16) of this section (collec-  
46 tively, "experience data") and any other documents, materials,  
47 data and other information including, but not limited to, all  
48 working papers, and copies thereof, created or produced in connec-  
49 tion with such experience data, in each case that includes any po-  
50 tentially company-identifying or personally identifiable infor-

1 mation, that is provided to or obtained by the director (together  
2 with any "experience data," the "experience materials") and any  
3 other documents, materials, data and other information including,  
4 but not limited to, all working papers, and copies thereof, cre-  
5 ated, produced or obtained by or disclosed to the director or any  
6 other person in connection with such experience materials.

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

8 (i) Except as provided in this subsection, a company's confiden-  
9 tial information is confidential by law and privileged, and shall  
10 not be subject to public disclosure under chapter 1, title 74,  
11 Idaho Code, shall not be subject to subpoena and shall not be sub-  
12 ject to discovery or admissible in evidence in any private civil  
13 action; provided however, that the director is authorized to use  
14 the confidential information in the furtherance of any regulatory  
15 or legal action brought against the company as a part of the direc-  
16 tor's official duties;

17 (ii) Neither the director nor any person who received confiden-  
18 tial information while acting under the authority of the director  
19 shall be permitted or required to testify in any private civil ac-  
20 tion concerning any confidential information;

21 (iii) In order to assist in the performance of the director's du-  
22 ties, the director may share confidential information:

23 1. With other state, federal and international regulatory  
24 agencies and with the NAIC and its affiliates and sub-  
25 subsidiaries; and

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

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

38 (iv) The director may receive documents, materials, data and  
39 other information, including otherwise confidential and privi-  
40 leged documents, materials, data or information, from the NAIC and  
41 its affiliates and subsidiaries, from regulatory or law enforce-  
42 ment officials of other foreign or domestic jurisdictions and from  
43 the actuarial board for counseling and discipline or its successor  
44 and shall maintain as confidential or privileged any document,  
45 material, data or other information received with notice or the  
46 understanding that it is confidential or privileged under the laws  
47 of the jurisdiction that is the source of the document, material or  
48 other information.

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



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

5 (vii) A privilege established under the law of any state or ju-  
 6 risdiction that is substantially similar to the privilege estab-  
 7 lished under this paragraph shall be available and enforced in any  
 8 proceeding in, and in any court of, this state.

9 (viii) In this subsection, "regulatory agency," "law enforcement  
 10 agency" and the "NAIC" include, but are not limited to, their em-  
 11 ployees, agents, consultants and contractors.

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

14 (i) May be subject to subpoena for the purpose of defending an ac-  
 15 tion seeking damages from the appointed actuary submitting the re-  
 16 lated memorandum in support of an opinion submitted under subsec-  
 17 tion (12) of this section or principle-based valuation report de-  
 18 veloped under subsection (15) (b) (iii) of this section by reason of  
 19 an action required by this section or by rule promulgated hereun-  
 20 der;

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

23 (iii) Once any portion of a memorandum in support of an opin-  
 24 ion submitted under subsection (12) of this section or a  
 25 principle-based valuation report developed under subsection  
 26 (15) (b) (iii) of this section is cited by the company in its market-  
 27 ing or is publicly volunteered to or before a governmental agency  
 28 other than a state insurance department or is released by the com-  
 29 pany to the news media, all portions of such memorandum or report  
 30 shall no longer be confidential.

31 (18) Single state examination:

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

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

37 (ii) The company computes reserves using assumptions and methods  
 38 used prior to the operative date of the valuation manual, in addi-  
 39 tion to any requirements established by the director and promul-  
 40 gated by rule.

41 (b) For any company granted an exemption under this section, subsec-  
 42 tions (4), (4a), (4b), (5), (6), (7), (8), (9), (10), (11), (12) and (13)  
 43 of this section shall be applicable. With respect to any company apply-  
 44 ing this exemption, any reference to subsection (14) found in subsec-  
 45 tions (4), (4a), (4b), (5), (6), (7), (8), (9), (10), (11), (12) and (13)  
 46 of this section shall not be applicable.

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

49 41-1927. STANDARD NONFORFEITURE LAW -- LIFE INSURANCE.

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

3 (b) "Operative date of the valuation manual" means January 1 of the  
4 first calendar year that the valuation manual, as defined in section  
5 41-612, Idaho Code, is effective.

6 (2) Nonforfeiture provisions: In the case of policies issued on or af-  
7 ter the operative date of this section as defined in subsection (14) of this  
8 section, no policy of life insurance, except as set forth in subsection (13)  
9 of this section, shall be delivered or issued for delivery in this state un-  
10 less it shall contain in substance the following provisions, or correspond-  
11 ing provisions which in the opinion of the director are at least as favorable  
12 to the defaulting or surrendering policyholder as are the minimum require-  
13 ments hereinafter specified and are essentially in compliance with subsec-  
14 tion (12) of this law:

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

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

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

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

43 (e) In the case of policies which cause, on a basis guaranteed in the  
44 policy, unscheduled changes in benefits or premiums, or which provide  
45 an option for changes in benefits or premiums other than a change to  
46 a new policy, a statement of the mortality table, interest rate, and  
47 method used in calculating cash surrender values and the paid-up non-  
48 forfeiture benefits available under the policy. In the case of all  
49 other policies, a statement of the mortality table and interest rate  
50 used in calculating the cash surrender values and the paid-up nonfor-

1       feiture benefits available under the policy, together with a table  
2       showing the cash surrender value, if any, and paid-up nonforfeiture  
3       benefit, if any, available under the policy on each policy anniver-  
4       sary, either during the first twenty (20) policy years or during the  
5       term of the policy, whichever is shorter, such values and benefits to be  
6       calculated upon the assumption that there are no dividends or paid-up  
7       additions credited to the policy and that there is no indebtedness to  
8       the insurer on the policy.

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

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

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

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

43       (b) The amount of any indebtedness to the insurer on account of or se-  
44       cured by the policy. Provided, however, that for any policy issued on or  
45       after the operative date of subsection (9) (d) as defined therein, which  
46       provides supplemental life insurance or annuity benefits at the option  
47       of the insured and for an identifiable additional premium by rider or  
48       supplemental policy provision, the cash surrender value referred to  
49       in the first paragraph of this subsection shall be an amount not less  
50       than the sum of the cash surrender value as defined in such paragraph

1 for an otherwise similar policy issued at the same age without such  
2 rider or supplemental policy provision and the cash surrender value as  
3 defined in such paragraph for a policy which provides only the benefits  
4 otherwise provided by such rider or supplemental policy provision.  
5 Provided, further, that for any family policy issued on or after the  
6 operative date of subsection (9) (d) as defined therein, which defines a  
7 primary insured and provides term insurance on the life of the spouse of  
8 the primary insured expiring before the spouse's age seventy-one (71),  
9 the cash surrender value referred to in the first paragraph of this  
10 subsection shall be an amount not less than the sum of the cash surren-  
11 der value as defined in such paragraph for an otherwise similar policy  
12 issued at the same age without such term insurance on the life of the  
13 spouse and the cash surrender value as defined in such paragraph for a  
14 policy which provides only the benefits otherwise provided by such term  
15 insurance on the life of the spouse.

16 Any cash surrender value available within thirty (30) days after any  
17 policy anniversary under any policy paid up by completion of all pre-  
18 mium payments, or any policy continued under any paid-up nonforfeiture  
19 benefits, whether or not required by such subsection (2), shall be an  
20 amount not less than the present value, on such anniversary, of the fu-  
21 ture guaranteed benefits provided for by the policy, including any ex-  
22 isting paid-up additions, decreased by any indebtedness to the insurer  
23 on account of or secured by the policy.

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

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

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

41 (b) Two per cent (2%) of the amount of the insurance if the insurance be  
42 uniform in amount, or of the equivalent uniform amount, as hereinafter  
43 defined, if the amount of insurance varies with the duration of the pol-  
44 icy;

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

47 (d) Twenty-five per cent (25%) of either the adjusted premium for the  
48 first policy year or the adjusted premium for a whole life policy of the  
49 same uniform or equivalent uniform amount with uniform premiums for the  
50 whole of life issued at the same age for the same amount of insurance,

1           whichever is less, provided, however, that in applying the percentages  
2           specified in subdivisions (c) and (d) above, no adjusted premiums shall  
3           be deemed to exceed four per cent (4%) of the amount of insurance or uni-  
4           form amount equivalent thereto. Whenever the plan or term of a policy  
5           has been changed, either by request of the insured or automatically in  
6           accordance with the provisions of the policy, the date of issue of the  
7           changed policy for the purposes of determining a nonforfeiture benefit  
8           or cash surrender value shall be the date as of which the age of the in-  
9           sured is determined for the purposes of the changed policy. The date of  
10          issue of a policy for the purposes of this subsection shall be the date  
11          as of which the rated age of the insured is determined.

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

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

36          (9) (a) Except as provided in subdivisions (b), (c) and (d) of this sub-  
37          section, all adjusted premiums and present values referred to in this  
38          section shall for all policies of ordinary insurance be calculated on  
39          the basis of the commissioners 1941 standard ordinary mortality table,  
40          provided that for any category of ordinary insurance issued on female  
41          risks, adjusted premiums and present values may be calculated, at the  
42          option of the insurer according to an age not more than three (3) years  
43          younger than the actual age of the insured and such calculations for all  
44          policies of industrial insurance shall be made on the basis of the 1941  
45          standard industrial mortality table. All calculations shall be made  
46          on the basis of the rate of interest, not exceeding three and one-half  
47          per cent (3 1/2%) per annum, specified in the policy for calculating  
48          cash surrender values and paid-up nonforfeiture benefits, provided,  
49          however, that in calculating the present value of any paid-up term  
50          insurance with accompanying pure endowment, if any, offered as a non-

1 forfeiture benefit, the rates of mortality assumed may be not more than  
2 one hundred thirty per cent (130%) of the rates of mortality according  
3 to such applicable table, provided further that for insurance issued on  
4 a substandard basis, the calculation of any such adjusted premiums and  
5 present values may be based on such other table of mortality as may be  
6 specified by the insurer and approved by the director.

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

34 On or after the operative date of this section as defined in subsec-  
35 tion (14) of this section, any insurer may file with the director a writ-  
36 ten notice of its election to comply with the provisions of this subdivi-  
37 sion after a specified date before January 1, 1966. After the filing  
38 of such notice, then upon such specified date (which shall be the opera-  
39 tive date of this subdivision for such insurer), this subdivision shall  
40 become operative with respect to the ordinary policies thereafter is-  
41 sued by such insurer. If an insurer makes no such election, the opera-  
42 tive date of this subdivision for such insurer shall be January 1, 1966.

43 (c) This subsection (9) (c) shall not apply to industrial policies is-  
44 sued on or after the operative date of subsection (9) (d) as defined  
45 therein. In the case of industrial policies issued on or after the opera-  
46 tive date of this subdivision as defined herein, all adjusted premiums  
47 and present values referred to in this section shall be calculated on  
48 the basis of the commissioners' 1961 standard industrial mortality  
49 table and the rate of interest specified in the policy for calculat-  
50 ing cash surrender values and paid-up nonforfeiture benefits provided

1 that such rate of interest shall not exceed three and one-half per cent  
2 (3 1/2%) per annum except that a rate of interest not exceeding four per  
3 cent (4%) per annum may be used for policies issued on or after July 1,  
4 1973, and prior to July 1, 1977, and a rate of interest not exceeding  
5 five and one-half per cent (5 1/2%) per annum may be used for policies  
6 issued on or after July 1, 1977, except that for any single premium whole  
7 life or endowment insurance policy a rate of interest not exceeding six  
8 and one-half per cent (6 1/2%) per annum may be used. Provided, however,  
9 that in calculating the present value of any paid-up term insurance  
10 with accompanying pure endowment, if any, offered as a nonforfeiture  
11 benefit, the rates of mortality assumed may be not more than those shown  
12 in the commissioners' 1961 industrial extended term insurance table.  
13 Provided, further, that for insurance issued on a substandard basis,  
14 the calculation of any such adjusted premiums and present values may be  
15 based on such other table of mortality as may be specified by the insurer  
16 and approved by the director.

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

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

1 (ii) The nonforfeiture net level premium shall be equal to the  
2 present value, at the date of issue of the policy, of the guaran-  
3 teed benefits provided for by the policy divided by the present  
4 value, at the date of issue of the policy, of an annuity of one (1)  
5 per annum payable on the date of issue of the policy and on each an-  
6 niversary of such policy on which a premium falls due.

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

18 (iv) Except as otherwise provided in paragraph vii of this sub-  
19 section, the recalculated future adjusted premiums for any such  
20 policy shall be such uniform percentage of the respective future  
21 premiums specified in the policy for each policy year, excluding  
22 amounts payable as extra premiums to cover impairments and special  
23 hazards, and also excluding any uniform annual contract charge or  
24 policy fee specified in the policy in a statement of the method to  
25 be used in calculating the cash surrender values and paid-up non-  
26 forfeiture benefits, that the present value, at the time of change  
27 to the newly defined benefits or premiums, of all such future ad-  
28 justed premiums shall be equal to the excess of the sum of (A) the  
29 then present value of the then future guaranteed benefits provided  
30 for by the policy and (B) the additional expense allowance, if any,  
31 over the then cash surrender value, if any, or present value of any  
32 paid-up nonforfeiture benefit under the policy.

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

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

46 (A) equals the sum of

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



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

3                   2. the present value of the increase in future guaran-  
4                   teed benefits provided for by the policy, and

5                   (B) equals the present value of an annuity of one (1) per an-  
6                   num payable on each anniversary of the policy on or subse-  
7                   quent to the date of change on which a premium falls due.

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

17                   (viii) All adjusted premiums and present values referred to in  
18                   this section shall, for all policies of ordinary insurance, be  
19                   calculated on the basis of (A) the commissioners 1980 standard  
20                   ordinary mortality table or (B) at the election of the insurer  
21                   for any one or more specified plans of life insurance, the com-  
22                   missioners 1980 standard ordinary mortality table with ten-year  
23                   select mortality factors; shall, for all policies of industrial  
24                   insurance, be calculated on the basis of the commissioners 1961  
25                   standard industrial mortality table; and shall for all policies  
26                   issued in a particular calendar year be calculated on the basis of  
27                   a rate of interest not exceeding the nonforfeiture interest rate  
28                   as defined in this subsection, for policies issued in that calen-  
29                   dar year. Provided, however, that:

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

36                   2. Under any paid-up nonforfeiture benefit, includ-  
37                   ing any paid-up dividend additions, any cash surren-  
38                   der value available, whether or not required by subsec-  
39                   tion (2) shall be calculated on the basis of the mor-  
40                   tality table and rate of interest used in determining  
41                   the amount of such paid-up nonforfeiture benefit and  
42                   paid-up dividend additions, if any.

43                   3. An insurer may calculate the amount of any guar-  
44                   anteed paid-up nonforfeiture benefit including any  
45                   paid-up additions under the policy on the basis of an  
46                   interest rate no lower than that specified in the pol-  
47                   icy for calculating cash surrender values.

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

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

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

10 6. (A) Any For policies issued prior to the  
11 operative date of the valuation manual, any com-  
12 missioners standard ordinary mortality tables,  
13 adopted after 1980 by the national association  
14 of insurance commissioners, that are approved by  
15 regulation promulgated by the director for use in  
16 determining the minimum nonforfeiture standard  
17 may be substituted for the commissioners 1980  
18 standard ordinary mortality table with or with-  
19 out ten-year select mortality factors or for the  
20 commissioners 1980 extended term insurance ta-  
21 ble.

22 (B) For policies issued on or after the opera-  
23 tive date of the valuation manual, the valuation  
24 manual shall provide the commissioners standard  
25 mortality table for use in determining the min-  
26 imum nonforfeiture standard that may be substi-  
27 tuted for the commissioners 1980 standard ordi-  
28 nary mortality table with or without ten-year se-  
29 lect mortality factors or for the commissioners  
30 1980 extended term insurance table. If the di-  
31 rector approves by regulation any commissioners  
32 standard ordinary mortality table adopted by the  
33 national association of insurance commissioners  
34 for use in determining the minimum nonforfeiture  
35 standard for policies issued on or after the op-  
36 erative date of the valuation manual then that  
37 minimum nonforfeiture standard supersedes the  
38 minimum nonforfeiture standard provided by the  
39 valuation manual.

40 7. (A) Any For policies issued prior to the oper-  
41 ative date of the valuation manual, any commis-  
42 sioners standard industrial mortality tables,  
43 adopted after 1980 by the national association  
44 of insurance commissioners, that are approved  
45 by regulation promulgated by the commissioner  
46 for use in determining the minimum nonforfeiture  
47 standard may be substituted for the commis-  
48 sioners 1961 standard industrial mortality table or  
49 the commissioners 1961 industrial extended term  
50 insurance table.

1                   (B) For policies issued on or after the opera-  
 2                   tive date of the valuation manual, the valuation  
 3                   manual shall provide the commissioners stan-  
 4                   dard mortality table for use in determining the  
 5                   minimum nonforfeiture standard that may be sub-  
 6                   stituted for the commissioners 1961 standard  
 7                   industrial mortality table or the commissioners  
 8                   1961 industrial extended term insurance table.  
 9                   If the director approves by regulation any com-  
 10                   missioners standard industrial mortality table  
 11                   adopted by the national association of insurance  
 12                   commissioners for use in determining the mini-  
 13                   imum nonforfeiture standard for policies issued  
 14                   on or after the operative date of the valuation  
 15                   manual then that minimum nonforfeiture standard  
 16                   supersedes the minimum nonforfeiture standard  
 17                   provided by the valuation manual.

18           (ix) The nonforfeiture interest rate is defined below:

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

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

31           (x) Notwithstanding any other provision in this code to the con-  
 32           trary, any refiling of nonforfeiture values or their methods of  
 33           computation for any previously approved policy form which in-  
 34           volves only a change in the interest rate or mortality table used  
 35           to compute nonforfeiture values shall not require refiling of any  
 36           other provisions of that policy form.

37           (xi) After the effective date of subsection (9) (d), any insurer  
 38           may file with the director a written notice of its election to com-  
 39           ply with the provisions of this subsection after a specified date  
 40           before January 1, 1989, which shall be the operative date of this  
 41           subsection for such insurer. If an insurer makes no such elec-  
 42           tion, the operative date of this subsection for such insurer shall  
 43           be January 1, 1989.

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

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

5 (b) The director must be satisfied that the benefits and the pattern of  
6 premiums of that plan are not such as to mislead prospective policyhold-  
7 ers or insureds;

8 (c) The cash surrender values and paid-up nonforfeiture benefits pro-  
9 vided by such plan must not be less than the minimum values and benefits  
10 required for the plan computed by a method consistent with the princi-  
11 ples of this standard nonforfeiture law for life insurance, as deter-  
12 mined by regulations promulgated by the director.

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

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

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

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

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

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

36 (f) As other policy benefits additional to life insurance and endowment  
37 benefits, and premiums for all such additional benefits, shall be dis-  
38 regarded in ascertaining cash surrender values and nonforfeiture bene-  
39 fits required by this section, and no such additional benefits shall be  
40 required to be included in any paid-up nonforfeiture benefits.

41 (12) This subsection, in addition to all other applicable subsections  
42 of this section, shall apply to all policies issued on or after January 1,  
43 1986. Any cash surrender value available under the policy in the event of  
44 default in a premium payment due on any policy anniversary shall be in an amount  
45 which does not differ by more than two-tenths of one per cent (2/10 of 1%) of  
46 either the amount of insurance, if the insurance be uniform in amount, or the  
47 average amount of insurance at the beginning of each of the first ten (10)  
48 policy years, from the sum of:

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

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

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

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

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

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

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

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

39 Any cash surrender value available other than in the event of default in  
40 a premium payment due on a policy anniversary, and the amount of any paid-up  
41 nonforfeiture benefit available under the policy in the event of default in  
42 a premium payment shall be determined in manners consistent with the manners  
43 specified for determining the analogous minimum amounts in subsections (2),  
44 (3), (4), (5), (9) (d) and (11). The amounts of any cash surrender values and  
45 of any paid-up nonforfeiture benefits granted in connection with additional  
46 benefits such as those listed as items (a) through (f) in subsection (11)  
47 shall conform with the principles of this subsection (12).

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

49 (a) Reinsurance,

50 (b) Group insurance,

- 1 (c) Variable life insurance,  
 2 (d) Pure endowment,  
 3 (e) Annuity or reversionary annuity contract,  
 4 (f) Term policy of uniform amount which provides no guaranteed nonfor-  
 5 feiture or endowment benefits, or renewal thereof, of twenty (20) years  
 6 or less expiring before age seventy-one (71), for which uniform premi-  
 7 ums are payable during the entire term of the policy,  
 8 (g) Term policy of decreasing amount, which provides no guaranteed  
 9 nonforfeiture or endowment benefits, on which each adjusted premium,  
 10 calculated as specified in subsections (6) through (9) of this section,  
 11 is less than the adjusted premiums so calculated on a policy of uniform  
 12 amount, or renewal thereof, which provides no guaranteed nonforfeiture  
 13 or endowment benefits, issued at the same age and for the same initial  
 14 amount of insurance and for a term of twenty (20) years or less expiring  
 15 before age seventy-one (71), for which uniform premiums are payable  
 16 during the entire term of the policy;  
 17 (h) Policy, which provides no guaranteed nonforfeiture or endowment  
 18 benefits, for which no cash surrender value, if any, or present value of  
 19 any paid-up nonforfeiture benefit, at the beginning of any policy year,  
 20 calculated as specified in subsections (4) through (9) of this section,  
 21 exceeds two and one-half per cent (2 1/2%) of the amount of insurance at  
 22 the beginning of the same policy year;  
 23 (i) Policy which shall be delivered outside this state through an agent  
 24 or other representative of the insurer issuing the policy.

25 For purposes of determining the applicability of this section, the age at ex-  
 26 piry for a joint term life insurance policy shall be the age at expiry of the  
 27 oldest life.

28 (14) Operative date. After January 1, 1962, any insurer may file with  
 29 the director a written notice of its election to comply with the provisions  
 30 of this section after a specified date before January 1, 1963. After the fil-  
 31 ing of such notice, then upon such specified date (which shall be the opera-  
 32 tive date for such insurer) this section shall become operative with respect  
 33 to the policies thereafter issued by such insurer. If an insurer makes no  
 34 such election, the operative date of this section for such insurer shall be  
 35 January 1, 1963.

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

38 74-107. RECORDS EXEMPT FROM DISCLOSURE -- TRADE SECRETS, PRODUCTION  
 39 RECORDS, APPRAISALS, BIDS, PROPRIETARY INFORMATION. The following records  
 40 are exempt from disclosure:

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

- 47 (a) Derives independent economic value, actual or potential, from not  
 48 being generally known to, and not being readily ascertainable by proper

1 means by other persons who can obtain economic value from its disclosure  
2 or use; and

3 (b) Is the subject of efforts that are reasonable under the circum-  
4 stances to maintain its secrecy.

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

13 (3) Records relating to the appraisal of real property, timber or min-  
14 eral rights prior to its acquisition, sale or lease by a public agency or in-  
15 dependent public body corporate and politic.

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

20 (5) Examination, operating or condition reports and all documents re-  
21 lating thereto, prepared by or supplied to any public agency or independent  
22 public body corporate and politic responsible for the regulation or supervi-  
23 sion of financial institutions including, but not limited to, banks, savings  
24 and loan associations, regulated lenders, business and industrial develop-  
25 ment corporations, credit unions, and insurance companies, or for the regu-  
26 lation or supervision of the issuance of securities.

27 (6) Records gathered by a local agency or the Idaho department of com-  
28 merce, as described in chapter 47, title 67, Idaho Code, for the specific  
29 purpose of assisting a person to locate, maintain, invest in, or expand busi-  
30 ness operations in the state of Idaho.

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

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

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

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

5 (10) Information obtained from books, records and accounts required in  
6 chapter 47, title 22, Idaho Code, to be maintained by the Idaho oilseed com-  
7 mission and pertaining to the individual production records of oilseed grow-  
8 ers.

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

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

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

30 (14) Voluntarily prepared environmental audits, and voluntary disclo-  
31 sures of information submitted on or before December 31, 1997, to an environ-  
32 mental agency, which are claimed to be confidential business information.

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

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

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

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

47 (16) Active investigative records and trademark usage audits of the  
48 Idaho potato commission specifically relating to the enforcement of chapter  
49 12, title 22, Idaho Code, until the commencement of formal proceedings as  
50 provided by rules of the commission; purchase and sales information sub-



1 mitted to the Idaho potato commission during a trademark usage audit, and  
2 investigation or enforcement proceedings. Inactive investigatory records  
3 shall be disclosed unless the disclosure would violate the standards set  
4 forth in subsections (1) (a) through (f) of section 74-124, Idaho Code. Noth-  
5 ing in this subsection shall limit the use which can be made, or availability  
6 of such information if used, for regulatory purposes or its admissibility in  
7 any enforcement proceeding.

8 (17) All records copied or obtained by the director of the department of  
9 agriculture or his designee as a result of an inspection pursuant to section  
10 25-3806, Idaho Code, except:

11 (a) Records otherwise deemed to be public records not exempt from dis-  
12 closure pursuant to this chapter; and

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

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

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

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

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

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

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

44 (24) Records of a county assessor, the state tax commission, a county  
45 board of equalization or the state board of tax appeals containing the fol-  
46 lowing information: (i) lists of personal property required to be filed pur-  
47 suant to section 63-302, Idaho Code, and operating statements required to  
48 be filed pursuant to section 63-404, Idaho Code, and (ii) confidential com-  
49 mercial or financial information including trade secrets. Except with re-  
50 spect to lists of personal property required to be filed pursuant to section

1 63-302, Idaho Code, and the operator statements required to be filed pur-  
 2 suant to section 63-404, Idaho Code, it shall be the responsibility of the  
 3 taxpayer to give notice of its claim to exemption by stamping or marking each  
 4 page or the first page of each portion of documents so claimed. No records  
 5 that are exempt pursuant to this subsection shall be disclosed without the  
 6 consent of the taxpayer except as follows:

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

11 (b) In the publication of statistics or reports as long as the statis-  
 12 tics or reports do not reasonably lead to the identification of the spe-  
 13 cific taxpayer or information submitted by taxpayers exempt pursuant to  
 14 this subsection.

15 (c) To the board of tax appeals or the district court as evidence or  
 16 otherwise in connection with an appeal of the taxpayer's property tax  
 17 assessment, but only if the board or the court, as applicable, has en-  
 18 tered a protective order specifying that the taxpayer information may  
 19 not be disclosed by any person conducting or participating in the action  
 20 or proceeding, except as authorized by the board or the court in accor-  
 21 dance with applicable law.

22 (d) Nothing in this subsection shall prevent disclosure of the follow-  
 23 ing information:

- 24 (i) Name and mailing address of the property owner;
- 25 (ii) A parcel number;
- 26 (iii) A legal description of real property;
- 27 (iv) The square footage and acreage of real property;
- 28 (v) The assessed value of taxable property;
- 29 (vi) The tax district and the tax rate; and
- 30 (vii) The total property tax assessed.

31 (25) Results of laboratory tests which have no known adverse impacts to  
 32 human health conducted by the Idaho state department of agriculture animal  
 33 health laboratory, related to diagnosis of animal diseases of individual an-  
 34 imals or herds, on samples submitted by veterinarians or animal owners un-  
 35 less:

36 (a) The laboratory test results indicate the presence of a state or fed-  
 37 erally reportable or regulated disease in animals;

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

40 (c) The test result is identified as representing a threat to animal or  
 41 human health or to the livestock industry by the Idaho state department  
 42 of agriculture or the United States department of agriculture. Nothing  
 43 in this subsection shall limit the use which can be made, or availabil-  
 44 ity of such information if used, for regulatory purposes or its admis-  
 45 sibility in any enforcement proceeding, or the duty of any person to re-  
 46 port contagious or infectious diseases as required by state or federal  
 47 law.

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

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

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

8 (28) Individual financial statements of a postsecondary educational  
9 institution or a proprietary school submitted to the state board of educa-  
10 tion, its director or a representative thereof, for the purpose of regis-  
11 tering the postsecondary educational institution or proprietary school pur-  
12 suant to section 33-2402 or 33-2403, Idaho Code, or provided pursuant to an  
13 administrative rule of the board adopted pursuant to such sections.

14 (29) Information submitted to insurance companies pursuant to section  
15 42-612(17), Idaho Code.