

TITLE 41
INSURANCE

CHAPTER 6
ASSETS AND LIABILITIES

41-601. "ASSETS" DEFINED. In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(1) Cash in the possession of the insurer, or in transit under its control, and including the true balance of any deposit in a solvent bank or trust company.

(2) Investments, securities, properties and loans acquired or held in accordance with this code, and in connection therewith the following items:

(a) Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

(b) Declared and unpaid dividends on stock and shares, unless such amount has otherwise been allowed as an asset.

(c) Interest due or accrued upon a collateral loan in an amount not to exceed one (1) year's interest thereon.

(d) Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets, if such interest is in the judgment of the director a collectible asset.

(e) Interest due or accrued on a mortgage loan, not in default of the contractual principal payments and the contractual interest payments, pursuant to the contractual terms of the loan, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but in no event shall interest accrued for a period in excess of eighteen (18) months be allowed as an asset.

(f) Rent due or accrued on real property if such rent is not in arrears for more than three (3) months, and rent more than three (3) months in arrears if the payment of such rent be adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral.

(g) The unaccrued portion of taxes paid prior to the due date on real property.

(3) Premium notes, policy loans, and other policy assets and liens on policies and certificates of life insurance and annuity contracts and accrued interest thereon, in an amount not exceeding the legal reserve and other policy liabilities carried on each individual policy.

(4) The net amount of uncollected and deferred premiums and annuity considerations in the case of a life insurer.

(5) Premiums in the course of collection, other than for life insurance, not more than three (3) months past due, less commissions payable thereon. The foregoing limitation shall not apply to premiums payable directly or indirectly by the state of Idaho, any department, board, agency, or institution thereof, or any other political subdivision of the state of Idaho, including municipalities or specially chartered subdivisions, or by the United States government or by any of its instrumentalities.

(6) Installment premiums other than life insurance premiums to the extent of the unearned premium reserve carried on the policy to which premiums apply.

(7) Notes and like written obligations not past due, taken for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the unearned premium reserves carried thereon.

(8) The full amount of reinsurance recoverable by a ceding insurer from a solvent reinsurer and which reinsurance is authorized under section [41-511](#), Idaho Code.

(9) Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty.

(10) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the director available for the payment of losses and claims and at values to be determined by him.

(11) Electronic and mechanical machines constituting a data processing and accounting system if the cost of such system is at least twenty-five thousand dollars (\$25,000), which cost shall be amortized in full over a period not to exceed ten (10) calendar years.

(12) All office equipment, office furniture, private passenger automobiles, deemed necessary for conduct of insurance business, the aggregate amount of which shall not at any one time exceed one percent (1%) of the other assets of the insurer.

(13) All assets, whether or not consistent with the provisions of this section, as may be allowed pursuant to the annual statement form approved by the director for the kinds of insurance to be reported upon therein.

(14) Other assets, not inconsistent with the provisions of this section, deemed by the director to be available for the payment of losses and claims, at values to be determined by him.

[41-601, added 1961, ch. 330, sec. 122, p. 645; am. 1969, ch. 214, sec. 14, p. 625; am. 1971, ch. 122, sec. 1, p. 408; am. 2003, ch. 219, sec. 1, p. 567.]

41-602. ASSETS AS DEDUCTIONS FROM LIABILITIES. Assets may be allowed as deductions from corresponding liabilities, and liabilities may be charged as deductions from assets, and deductions from assets may be charged as liabilities, in accordance with the form of annual statement applicable to the insurer as prescribed by the director, or otherwise in his discretion.

[41-602, added 1961, ch. 330, sec. 123, p. 645.]

41-603. ASSETS NOT ALLOWED. In addition to assets impliedly excluded by the provisions of section [41-601](#), Idaho Code, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) Good will, trade names and other like intangible assets, except as expressly permitted and as prescribed by the national association of insurance commissioners' accounting practices and procedures.

(2) Advances to officers (other than policy loans) whether secured or not, and advances to employees, agents and other persons on personal security only.

(3) Stock of such insurer, owned by it, or any material equity therein or loans secured thereby, or any material proportionate interest in such stock acquired or held through the ownership by such insurer of an interest in another firm, corporation or business unit.

(4) Furniture, fixtures, furnishings, safes, vehicles (except as authorized in paragraph (12), section [41-601](#), Idaho Code), libraries, stationery, literature, and other equipment, machines, and supplies (other than data processing and accounting systems authorized under section [41-601](#)(11), Idaho Code), except in the case of title insurers such materials and plants as the insurer is expressly authorized to invest in under section [41-726](#), Idaho Code, and except, in the case of any insurer, such personal property as the insurer is permitted to hold pursuant to [chapter 7, title 41](#), Idaho Code, or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer other than real estate used by it for home office, branch office and similar purposes.

(5) The amount, if any, by which the aggregate book value of investments is carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code.

[41-603, added 1961, ch. 330, sec. 124, p. 645; am. 1971, ch. 122, sec. 2, p. 408; am. 2006, ch. 207, sec. 1, p. 636.]

41-604. DISALLOWANCE OF "WASH" TRANSACTIONS. (1) The director shall disallow as an asset or as a credit against liabilities any reinsurance found by him after a hearing thereon to have been arranged for the purpose principally of deception as to the ceding insurer's financial condition as of the date of any financial statement of the insurer. Without limiting the general purport of the foregoing provision, reinsurance of any substantial part of the insurer's outstanding risks contracted for in fact within four (4) months prior to the date of any such financial statement and canceled in fact within four (4) months after the date of such statement, or reinsurance under which the reinsurer bears no substantial insurance risk or substantial risk of net loss to itself, shall prima facie be deemed to have been arranged for the purpose principally of deception within the intent of this provision.

(2) The director shall disallow as an asset any deposit, funds or other assets of the insurer found by him after a hearing thereon:

(a) Not to be in good faith the property of the insurer, and

(b) Not freely subject to withdrawal or liquidation by the insurer at any time for the payment or discharge of claims or other obligations arising under its policies, and

(c) To be resulting from arrangements made principally for the purpose of deception as to the insurer's financial condition as of the date of any financial statement of the insurer.

(3) No such disallowance of assets or credits shall be valid unless made by the director after a hearing of which notice was given the insurer within six (6) months after the date the financial statement of the insurer as to which such deception is claimed was filed with the director.

(4) The director may suspend or revoke the certificate of authority of any insurer which has knowingly been a party to any such deception or attempt thereat.

[41-604, added 1961, ch. 330, sec. 125, p. 645.]

41-605. LIABILITIES, IN GENERAL. In any determination of the financial condition of an insurer, capital stock and liabilities to be charged against its assets shall include:

(1) The amount of its capital stock outstanding, if any.

(2) The amount, estimated consistent with the provisions of this code, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof.

(3) With reference to life and disability insurance and annuity contracts:

(a) The amount of reserves on life insurance policies and annuity contracts in force, valued according to the tables of mortality, rates of interest, and methods adopted pursuant to this code which are applicable thereto.

(b) Reserves for disability benefits, for both active and disabled lives.

(c) Reserves for accidental death benefits.

(d) Any additional reserves which may be required by the director consistent with applicable customary and general practice in insurance accounting.

(4) With reference to insurance other than specified in subsection (3) of this section, and other than title insurance, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, computed in accordance with this chapter.

(5) Taxes, expenses and other obligations due or accrued at the date of the statement.

[41-605, added 1961, ch. 330, sec. 126, p. 645.]

41-606. UNEARNED PREMIUM RESERVE. (1) As to insurance against loss or damage to property (except as provided in section [41-607](#)), and as to all general casualty insurance and surety insurance, every insurer shall maintain an unearned premium reserve on all policies in force.

(2) The director may require that such reserves shall be equal to the unearned portions of the gross premiums in force after deducting applicable reinsurance in solvent insurers as computed on each respective risk from the policy's date of issue. If the director does not so require, the portions of the gross premium in force, less applicable reinsurance in solvent insurers, to be held as an unearned premium reserve, shall be computed according to the following table:

| Term for which policy was written | | Reserve for unearned premium |
|--------------------------------------|----------|---------------------------------|
| 1 year or less | | 1/2 |
| 2 years | 1st year | 3/4 |
| | 2nd year | 1/4 |
| 3 years | 1st year | 5/6 |
| | 2nd year | 1/2 |
| | 3rd year | 1/6 |
| 4 years | 1st year | 7/8 |
| | 2nd year | 5/8 |
| | 3rd year | 3/8 |
| | 4th year | 1/8 |
| 5 years | 1st year | 9/10 |
| | 2nd year | 7/10 |
| | 3rd year | 1/2 |

| Term for which policy was written | | Reserve for unearned premium |
|--------------------------------------|----------|---------------------------------|
| | 4th year | 3/10 |
| | 5th year | 1/10 |
| Over 5 years | pro rata | |

(3) In lieu of computation according to the foregoing table, the insurer at its option may compute all of such reserves on a monthly or more frequent pro rata basis.

(4) After adopting a method for computing such reserve, an insurer shall not change methods without approval of the insurance supervisory official of the insurer's domicile.

(5) This section does not apply to title insurance.

[41-606, added 1961, ch. 330, sec. 127, p. 645.]

41-607. UNEARNED PREMIUM RESERVE FOR MARINE AND TRANSPORTATION INSURANCE. As to marine and transportation insurance, the entire amount of premiums on trip risks not terminated shall be deemed unearned; and the director may require the insurer to carry a reserve equal to one hundred per cent (100%) of premiums on trip risks written during the month ended as of the date of statement.

[41-607, added 1961, ch. 330, sec. 128, p. 645.]

41-608. RESERVE FOR DISABILITY INSURANCE. For all disability insurance policies the insurer shall maintain an active life reserve which shall place a sound value on its liabilities under such policies and be not less than the reserve according to appropriate standards set forth in regulations issued by the director and, in no event, less in the aggregate than the pro rata gross unearned premiums for such policies.

[41-608, added 1961, ch. 330, sec. 129, p. 645.]

41-609. LOSS RESERVES, LIABILITY INSURANCE AND WORKER'S COMPENSATION. Where called for by the form of annual statement required of the insurer, the reserve for outstanding losses under insurance against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable, shall be computed in accordance with the annual statement instructions and the accounting and procedures manual adopted by the national association of insurance commissioners, as provided in section [41-335](#), Idaho Code.

[41-609, added 1961, ch. 330, sec. 130, p. 645; am. 1993, ch. 194, sec. 4, p. 498.]

41-610. INCREASE OF INADEQUATE LOSS RESERVES. If loss experience shows that an insurer's loss reserves, however computed or estimated, are inadequate, the director shall require the insurer to maintain loss reserves in such additional amount as is needed to make them adequate. This section does not apply as to life insurance.

[41-610, added 1961, ch. 330, sec. 131, p. 645.]

41-611. RESERVE FOR LOSSES AND UNEARNED PREMIUMS -- TITLE INSURERS. (1) Each title insurer shall maintain a special reserve in adequate amount to cover its liability as to losses incurred under policies issued by it.

(2) Each domestic title insurer shall establish and maintain a reserve for unearned premiums on its policies and guaranties in force. Such reserve shall at all times and for all purposes be considered a separate and distinct trust fund and shall be deemed and considered and shall constitute unearned portions of the original premiums and shall be charged as a reserve liability of the insurer in determining its financial condition. On all title insurance policies heretofore issued by the insurer, an unearned premiums reserve shall be set up and hereafter maintained in the amount which would have accumulated, as of the effective date of this code, if the foregoing requirement had been in existence ever since the date of the policy. Such reserve shall be computed as follows:

(a) With respect to owners and/or purchasers policies perpetual in term, monthly at the close of each month beginning as of July 1, 1947, the insurer shall set aside into the reserve ten per cent (10%) of the risk portion of the gross premium or fees received or to be received on account of policies written during the next preceding calendar month. After any such policy has been in force for ten (10) years, or upon earlier termination thereof for any cause, that portion of the reserve related thereto shall be released and may be used by the insurer thereafter for any lawful purpose.

(b) With respect to mortgage policies having a term, it shall be assumed for the purposes of this provision that all such policies have an average term of five (5) years from date of issue, and the unearned premium reserve thereon, commencing as of July 1, 1947, shall be computed upon the risk portion of the gross premium or fees charged for the policy according to the table for five (5) year term policies as provided in section [41-606](#)(2) [, Idaho Code,] (unearned premium reserve). If such reserve is determined as at any date other than December 31 of any year, the reserve shall be computed on a pro rata basis for the elapsed months of the calendar year in which the computation is made.

(c) If at any time, after examination of the insurer, the director determines that its reserve for unearned premiums computed as hereinabove provided is inadequate for the reasonable protection of its policy holders, the director may by order made after hearing thereon require such reserve to be computed upon such reasonable basis as may be prescribed in the order. No such order shall be retroactively effective.

(3) The unearned premium reserve of a foreign insurer shall be as prescribed or permitted by the laws of the insurer's domicile, unless found by the director to be inadequate for the reasonable protection of the insurer's Idaho policy holders. In event of such a finding, the insurer shall maintain unearned premium reserves upon business thereafter written in an amount not less than the reserves which would then be required of a domestic title insurer hereunder writing the same business.

[41-611, added 1961, ch. 330, sec. 132, p. 645.]

41-611A. MORTGAGE GUARANTY INSURANCE -- CONTINGENCY RESERVE. In addition to reserves for unearned premiums and losses, as to mortgage guaranty insurance transacted by it an insurer shall establish and maintain a contingency reserve out of net premiums (gross premiums less premiums returned to policy holders) remaining after establishment of the unearned premium re-

serve. To the contingency reserve the insurer shall contribute an amount equal to fifty per cent (50%) of such remaining premiums. The annual contributions to the contingency reserve made during each calendar year shall be maintained for a period of one hundred twenty (120) months; except that in any year in which incurred losses of the insurer under mortgage guaranty insurance policies exceed thirty-five per cent (35%) of the corresponding earned premiums, the insurer may withdraw from the contingency reserve an amount equal to not more than the amount of such excess.

[I.C., sec. 41-611A, as added by 1972, ch. 79, sec. 2, p. 159.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Annual valuation.

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

(i) The director shall annually value, or cause to be valued, the reserve liabilities (hereinafter "reserves") for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, and issued on or after the operative date specified in section [41-1927](#), Idaho Code, and prior to the operative date of the valuation manual. In the case of an alien insurer, such valuation shall be limited to its insurance transactions in the United States. In calculating such reserves, the director may use group methods and approximate averages for fractions of a year or otherwise. He may accept in his discretion the insurer's calculation of such reserves. In lieu of the valuation of the reserves required of any foreign or alien insurer, he may accept any valuation made or caused to be made by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard provided in this section. Where any such valuation is made by the director, he may use the actuary of the department or employ an actuary for the purpose, and the reasonable compensation and expenses of the actuary, at a rate approved by the director, upon demand by the director supported by an itemized statement of such compensation and expenses, shall be paid by the insurer. When a domestic insurer furnishes the director with a valuation of its outstanding policies as computed by its own actuary or by an actuary deemed satisfactory for the purpose by the director, the valuation shall be verified by the actuary of the department without costs to the insurer.

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

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

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

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

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

(3) Except as provided in subsections (4) and (4a) of this section, the minimum standard for the valuation of such policies and contracts issued on and after January 1, 1914, and prior to the operative date of section [41-1927](#), Idaho Code, (standard nonforfeiture law) shall be the American experience table of mortality and interest at three and one-half percent ($3\frac{1}{2}\%$) per annum. Not more than one (1) year shall be used as a preliminary term. Extra charges may be made in particular cases of invalid lives and other extra hazards, policies may be valued in groups, and approximate averages may be used for fractions of a year. Policies other than ordinary and twenty (20) payment life may be valued according to the modified preliminary term, with twenty (20) payment life policies as a basis for such valuation. This subsection applies only as to policies and contracts issued prior to the operative date of section [41-1927](#), Idaho Code.

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

(a) For ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioners 1941 standard ordinary mortality table for such policies issued prior to the operative date of subsection (9) (b) of section [41-1927](#), Idaho Code; the commissioners 1958 standard ordinary mortality table for such policies issued on or after the operative date of subsection (9) (b) of the standard nonforfeiture law for life insurance as amended and prior to the operative date of subsection (9) (d) of

the standard nonforfeiture law for life insurance as amended; except, that for any category of such policies issued on female risks, all modified net premiums and present values, referred to in subsections (5) and (10) of this section, may be calculated according to an age not more than six (6) years younger than the actual age of the insured; and for such policies issued on or after the operative date of subsection (9) (d) of the standard nonforfeiture law for life insurance as amended:

- (i) The commissioners 1980 standard ordinary mortality table, or
- (ii) At the election of the company for any one (1) or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors, or
- (iii) Any ordinary mortality table, adopted after 1980 by the NAIC, which is approved by rule promulgated by the director for use in determining the minimum standard of valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 standard industrial mortality table for such policies issued prior to the operative date of subsection (9) (c) of section [41-1927](#), Idaho Code, and for such policies issued on or after such operative date the commissioners 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies.

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

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

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates, adopted after 1980 by the NAIC, that are approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after the operative date of section [41-1927](#), Idaho Code, (standard nonforfeiture law) and prior to January 1, 1966, either such tables or, at the insurer's option, the class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table, adopted after 1980 by the NAIC, that is approved by regulation promulgated by the di-

rector for use in determining the minimum standard of valuation for such policies; for policies issued on or after the operative date of section [41-1927](#), Idaho Code, (standard nonforfeiture law) and prior to January 1, 1966, either such table or, at the insurer's option, the intercompany double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

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

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

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

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

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

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

(e) For individual annuity and pure endowment contracts issued on or after January 1, 1982, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the NAIC, that is ap-

proved by regulation promulgated by the director for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and eight percent (8%) interest.

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

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

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

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

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

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

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

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

The provisions of this subsection shall be applicable to:

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

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

- b. Individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982;
- c. Annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts; and
- d. The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts

shall be the calendar year statutory valuation interest rates as defined in this subsection.

B. Calendar year statutory valuation interest rates:

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

- 1. For life insurance,

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

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

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

where R_1 is the lesser of R and .09;

R_2 is the greater of R and .09;

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

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

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

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

- b. However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent ($1/2$ of 1%), the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be

determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when subsection (9) (d) of the standard nonforfeiture law for life insurance becomes operative.

C. Weighting factors

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

1. Weighting factors for life insurance:

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

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

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

.80

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

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

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

Plan Type

(ii) A B C

For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (i) above

increased by: .15 .25 .05

(iii)

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

.05 .05 .05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty (20) years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

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

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

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

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

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

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

(3) no withdrawal permitted.

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

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

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

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

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

D. Reference interest rate

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

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

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

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

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

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

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

E. Alternative method for determining reference interest rates

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

(5) Commissioners reserve valuation method.

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

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

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

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

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

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

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

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

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

shall be calculated by a method consistent with the principles of subsection (5) (a) of this section, except that any extra premiums charged

because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

(6) Individual annuity and pure endowment reserves.

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

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

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

(8) Optional reserve basis.

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

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

(9) Lower valuations. An insurer which at any time had adopted any standard of valuation producing greater aggregate reserves than those cal-

culated according to the minimum standard provided under this section may, with the approval of the director, adopt any lower standard of valuation, but not lower than the minimum provided under this section.

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

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

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

- (a) Be appropriate in relation to the benefits and the pattern of premiums for that plan, and
- (b) Be computed by a method which is consistent with the principles of this standard valuation law, as determined by rules promulgated by the director.

(12) Actuarial opinion of reserves.

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

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

tor by rule shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

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

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

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

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

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

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

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

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

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

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

4. In the case of an opinion required to be submitted by a foreign or alien company, the director may accept the opinion filed by that company with the insurance supervisory

official of another state if the director determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

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

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

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

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

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

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

(ii) Actuarial analysis of reserves and assets supporting reserves. Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this state and subject to regulation by the director, except as exempted in the valuation manual, shall also annually include

in the opinion required by subparagraph (i) of this paragraph, an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts including, but not limited to, the benefits under and expenses associated with the policies and contracts.

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

1. A memorandum, in form and substance as specified in the valuation manual, and acceptable to the director, shall be prepared to support each actuarial opinion.
2. If the insurance company fails to provide a supporting memorandum at the request of the director within a period specified in the valuation manual or the director determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the director, the director may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the director.

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

1. The opinion shall be in form and substance as specified in the valuation manual and acceptable to the director.
2. The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.
3. The opinion shall apply to all policies and contracts subject to subparagraph (ii) of this paragraph, plus other actuarial liabilities as may be specified in the valuation manual.
4. The opinion shall be based on standards adopted from time to time by the actuarial standards board or its successor, and on such additional standards as may be prescribed in the valuation manual.
5. In the case of an opinion required to be submitted by a foreign or alien company, the director may accept the opinion filed by that company with the insurance supervisory official of another state if the director determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.
6. Except in cases of fraud or willful misconduct, the appointed actuary shall not be liable for damages to any person, other than the insurance company and the director, for

any act, error, omission, decision or conduct with respect to the appointed actuary's opinion.

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

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

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

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

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

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

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

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

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

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

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

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

2. Members of the NAIC representing jurisdictions totaling greater than seventy-five percent (75%) of the direct premiums written as reported in the following annual statements most recently available prior to the vote specified in this

- paragraph: life, accident and health annual statements; health annual statements; or fraternal annual statements;
- (ii) The change to the valuation manual has been adopted by the director by rule, administrative order or bulletin.
- (d) The valuation manual must specify all of the following:
- (i) Minimum valuation standards for and definitions of the policies or contracts subject to subsection (2) (b) of this section. Such minimum valuation standards shall be:
1. The commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to subsection (2) (b) of this section;
 2. The commissioner's annuity reserve valuation method for annuity contracts subject to subsection (2) (b) of this section; and
 3. Minimum reserves for all other policies or contracts subject to subsection (2) (b) of this section.
- (ii) Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in subsection (15) (a) of this section and the minimum valuation standards consistent with those requirements;
- (iii) For policies and contracts subject to a principle-based valuation under subsection (15) of this section:
1. Requirements for the format of reports to the director under subsection (15) (b) (iii) of this section and which shall include information necessary to determine if the valuation is appropriate and in compliance with this section;
 2. Assumptions shall be prescribed for risks over which the company does not have significant control or influence.
 3. Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures;
- (iv) For policies not subject to a principle-based valuation under subsection (15) of this section the minimum valuation standard shall either:
1. Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or
 2. Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.
- (v) Other requirements including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules and internal controls; and
- (vi) The data and form of the data required under subsection (16) of this section, with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.
- (e) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of

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

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

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

(15) Requirements of a principle-based valuation.

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

(i) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. Policies or contracts with significant tail risk shall reflect conditions appropriately adverse to quantify the tail risk;

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

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

1. The assumption is prescribed in the valuation manual.
2. For assumptions that are not prescribed, the assumptions shall:

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

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

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

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

- (i) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual;
 - (ii) Provide to the director and the company's board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. Such controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year;
 - (iii) Develop, and file with the director upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.
- (c) A principle-based valuation may include a prescribed formulaic reserve component.
- (16) Experience reporting for policies in force on or after the operative date of the valuation manual. A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.
- (17) Confidentiality.
- (a) For purposes of this subsection, "confidential information" means:
- (i) A memorandum in support of an opinion submitted under subsection (12) of this section and any other documents, materials and other information including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the director or any other person in connection with such memorandum;
 - (ii) All documents, materials and other information including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the director or any other person in the course of an examination made under subsection (14) (f) of this section; provided however, that if an examination report or other material prepared in connection with an examination made under [chapter 2, title 41](#), Idaho Code, is not held as private and confidential information under [chapter 2, title 41](#), Idaho Code, an examination report or other material prepared in connection with an examination made under subsection (14) (f) of this section shall not be confidential information to the same extent as if such examination report or other material had been prepared under [chapter 2, title 41](#), Idaho Code.
 - (iii) Any reports, documents, materials and other information developed by a company in support of, or in connection with, an annual certification by the company under subsection (15) (b) (ii) of this section evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials and other information including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the director or any other person in connection with such reports, documents, materials and other information;

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

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

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

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

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

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

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

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

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

(iv) The director may receive documents, materials, data and other information, including otherwise confidential and privi-

leged documents, materials, data or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the actuarial board for counseling and discipline or its successor and shall maintain as confidential or privileged any document, material, data or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other information.

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

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

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

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

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

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

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

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

(18) Single state examination:

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

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

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

(b) For any company granted an exemption under this section, subsections (4), (4a), (4b), (5), (6), (7), (8), (9), (10), (11), (12) and

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

[41-612, added 1961, ch. 330, sec. 133, p. 645; am. 1965, ch. 307, sec. 1, p. 822; 1969, ch. 214, sec. 15, p. 625; am. 1973, ch. 274, sec. 1, p. 574; am. 1977, ch. 265, sec. 1, p. 773; am. 1982, ch. 205, sec. 1, p. 543; am. 1996, ch. 97, sec. 1, p. 293; am. 1999, ch. 74, sec. 1, p. 197; am. 2016, ch. 68, sec. 1, p. 205.]

41-613. VALUATION OF BONDS. (1) All bonds or other evidences of debt having a fixed term and rate of interest held by an insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

- (a) If purchased at par, at the par value.
- (b) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such method, according to such generally accepted method of valuation elected by the insurer and approved by the director.
- (c) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.
- (d) Unless otherwise provided by valuation established or approved by the director, no such security shall be carried at above the call price for the entire issue during any period within which the security may be so called.

(2) The director shall have full discretion in determining the method of calculating values according to the rules set forth in this section, but no such method or valuation shall be inconsistent with any applicable valuation method used by insurers in general, or any such method then currently formulated or approved by the national association of insurance commissioners or its successor organization.

[41-613, added 1961, ch. 330, sec. 134, p. 645; am. 1993, ch. 194, sec. 5, p. 499.]

41-614. VALUATION OF OTHER SECURITIES. (1) Securities, other than those referred to in section [41-613](#), Idaho Code, held by an insurer may be valued, in the discretion of the director:

- (a) At their market value if market value can be reasonably ascertained, or
- (b) If the issuer is an insurer, at their unadjusted book value as determined by the issuer's convention form financial statement filed with insurance public supervisory officials, or
- (c) Any other value which the insurer can substantiate to the satisfaction of the director. In addition to other applicable bases of valuation, the director shall give due consideration to valuation based upon:
 - (i) The net worth of the issuer as shown by financial statements acceptable to the director.
 - (ii) The acquisition cost of the security to the insurer, adjusted in accordance with generally accepted accounting principles to

reflect changes since such acquisition in the issuer's financial condition and business.

(2) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, according to a generally accepted method of computation approved by the director.

(3) Stock of a subsidiary corporation of an insurer shall not be valued at an amount in excess of the net value thereof as based upon those assets only of the subsidiary which would be eligible under [chapter 7, title 41](#), Idaho Code, for investment of the funds of the insurer directly.

(4) No valuations under this section shall be inconsistent with any applicable valuation or method then currently formulated or approved by the national association of insurance commissioners or its successor organization.

[41-614, added 1961, ch. 330, sec. 135, p. 645; am. 1971, ch. 122, sec. 3, p. 408; am. 1972, ch. 369, sec. 7, p. 1072; am. 1993, ch. 194, sec. 6, p. 499.]

41-615. VALUATION OF PROPERTY. (1) Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the director to be reliable, shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of such acquisition, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

(2) Other real property held by an insurer shall not be valued at an amount in excess of fair value as determined by recent appraisal. If valuation is based on an appraisal more than three years old, the director may at his discretion call for and require a new appraisal in order to determine fair value.

[41-615, added 1961, ch. 330, sec. 136, p. 645.]

41-616. VALUATION OF PURCHASE MONEY MORTGAGES. Purchase money mortgages on real property referred to in subsection (1) of section [41-615](#) of this chapter shall be valued in an amount not exceeding the acquisition cost of the real property covered thereby or ninety per cent (90%) of the fair value of such real property, whichever is less.

[41-616, added 1961, ch. 330, sec. 137, p. 645.]