No. 2016-59

AN ACT

HB 1766

Amending Title 40 (Insurance) of the Pennsylvania Consolidated Statutes, providing for standard valuation; and making related repeals regarding Act 284 of 1921 and Act 285 of 1921.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 40 of the Pennsylvania Consolidated Statutes is amended by adding a part to read:

PART IV
STANDARD VALUATION

Chapter
71. Reserve Liabilities

CHAPTER 71
RESERVE LIABILITIES

Subchapter
A. General Provisions
B. Valuation of Reserves for Contracts and Policies
C. Confidentiality
D. Exemptions
E. Miscellaneous Provisions

SUBCHAPTER A
GENERAL PROVISIONS

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§ 7101. Scope of chapter.

This chapter relates to standards for the valuation of reserve liabilities for life insurance, accident and health insurance and deposit-type contracts depending on their date of issuance.

§ 7102. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Accident and health insurance." A contract that incorporates morbidity risk and provides protection against economic loss resulting from accident, sickness or medical conditions and as may be specified in the valuation manual.

"Appointed actuary." A qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required by section 7114 (relating to actuarial opinion of reserves on or after operative date of valuation manual).

"Commissioner." The Insurance Commissioner of the Commonwealth.

"Company." An entity, including a fraternal benefit society, that:

(1) has written, issued or reinsured life insurance contracts, accident and health insurance contracts or deposit-type contracts in this Commonwealth and has at least one policy in force or on claim; or

(2) is required to hold a certificate of authority to write life insurance contracts, accident and health insurance contracts or deposit-type contracts in this Commonwealth.

"Department." The Insurance Department of the Commonwealth.

"Deposit-type contract." A contract that does not incorporate mortality or morbidity risks and as may be specified in the valuation manual.

"Experience data." Documents, materials, data and other information submitted by a company under section 7127 (relating to experience reporting for policies in force on or after operative date of valuation manual).

"Experience materials." Documents, materials, data and other information, including all working papers and copies of all these items created or produced in connection with experience data, which include any potentially company-identifying or personally identifiable information provided to or obtained by the commissioner.

"Fraternal benefit society." As provided for under Article XXIV of The Insurance Company Law of 1921.

"Group-wide supervisor." The chief insurance regulatory official who is:

(1) Authorized to engage in conducting and coordinating group-wide supervision activities.

(2) From the jurisdiction determined or acknowledged by the department under section 1406.2(c) of The Insurance Company Law of 1921 to have sufficient, significant contacts with the international insurance group.

"IAIS." The International Association of Insurance Supervisors or its successor organization.

"Life insurance." A contract that incorporates mortality risk, including an annuity or pure endowment contract, and as may be specified in the valuation manual.

"NAIC." The National Association of Insurance Commissioners, its subsidiaries or affiliates or its successor organization.

"Operative date of the valuation manual." The January 1 of the first calendar year following the first July 1 when all of the following have occurred:

(1) The valuation manual has been adopted by NAIC by an affirmative vote of at least 42 members or 75% of the members voting, whichever is greater.

(2) The Standard Valuation Law, as amended by NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by both of the following:

(i) States representing more than 75% of the direct premiums written as reported for life, accident and health annual statements, health annual statements or fraternal annual statements submitted in 2008.

(ii) At least 42 of the 55 NAIC member jurisdictions, including the 50 states, American Samoa, the United States Virgin Islands, the District of Columbia, Guam and the Commonwealth of Puerto Rico.

"Policyholder behavior." An action taken by a policyholder, certificate holder, contract holder or any other person having the right to elect options as to a policy or contract subject to this chapter. The options shall:

(1) Include lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization or benefit elections prescribed by the policy or contract.

(2) Exclude events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

"Principle-based valuation." A reserve valuation that:

(1) Uses one or more methods or one or more assumptions determined by the insurer.

(2) Is required to comply with section 7126 (relating to requirements of principle-based valuation) as specified in the valuation manual.

"Qualified actuary." An individual who:

(1) Is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing these statements of actuarial opinion.

(2) Meets the requirements specified in the valuation manual.

"Reserve liabilities," "reserves" or "net value." An amount recorded in financial statements to reflect potential obligations.

"Tail risk." A risk that occurs where:

(1) the frequency of low probability events is higher than expected under a normal probability distribution; or

(2) there are observed events of very significant size or magnitude.

"The Insurance Company Law of 1921." The act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

"Valuation manual." The manual of valuation instructions adopted by NAIC or as subsequently amended and adopted by NAIC. Unless a change in the valuation manual specifies a later effective date, a change to the valuation manual is effective on January 1 following the date when the change to the valuation manual has been adopted by NAIC by an affirmative vote representing both of the following:

(1) At least 75% of the members of NAIC voting, but not less than a majority of the total membership.

(2) Members of NAIC representing jurisdictions totaling more than 75% of the direct premiums written as reported in the most recently available life, accident and health annual statements, health annual statements or fraternal annual statements.

§ 7103. Special applicability provisions.

The standards for the valuation of reserve liabilities for life insurance, accident and health insurance and deposit-type contracts shall be subject to the following applicability provisions:

(1) The following shall apply to policies or contracts subject to this chapter that were issued on or after May 17, 1921, and prior to the operative date of the valuation manual:

(i) Section 7115 (relating to computation of minimum standard).

(ii) Section 7116 (relating to computation of minimum standard for annuities).

(iii) Section 7117 (relating to computation of minimum standard by calendar year of issue).

(iv) Section 7118 (relating to reserve valuation method for life insurance and endowment benefits).

(v) Section 7119 (relating to reserve valuation method for annuity and pure endowment benefits).

(vi) Section 7120 (relating to minimum reserves).

(vii) Section 7121 (relating to optional reserve calculation).

(viii) Section 7122 (relating to reserve calculation for valuation net premium exceeding gross premium charged).

(ix) Section 7123 (relating to reserve calculation for indeterminate premium plans).

(2) Except as otherwise provided in this chapter, section 7124 (relating to minimum standard for accident and health insurance contracts) shall apply to policies issued before, on or after the operative date of the valuation manual.

(3) The following shall not apply to policies or contracts subject to this chapter that were issued on or after May 17, 1921, and prior to the operative date of the valuation manual:

(i) Section 7125 (relating to valuation manual for policies issued on or after operative date of valuation manual).

(ii) Section 7126 (relating to requirements of principle-based valuation).

(4) Sections 7125 and 7126 shall apply to policies issued on or after the operative date of the valuation manual.

§ 7104. Notice regarding operative date of valuation manual.

Upon the occurrence of the last occurring event under the definition of "operative date of the valuation manual" in section 7102 (relating to definitions), the commissioner shall issue a notice regarding the operative date of the valuation manual to be published in the Pennsylvania Bulletin and on the department's publicly accessible Internet website.

§ 7105. Regulations.

The department may promulgate regulations, as necessary, to implement, administer and enforce this chapter.

SUBCHAPTER B
VALUATION OF RESERVES FOR CONTRACTS AND POLICIES

§ 7111. Reserve valuation for policies and contracts issued prior to operative date of valuation manual.

(a) Applicability.—This section shall apply to each policy or contract issued prior to the operative date of the valuation manual.

(b) Annual valuation.—The commissioner shall annually value, or cause to be valued, the reserve liabilities for all outstanding life insurance policies and annuity and pure endowment contracts of each company doing business in this Commonwealth. The commissioner may certify the amount of reserves.

(c) Calculation.—In calculating reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise.

(d) Other jurisdictions.—In lieu of the valuation of the reserves required of a foreign or alien company, the commissioner 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 chapter.

(e) Minimum standard.—The minimum standard for the valuation of policies and contracts issued prior to the operative date of section 410A of The Insurance Company Law of 1921 shall be as follows:

(1) The net value of all outstanding policies of life insurance, issued by the company prior to January 1, 1890, shall be computed upon the basis of the American experience table of mortality, with interest at not less than 4.5% and not more than 6% per year.

(2) The net value of all outstanding policies, issued between January 1, 1890, and January 1, 1903, shall be computed on the combined experience or actuaries' table of mortality, with interest at 4% per year.

(3) The net value of all outstanding policies of life insurance, issued on and after January 1, 1903, shall be computed on the American experience table of mortality, with interest at 3.5% per year, but a company may value its group term insurance policies, under which premium rates are not guaranteed for a period in excess of five years, according to the American men ultimate table of mortality, with interest at 3.5% per year.

(4) The net value of all policies of life insurance, issued on and after January 1, 1921, where the premiums are payable monthly or more frequently, shall be computed according to the American experience table of mortality, with interest at 3.5% per year, but a company may voluntarily value its industrial policies according to the standard industrial mortality table, with interest at 3.5% per year.

(5) The net value of a policy at any time shall be taken to be the single net premium which will, at that time, affect the insurance, less the value at that time of the future net premiums called for by the table of mortality and rate of interest designated.

(6) Except as otherwise provided in sections 7116(a) (relating to computation of minimum standard for annuities) and 7117(a) (relating to computation of minimum standard by calendar year of issue) for group annuity and pure endowment contracts, the legal minimum standard for valuation of annuities issued after January 1, 1912, shall be computed according to McClintock's table of mortality among annuitants, with interest at 3.5% per year, but the following shall apply:

(i) For annuities and pure endowments purchased under group annuity and pure endowment contracts, the legal minimum standard may, at the option of the company, be computed according to the 1971 Group Annuity Mortality Table or any modification of this table approved by the commissioner, with interest at 5% per year.

(ii) Annuities deferred 10 or more years, and written in connection with life or term insurance, shall be valued upon the same mortality table from which the consideration or premiums were computed, with interest at not more than 3.5% per year.

(7) At any time and under any of its policies of life insurance, a company may elect to reserve on the following, with its obligations under these policies to be valued accordingly:

(i) the American experience table of mortality with a lower rate of interest, but at a rate not less than 2% per year; or

(ii) the American men ultimate table of mortality, with any modification and extension below 20 years of age as may be approved by the commissioner, with interest at a rate not less than 2% nor more than 3.5% per year.

(8) On or after the operative date of section 410A of The Insurance Company Law of 1921, reserves for any policies or contracts may be calculated, at the option of the company, according to any standard which produces greater aggregate reserves for all these policies or contracts than the standard in use by the company immediately prior to the exercise of the option.

(9) With the approval of the commissioner, a company that adopts a standard under paragraph (8) may adopt a lower standard of valuation for any policies or contracts if that lower standard is not lower than:

(i) the minimum reserves provided under this section;

(ii) the standard specified in the policies or contracts; or

(iii) the standard used by the company for the determination of the nonforfeiture values of the policies or contracts.

§ 7112. Reserve valuation for policies and contracts issued on or after operative date of valuation manual.

(a) Applicability.—This section shall apply to each policy or contract issued on or after the operative date of the valuation manual.

(b) Annual valuation.—The commissioner shall annually value, or cause to be valued, the reserve liabilities for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts and deposit-type contracts of each company doing business in this Commonwealth. The commissioner may certify the amount of reserves.

(c) Other jurisdictions.—In lieu of the valuation of the reserves required of a foreign or alien company, the commissioner 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 chapter.

(d) Applicable standards.—The following provisions shall govern a policy or contract under this section:

(1) Section 7124(a), (b), (d) and (e) (relating to minimum standard for accident and health insurance contracts).

(2) Section 7125 (relating to valuation manual for policies issued on or after operative date of valuation manual).

(3) Section 7126 (relating to requirements of principle-based valuation).

§ 7113. Actuarial opinion of reserves prior to operative date of valuation manual.

(a) Applicability.—This section shall apply to an actuarial opinion prepared prior to the operative date of the valuation manual.

(b) Regulations regarding actuarial opinion.—Through regulations, the commissioner:

(1) Shall define the specifics of the actuarial opinion under this section and add any other items deemed to be necessary to fulfill the purpose of this section.

(2) May provide for a transition period for establishing any higher reserves that the qualified actuary may deem necessary in order to render the opinion required by this section.

(c) Annual submission and purpose.—Each company doing business in this Commonwealth shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the company's policies and contracts specified by the commissioner by regulation:

(1) are computed appropriately;

(2) are based on assumptions that satisfy contractual provisions;

(3) are consistent with prior reported amounts; and

(4) comply with the applicable laws of this Commonwealth.

(d) Opinion regarding company obligations.—The following shall apply regarding the opinion of the qualified actuary and the company's obligations:

(1) Except as exempted by regulation, each company shall include in the actuarial opinion required under this section an opinion by the same qualified actuary as to whether the reserves and related actuarial items held in support of the company's policies and contracts specified by the commissioner by regulation, 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) A memorandum, in form and substance acceptable to the commissioner as specified by regulation, shall be prepared to support each actuarial opinion.

(3) If a company fails to provide a supporting memorandum at the request of the commissioner within a period specified by regulation or if the commissioner determines that the supporting memorandum provided by the company fails to meet the standards prescribed by regulation or is otherwise unacceptable to the commissioner, the commissioner 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 commissioner.

(e) Requirements.—Each actuarial opinion under this section shall be governed by the following:

(1) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1993.

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

(3) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board, or its successor, and on any additional standards as specified by regulation.

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

(5) Except in cases of fraud or willful misconduct, a qualified actuary shall not be liable for damages to any person, other than the insurance company or fraternal benefit society and the commissioner, for any act, error, omission, decision or conduct with respect to the actuarial opinion.

(6) Disciplinary action by the commissioner against the company, fraternal benefit society or the qualified actuary shall be prescribed by regulation.

(7) The confidentiality provisions under Subchapter C (relating to confidentiality) shall apply.

(f) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Qualified actuary." A member in good standing of the American Academy of Actuaries who meets the requirements under 31 Pa. Code Ch. 84b (relating to actuarial opinion and memorandum).

§ 7114. Actuarial opinion of reserves on or after operative date of valuation manual.

(a) Applicability.—This section shall apply to an actuarial opinion prepared on or after the operative date of the valuation manual.

(b) Compliance with valuation manual.—The actuarial opinion under this section must comply with the requirements set forth in the valuation manual.

(c) Annual submission and purpose.—Each company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this Commonwealth shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the company's policies and contracts:

(1) are computed appropriately;

(2) are based on assumptions that satisfy contractual provisions;

(3) are consistent with prior reported amounts; and

(4) comply with the applicable laws of this Commonwealth.

(d) Opinion regarding company obligations.—The following shall apply regarding the opinion of the appointed actuary and the company's obligations:

(1) Except as exempted in the valuation manual, each company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this Commonwealth shall include in the actuarial opinion required under this section an opinion by the same appointed actuary as to whether the reserves and related actuarial items held in support of the company's 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.

(2) A memorandum, in form and substance as specified in the valuation manual and as acceptable to the commissioner, shall be prepared to support each actuarial opinion.

(3) If a company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual or if the commissioner determines that the supporting memorandum provided by the company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the commissioner 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 commissioner.

(e) Requirements.—Each actuarial opinion under this section shall be governed by the following:

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

(2) The opinion shall be submitted with the annual statement reflecting the valuation of the 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 subsection (d), 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 any additional standards as prescribed in the valuation manual.

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

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

(7) Disciplinary action by the commissioner against the company or the appointed actuary shall be prescribed by regulation.

(8) The confidentiality provisions under Subchapter C (relating to confidentiality) shall apply.

§ 7115. Computation of minimum standard.

(a) Applicability.—This section shall govern the minimum standard for the valuation of a company's policies and contracts except as provided in the following sections:

(1) Section 7116 (relating to computation of minimum standard for annuities).

(2) Section 7117 (relating to computation of minimum standard by calendar year of issue).

(3) Section 7124 (relating to minimum standard for accident and health insurance contracts).

(b) Policies and contracts issued prior to May 17, 1921.—The minimum standard for the valuation of policies and contracts issued prior to May 17, 1921, shall be as provided by the laws in effect immediately prior to May 17, 1921.

(c) Policies and contracts issued on or after May 17, 1921.—The minimum standard for the valuation of policies and contracts issued on or after May 17, 1921, shall be, together with the tables referenced under subsection (d), the commissioners reserve valuation methods established under sections 7118 (relating to reserve valuation method for life insurance and endowment benefits), 7119 (relating to reserve valuation method for annuity and pure endowment benefits), 7122 (relating to reserve calculation for valuation net premium exceeding gross premium charged) and 7124:

(1) Three and one-half percent interest.

(2) Four percent interest for life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after June 23, 1976, and prior to January 1, 1979.

(3) Four and one-half percent interest for policies issued on or after January 1, 1979.

(d) Applicable tables.—Together with the requirements under subsection (c), the tables and other provisions of this section shall govern:

(1) For ordinary policies of life insurance issued on the standard basis, excluding disability and accidental death benefits in these policies, the following tables shall apply:

(i) The Commissioners 1941 Standard Ordinary Mortality Table for policies issued prior to the operative date of section 410A(d)(2) of The Insurance Company Law of 1921.

(ii) The Commissioners 1958 Standard Ordinary Mortality Table for policies issued on or after the operative date of section 410A(d)(2) of The Insurance Company Law of 1921 and prior to the operative date of section 410A(e) of The Insurance Company Law of 1921. For policies issued on female risks, all modified net premiums and present values referred to in this subparagraph may be calculated according to any age not more than six years younger than the actual age of the insured.

(iii) For policies issued on or after the operative date of section 410A(e) of The Insurance Company Law of 1921, the calculation shall be in accordance with the following tables as specified by regulation:

(A) The Commissioners 1980 Standard Ordinary Mortality Table.

(B) At the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors.

(C) Any ordinary mortality table that is adopted after 1980 by NAIC and approved by regulation for use in determining the minimum standard of valuation for the policies.

(2) For industrial life insurance policies issued on the standard basis, excluding disability and accidental death benefits in these policies, the following tables shall apply:

(i) The 1941 Standard Industrial Mortality Table for policies issued prior to the operative date of section 410A(d)(3) of The Insurance Company Law of 1921.

(ii) For policies issued on or after the operative date of section 410A(d)(3) of The Insurance Company Law of 1921, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table that is adopted after 1980 by NAIC and approved by regulation for use in determining the minimum standard of valuation for the policies.

(3) For individual annuity and pure endowment contracts, excluding disability and accidental death benefits in these policies, any of the following shall apply:

(i) The 1937 Standard Annuity Mortality Table.

(ii) At the option of the company, the Annuity Mortality Table for 1949, Ultimate.

(iii) Any modification of either of the tables under subparagraphs (i) and (ii) as approved by the commissioner.

(4) For group annuity and pure endowment contracts, excluding disability and accidental death benefits in the contracts, any of the following shall apply:

(i) The Group Annuity Mortality Table for 1951 or any modification of the table approved by the commissioner, with interest at 3.5%.

(ii) At the option of the company, the 1971 Group Annuity Mortality Table or any modification of the table approved by the commissioner, in which event 5% interest shall be used in determining the minimum standard for the valuation of the contracts.

(iii) At the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(5) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, the following shall apply:

(i) For policies or contracts issued on or after January 1, 1966:

(A) 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

(B) any tables of disablement rates and termination rates that are adopted after 1980 by NAIC and approved by regulation for use in determining the minimum standard of valuation for the policies or contracts.

(ii) For policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966:

(A) any of the tables under subparagraph (i); or

(B) at the option of the company, the Class (3) Disability Table (1926).

(iii) For policies issued prior to January 1, 1961, the Class (3) Disability Table (1926).

A table under this paragraph shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(6) For accidental death benefits in or supplementary to policies, the following shall apply:

(i) For policies issued on or after January 1, 1966:

(A) the 1959 Accidental Death Benefits Table; or

(B) any accidental death benefits table that is adopted after 1980 by NAIC and approved by regulation for use in determining the minimum standard of valuation for the policies.

(ii) For policies issued on or after January 1, 1961, and prior to January 1, 1966:

(A) any of the tables under subparagraph (i); or

(B) at the option of the company, the Inter-Company Double Indemnity Mortality Table.

(iii) For policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table.

A table under this paragraph shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(7) For group life insurance, life insurance issued on the substandard basis and other special benefits, those tables approved by the commissioner shall apply.

§ 7116. Computation of minimum standard for annuities.

(a) Computation generally.—Except as provided in section 7117 (relating to computation of minimum standard by calendar year of issue), the minimum standard of valuation for individual annuity and pure endowment contracts issued on or after the operative date of section 301(c)(1)(B) of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921, and for annuities and pure endowments purchased on or after that operative date under group annuity and pure endowment contracts shall be the commissioner's reserve valuation methods established under sections 7118 (relating to reserve valuation method for life insurance and endowment benefits) and 7119 (relating to reserve valuation method for annuity and pure endowment benefits) and the following:

(1) For individual annuity and pure endowment contracts issued prior to January 1, 1979, excluding disability and accidental death benefits in the contracts, the 1971 Individual Annuity Mortality Table

or any modification of the table approved by the commissioner, and 6% interest for single premium immediate annuity contracts and 4% interest for all other individual annuity and pure endowment contracts.

(2) For individual single premium immediate annuity contracts issued on or after January 1, 1979, excluding disability and accidental death benefits in the contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table that is adopted after 1980 by NAIC and approved by regulation for use in determining the minimum standard of valuation for the contracts, or any modification of the tables approved by the commissioner, and 7.5% interest or a higher rate of interest as may be approved by the commissioner.

(3) For individual annuity and pure endowment contracts issued on or after January 1, 1979, other than single premium immediate annuity contracts and excluding disability and accidental death benefits in the contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table that is adopted after 1980 by NAIC and approved by regulation for use in determining the minimum standard of valuation for the contracts, or any modification of the tables approved by the commissioner, and 5.5% interest for single premium deferred annuity and pure endowment contracts and 4.5% interest for all other individual annuity and pure endowment contracts or a higher rate of interest as may be approved by the commissioner.

(4) For annuities and pure endowments purchased prior to January 1, 1979, under group annuity and pure endowment contracts and excluding disability and accidental death benefits purchased under the contracts, the 1971 Group Annuity Mortality Table or any modification of the table approved by the commissioner, and 6% interest.

(5) For annuities and pure endowments purchased on or after January 1, 1979, under group annuity and pure endowment contracts and excluding disability and accidental death benefits purchased under the contracts, the 1971 Group Annuity Mortality Table or any group annuity mortality table that is adopted after 1980 by NAIC and approved by regulation for use in determining the minimum standard of valuation for annuities and pure endowments, or any modification of the tables approved by the commissioner, and 7.5% interest or a higher rate of interest as may be approved by the commissioner.

(b) Operative date.—After June 23, 1976, a company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1979, which shall be the operative date of this section for that company. A company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no election, the operative date of this section for that company shall be January 1, 1979.

§ 7117. Computation of minimum standard by calendar year of issue.

(a) Applicability.—The interest rates used in determining the minimum standard for the valuation of the following shall be the calendar year statutory valuation interest rates as defined in this section:

(1) Life insurance policies issued in a particular calendar year on or after the operative date of section 410A(e) of The Insurance Company Law of 1921.

(2) Individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1981.

(3) Annuities and pure endowments purchased in a particular calendar year on or after January 1, 1981, under group annuity and pure endowment contracts.

(4) The net increase, if any, in a particular calendar year after January 1, 1981, in amounts held under guaranteed interest contracts.

(b) Calendar year statutory valuation interest rates.—The following shall apply:

(1) Subject to paragraph (2), the calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearest 0.25%:

(i) For life insurance:

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

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 section and W is the weighting factor defined in this section.

(ii) 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:

$$I = .03 + W(R_1 - .03).$$

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 section and W is the weighting factor defined in this section.

(iii) 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 subparagraph (ii):

(A) The formula for life insurance stated in subparagraph (i) shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years.

(B) The formula for single premium immediate annuities stated in subparagraph (ii) shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less.

(iv) 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 subparagraph (ii) shall apply.

(v) 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 subparagraph (ii) shall apply.

(2) The following shall apply:

(i) If the calendar year statutory valuation interest rate for a life insurance policy issued in any calendar year determined without

reference to this subparagraph differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than 0.5%, the calendar year statutory valuation interest rate for the life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year.

(ii) For purposes of applying subparagraph (i), 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 in 1979, and shall be determined for each subsequent calendar year regardless of the operative date of section 410A(e) of The Insurance Company Law of 1921.

(c) Weighting factors.—The weighting factors referred to in subsection (b) shall be as follows:

(1) For life insurance, the guarantee duration shall be 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. Weighting factors for life insurance shall be as provided in the following table:

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

(2) Weighting factors 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 shall be .80.

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

(i) For annuities and guaranteed interest contracts valued on an issue year basis, the following table shall apply:

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*

(ii) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in subparagraph (i) shall be increased by .15 for plan type A, .25 for plan type B and .05 for plan type C.

(iii) For annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, that do not guarantee interest on considerations received

more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis that do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in subparagraph (i) or derived in subparagraph (ii) shall be increased by .05 for plan types A, B and C.

(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 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) Each plan type referenced in this paragraph shall be defined as follows:

(A) "Plan type A." A plan in which at any time the policyholder may withdraw funds only:

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

(II) without an adjustment but in installments over five years or more;

(III) as an immediate life annuity; or

(IV) no withdrawal permitted.

(B) "Plan type B." A plan in which, before expiration of the interest rate guarantee, the policyholder may withdraw funds only:

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

(II) without an adjustment but in installments over five years or more; or

(III) no withdrawal permitted.

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

(C) "Plan type C." A plan in which the policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either:

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

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

(vi) The following shall apply:

(A) A company 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.

(B) Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options shall be valued on an issue year basis.

(C) As used in this section:

(I) An issue year basis of valuation shall refer 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.

(II) A change in fund basis of valuation shall refer 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.—The reference interest rate referred to in subsection (b) shall be defined as follows:

(1) For life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year preceding the year of issue, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(2) 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 12 months, ending on June 30 of the calendar year of issue or year of purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(3) 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 paragraph (2), with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(4) 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 paragraph (2), with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the

monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

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

(6) 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 paragraph (2), the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(e) Alternative method to determine reference interest rate.—If the monthly average of the composite yield on seasoned corporate bonds is no longer published by Moody's Investors Service, Inc. or if NAIC determines that the monthly average of the composite yield on seasoned corporate bonds 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 adopted by NAIC and approved by regulation may be substituted.

§ 7118. Reserve valuation method for life insurance and endowment benefits.

(a) Uniform insurance amount and premiums.—Except as otherwise provided in sections 7119 (relating to reserve valuation method for annuity and pure endowment benefits), 7122 (relating to reserve calculation for valuation net premium exceeding gross premium charged) and 7124 (relating to minimum standard for accident and health insurance contracts), for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, reserves according to the commissioners reserve valuation method shall be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided for by those policies, over the then present value of any future modified net premiums therefor. The modified net premiums for a policy shall be the uniform percentage of the respective gross premiums for the benefits so that the present value, at the date of issue of the policy, of all modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the policy and the excess of paragraph (1) over paragraph (2), as follows:

(1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19-year

premium whole life plan for insurance of the same amount at an age one year greater than the age at issue of the policy.

(2) A net one-year term premium for the benefits provided for in the first policy year.

(b) First-year excess.—For a life insurance policy issued on or after January 1, 1985, 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 the excess and which provides an endowment benefit or a cash surrender value or a combination in an amount greater than the excess premium, reserves according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined under this subsection as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium shall, except as otherwise provided in section 7122, be the greater of the reserve as of the policy anniversary calculated as described in subsection (a) and the reserve as of the policy anniversary calculated as described in subsection (a), but with:

(1) The value defined in subsection (a) being reduced by 15% of the amount of this excess first year premium.

(2) 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.

(3) The policy being assumed to mature on that date as an endowment.

(4) The cash surrender value provided on that date being considered as an endowment benefit.

In making the comparison under this subsection, the mortality and interest bases stated in sections 7115 (relating to computation of minimum standard) and 7117 (relating to computation of minimum standard by calendar year of issue) shall be used.

(c) Consistent method.—Reserves according to the commissioners reserve valuation method shall be calculated by a method consistent with the principles 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, for:

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

(2) 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 of 1986 (Public Law 99-514, 26 U.S.C. § 408).

(3) Disability and accidental death benefits in all policies and contracts.

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

§ 7119. Reserve valuation method for annuity and pure endowment benefits.

(a) Applicability.—This section 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 of 1986 (Public Law 99-514, 26 U.S.C. § 408).

(b) Calculation.—The following shall apply:

(1) Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in the 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 the 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 the contract, that become payable prior to the end of the respective contract year.

(2) The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate or rates specified in the contracts for determining guaranteed benefits.

(3) The valuation considerations shall be the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

§ 7120. Minimum reserves.

(a) Amount calculated.—A company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after May 17, 1921, shall not be less than the aggregate reserves calculated by using the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies and in accordance with the methods set forth in:

(1) Section 7118 (relating to reserve valuation method for life insurance and endowment benefits).

(2) Section 7119 (relating to reserve valuation method for annuity and pure endowment benefits).

(3) Section 7122 (relating to reserve calculation for valuation net premium exceeding gross premium charged).

(4) Section 7123 (relating to reserve calculation for indeterminate premium plans).

(b) Amount necessary to render actuarial opinion.—The aggregate reserves for all policies, contracts and benefits shall not be less than the aggregate reserves determined by the appointed actuary to be necessary to render the opinion required by section 7113 (relating to actuarial opinion

of reserves prior to operative date of valuation manual) or 7114 (relating to actuarial opinion of reserves on or after operative date of valuation manual).

§ 7121. Optional reserve calculation.

(a) Issuance prior to May 17, 1921.—Reserves for policies and contracts issued prior to May 17, 1921, may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for all these policies and contracts than the minimum reserves required by law.

(b) Issuance on or after May 17, 1921.—Reserves for any category of policies, contracts or benefits established by the commissioner, issued on or after May 17, 1921, may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for the category than those calculated according to the minimum standard provided under this chapter, 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 in the policies or contracts.

(c) Adoption of alternative standards.—The following shall apply:

(1) Subject to paragraph (2), a company that adopts at any time a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided under this chapter may adopt a lower standard of valuation with the approval of the commissioner, but not lower than the minimum provided in this chapter.

(2) For the purposes of this section, the holding of additional reserves previously determined by the appointed actuary to be necessary to render the opinion required by section 7113 (relating to actuarial opinion of reserves prior to operative date of valuation manual) or 7114 (relating to actuarial opinion of reserves on or after operative date of valuation manual) shall not be deemed to be the adoption of a higher standard of valuation.

§ 7122. Reserve calculation for valuation net premium exceeding gross premium charged.

(a) Calculation of minimum reserve.—The following shall apply:

(1) If in any contract year the gross premium charged by a company on a policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the policy or contract shall be the greater of:

(i) The reserve calculated according to the mortality table, rate of interest and method actually used for the policy or contract.

(ii) The reserve calculated by the method actually used for the 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.

(2) The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in sections 7115 (relating to computation of minimum standard) and 7117 (relating to computation of minimum standard by calendar year of issue).

(b) How to apply this section for certain policies.—The following shall apply:

(1) For a life insurance policy issued on or after January 1, 1985, 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 the excess and which provides an endowment benefit or a cash surrender value or a combination in an amount greater than the excess premium, the provisions of this section shall be applied as if the method actually used in calculating the reserve for the policy were the method described in section 7118 (relating to reserve valuation method for life insurance and endowment benefits), ignoring section 7118(b).

(2) The minimum reserve at each policy anniversary of the policy under paragraph (1) shall be the greater of the minimum reserve calculated in accordance with section 7118, including section 7118(b), and the minimum reserve calculated in accordance with this section.

§ 7123. Reserve calculation for indeterminate premium plans.

(a) Applicability.—This section shall apply to either of the following:

(1) A plan of life insurance that provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience.

(2) A plan of life insurance or annuity that is of a nature that the minimum reserves cannot be determined by the methods described in any of the following:

(i) Section 7118 (relating to reserve valuation method for life insurance and endowment benefits).

(ii) Section 7119 (relating to reserve valuation method for annuity and pure endowment benefits).

(iii) Section 7122 (relating to reserve calculation for valuation net premium exceeding gross premium charged).

(b) Nature and calculation of reserves.—The reserves that are held under a plan under this section shall be:

(1) Appropriate in relation to the benefits and the pattern of premiums for the plan.

(2) Computed by a method that is consistent with the principles of this chapter, as determined by regulation.

§ 7124. Minimum standard for accident and health insurance contracts.

(a) Annual valuation of reserve liabilities.—On an annual basis as of the December 31 of the preceding year, the commissioner shall value or cause to be valued, or require the insurer to value or cause to be valued the reserve liabilities of each company doing business in this Commonwealth, with respect to all the accident and health insurance contracts of the company.

(b) Issuances after operative date of valuation manual.—For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual shall be the minimum standard of valuation required under section 7112 (relating to reserve valuation for policies and contracts issued on or after operative date of valuation manual).

(c) Issuances prior to operative date of valuation manual.—For accident and health insurance contracts issued on or after May 17, 1921, and prior to the operative date of the valuation manual, the following shall apply:

(1) The minimum standard of valuation shall be the standard adopted by the commissioner by regulation.

(2) The company shall maintain a claim reserve for incurred but unpaid claims and an active life reserve that shall:

(i) place a sound value on its liabilities under these contracts; and

(ii) be not less than the reserve according to appropriate standards as prescribed by regulation.

(3) The active life reserve shall not be less in the aggregate than the pro rata gross unearned premiums for the contracts.

(d) Foreign or alien insurers.—For a foreign or alien insurer, the commissioner may accept a like valuation of the insurance supervising official of the state, province or foreign country in which that insurer is domiciled, if that valuation is made upon a basis and according to standards producing an aggregate reserve not less than contained in this chapter.

(e) Applicability.—This section shall not apply to total and permanent disability benefits supplementary to life insurance or annuity policies or contracts.

§ 7125. Valuation manual for policies issued on or after operative date of valuation manual.

(a) Standard in valuation manual.—Except as provided in subsection (c) or (e), for policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual shall be the minimum standard of valuation required under section 7112 (relating to reserve valuation for policies and contracts issued on or after operative date of valuation manual).

(b) Specific information in valuation manual.—The valuation manual shall specify:

(1) Minimum valuation standards for and definitions of the policies or contracts subject to section 7112, which shall be:

(i) The commissioners reserve valuation method for life insurance contracts other than annuity contracts.

(ii) The commissioners annuity reserve valuation method for annuity contracts.

(iii) Minimum reserves for all other policies or contracts.

(2) Which policies or contracts or types of policies or contracts are subject to the requirements of a principle-based valuation in section

7126(a) (relating to requirements of principle-based valuation) and the minimum valuation standards consistent with those requirements.

(3) For policies and contracts subject to a principle-based valuation under section 7126:

(i) Requirements for the format of reports to the commissioner under section 7126(b)(3), including information necessary to determine if the valuation is appropriate and in compliance with this chapter.

(ii) Assumptions prescribed for risks over which the company does not have significant control or influence.

(iii) Procedures for corporate governance and oversight of the actuarial function and a process for appropriate waiver or modification of those procedures.

(4) For policies not subject to a principle-based valuation under section 7126, the minimum valuation standard, which shall:

(i) be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or

(ii) develop reserves that quantify the benefits, guarantees and the funding associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events having a reasonable probability of occurring.

(5) Other requirements, including 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.

(6) The data and form of the data required under section 7127 (relating to experience reporting for policies in force on or after operative date of valuation manual) and with whom the data must be submitted. The valuation manual may specify other requirements, including data analyses and reporting of analyses.

(c) Absent or noncompliant valuation requirement.—In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with this chapter, the company shall, with respect to those requirements, comply with minimum valuation standards prescribed by the commissioner by regulation.

(d) Actuarial examination and review.—The following shall apply:

(1) The commissioner may engage a qualified actuary, at the expense of a company, to:

(i) perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company; or

(ii) review and opine on the company's compliance with any requirement under this chapter.

(2) The commissioner may rely on the opinion regarding provisions contained in this chapter of a qualified actuary engaged by the commissioner of another state, district or territory of the United States.

(3) As used in this subsection, the term "engage" shall include employment and contracting.

(e) Change, adjustment and disciplinary action.—The commissioner may require a company to change any assumption or method or adjust company reserves if, in the opinion of the commissioner, the change or adjustment is necessary to comply with the requirements of the valuation manual or this chapter. The commissioner may take disciplinary action as permitted by law.

§ 7126. Requirements of principle-based valuation.

(a) Characteristics of valuation.—For policies or contracts specified in the valuation manual, a company shall establish reserves using a principle-based valuation that:

(1) Quantifies benefits and guarantees and the funding associated with contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events having a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, the valuation must reflect conditions appropriately adverse to quantify the tail risk.

(2) Incorporates 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.

(3) Incorporates assumptions that are:

(i) Prescribed in the valuation manual.

(ii) If not prescribed in the valuation manual, established by utilizing either of the following:

(A) The company's available experience, to the extent it is relevant and statistically credible.

(B) Other relevant and statistically credible experience, to the extent that company data is not available, relevant or statistically credible.

(4) Provides margins for uncertainty, including adverse deviation and estimation error, so that the greater the uncertainty, the larger the margin and resulting reserve.

(b) Company requirements.—A company using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual shall:

(1) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual.

(2) Provide to the commissioner and the board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. These controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to this 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.

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

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

§ 7127. Experience reporting for policies in force on or after operative date of valuation manual.

A company shall submit to the commissioner, or the commissioner's designee or agent, mortality, morbidity, policyholder behavior or expense experience and other data as prescribed in the valuation manual.

SUBCHAPTER C
CONFIDENTIALITY

Sec.

§ 7131. Confidential information defined.

As used in this subchapter, the following words and phrases shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Confidential information." Any of the following:

(1) A memorandum in support of an opinion submitted under section 7113 (relating to actuarial opinion of reserves prior to operative date of valuation manual) or 7114 (relating to actuarial opinion of reserves on or after operative date of valuation manual) and any other documents, materials and other information, including all working papers and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with the memorandum.

(2) All documents, materials and other information, including all working papers and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in the course of an examination made under section 7125(d) (relating to valuation manual for policies issued on or after operative date of valuation manual), except that confidential information shall not include an examination report or other material prepared in connection with an examination made under Article IX of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921, to the extent not held to be private and confidential information under section 905 of The Insurance Department Act of 1921.

(3) Reports, documents, materials and other information developed by a company in support of or in connection with an annual certification by the company under section 7126(b)(2) (relating to

requirements of principle-based valuation), which evaluates the effectiveness of the company's internal controls regarding a principle-based valuation, and any other documents, materials and other information, including all working papers and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with the reports, documents, materials and other information.

(4) A principle-based valuation report developed under section 7126(b)(3) and any other documents, materials and other information, including all working papers and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with the report.

(5) Experience data, experience materials and any other documents, materials, data and other information, including all working papers and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in connection with experience data or experience materials.

§ 7132. General rule for confidential information.

Except as otherwise provided in this subchapter, confidential information shall be privileged and given confidential treatment and shall not be:

(1) Subject to discovery or admissible as evidence in a private civil action.

(2) Subject to subpoena.

(3) Subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

§ 7133. Private civil actions.

The commissioner, department or any person who receives documents, materials or other information while acting under the authority of the commissioner or department or with whom the documents, materials or other information are shared under this chapter may not be permitted or required to testify in any private civil action concerning any confidential information covered under this subchapter.

§ 7134. Use of confidential information by department.

To assist in the performance of its duties, the department may:

(1) Use confidential information in the furtherance of any regulatory or legal action brought against a company as a part of the department's official duties.

(2) Share confidential information with regulatory or law enforcement officials of this Commonwealth or other jurisdictions, IAIS, NAIC and its affiliates and subsidiaries, group-wide supervisors and members of a supervisory college under section 1406.1 of The Insurance Company Law of 1921, if prior to receiving the confidential information the recipient agrees, and has the legal authority to agree, to maintain the confidential and privileged status of the confidential information in the same manner and to the same extent as required for the commissioner.

(3) Receive, and shall maintain as confidential, any confidential information from the Actuarial Board for Counseling and Discipline or

its successor, from NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of this Commonwealth or other jurisdictions with the understanding that the documents, materials or other information received are confidential by law in those jurisdictions and shall be given the same confidential treatment provided by this subchapter.

§ 7135. Agreements.

The department may enter into agreements governing sharing and use of confidential information consistent with this subchapter.

§ 7136. No waiver of privilege or confidentiality.

(a) Sharing of information by department.—The sharing of confidential information with or by the department as authorized by section 7134 (relating to use of confidential information by department) shall not constitute a waiver of any applicable privilege or claim of confidentiality in the documents, materials or information.

(b) Privilege established in other jurisdictions.—A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subchapter shall be available and enforced in any proceeding in, and in any court of, this Commonwealth.

§ 7137. Limited exceptions.

Notwithstanding section 7132 (relating to general rule for confidential information), confidential information as defined in section 7131(1) and (4) (relating to confidential information defined):

(1) May be shared with the Actuarial Board for Counseling and Discipline if the information is required for the purpose of professional disciplinary proceedings and the Actuarial Board for Counseling and Discipline recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of the documents, materials, data and other information in the same manner and to the same extent as required for the commissioner.

(2) May be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the related memorandum in support of an opinion submitted under section 7113 (relating to actuarial opinion of reserves prior to operative date of valuation manual) or 7114 (relating to actuarial opinion of reserves on or after operative date of valuation manual) or a principle-based valuation report developed under section 7126(b)(3) (relating to requirements of principle-based valuation) by reason of an action required by this chapter or regulations promulgated under this chapter.

(3) May be released by the commissioner with the written consent of the company.

(4) Is no longer confidential once any portion of a memorandum in support of an opinion submitted under section 7113 or 7114 or a principle-based valuation report developed under section 7126(b)(3) is:

(i) cited by the company in its marketing materials;

(ii) publicly released to a governmental agency other than a State insurance department; or

(iii) released by the company to the news media.

SUBCHAPTER D
EXEMPTIONS

§ 7141. Single-state company exemption.

(a) Requirements.—A company may file a written request with the commissioner to exempt specific product forms or product lines issued by a domestic company from the requirements of sections 7125 (relating to valuation manual for policies issued on or after operative date of valuation manual) and 7126 (relating to requirements of principle-based valuation) if the company:

(1) Is licensed and doing business only in this Commonwealth.

(2) Computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the commissioner and promulgated by regulation.

(b) Written exemption.—An exemption under subsection (a) that is granted by the commissioner shall be in writing.

(c) Revocation.—The commissioner may revoke the exemption under subsection (a) if the conditions under subsection (a)(1) and (2) are no longer met after 180 days' written notice to the company regarding the conditions.

(d) Additional effects of exemption.—A company granted an exemption under subsection (a) shall also be exempt from any requirement under this chapter that is created by a reference to section 7125 or 7126 for the product forms or product lines exempted.

§ 7142. Small company exemption.

(a) Requirements.—A company seeking an exemption for any of its ordinary life policies issued on or after the operative date of the valuation manual may file a statement of exemption for the current calendar year with its domestic commissioner prior to July 1 of that year if the following conditions are met:

(1) The company has less than $300,000,000 of ordinary life premiums and, if the company is a member of an NAIC group of life insurers, the group has combined ordinary life premiums of less than $600,000,000.

(2) The company reported total adjusted capital of at least 450% of the authorized control level risk-based capital in the most recent risk-based capital report. This paragraph shall not apply to fraternal benefit societies with less than $50,000,000 of ordinary life premiums.

(3) The appointed actuary has provided an unqualified opinion on the reserves reported in the most recent annual statement.

(4) Any universal life secondary guarantee policies issued or assumed by the company with an issue date on or after the operative date of the valuation manual meet the definition of a nonmaterial secondary guarantee universal life product.

(b) Certification.—The statement of exemption under subsection (a) must certify that:

(1) The conditions under subsection (a) are met based on premiums and other values from the prior calendar year's financial statements.

(2) Any universal life secondary guarantee business issued since the operative date of the valuation manual meets the definition of a nonmaterial secondary guarantee universal life product.

(c) Inclusion with NAIC filing.—The statement of exemption under subsection (a) shall also be included with the NAIC filing for the second quarter of that year.

(d) Rejection.—If the commissioner finds that the conditions in subsection (a) are not met, the commissioner shall reject the statement of exemption prior to September 1. If the commissioner rejects the exemption or the company does not file a statement of exemption, the company shall follow the requirements of the valuation manual minimum standard entitled VM-20 for the ordinary life policies issued on or after the operative date of the valuation manual.

(e) Approval.—If the statement of exemption under subsection (a) is granted, the minimum reserve requirements for the exempt company's ordinary life policies issued on or after the operative date of the valuation manual shall be as set forth in the valuation manual except for VM-20, but using mortality tables authorized by VM-20.

(f) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Nonmaterial secondary guarantee universal life product." A universal life product where the secondary guarantee meets the following parameters at the time of issue:

(1) The policy has only one secondary guarantee, which is in the form of a required premium consisting of either a specified annual or cumulative premium.

(2) The duration of the secondary guarantee for each policy is no longer than 20 years from issue through issue age 60, grading down by two-thirds year for each higher issue age to age 82, and thereafter five years.

(3) The present value of the required premium under the secondary guarantee must be at least as great as the present value of net premiums resulting from the appropriate valuation basic table over the course of the maximum secondary guarantee duration allowable under the contract in aggregate and subject to the duration limit under paragraph (2). The following shall apply:

(i) The present value shall use minimum allowable valuation basic table rates, where preferred tables are subject to existing qualification requirements, and the maximum valuation interest rate as defined in VM-20 section 3(C)(2).

(ii) The minimum premiums shall be the annual required premiums over the course of the maximum secondary guarantee duration.

"Ordinary life premiums." Direct premiums plus reinsurance assumed premiums from an unaffiliated company from the ordinary life line of business reported in Exhibit 1-Part 1, entitled Premiums and Annuity Considerations for Life and Accident and Health Contracts, of the prior calendar year's life, accident and health annual statement or the fraternal annual statement.

SUBCHAPTER E
MISCELLANEOUS PROVISIONS

Sec.
7151. Effect on The Insurance Company Law of 1921.

§ 7151. Effect on The Insurance Company Law of 1921.

(a) Fraternal benefit organizations.—The following shall apply:

(1) Section 2451(b) of The Insurance Company Law of 1921 shall apply to the minimum reserves for certificates issued after February 11, 1994 and prior to the effective date of this chapter.

(2) The minimum reserves for certificates issued on or after the effective date of this chapter shall be governed by this chapter.

(b) Standard nonforfeiture law for life insurance.—Notwithstanding any provision of The Insurance Company Law of 1921:

(1) For policies issued prior to the operative date of the valuation manual, any commissioners standard ordinary mortality table that was adopted after 1980 by NAIC and is approved by regulation for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table.

(2) For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. If the commissioner approves by regulation any commissioners standard ordinary mortality table adopted by NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, that minimum nonforfeiture standard shall supersede the minimum nonforfeiture standard provided by the valuation manual.

(3) For policies issued prior to the operative date of the valuation manual, any commissioners standard industrial mortality table that was adopted after 1980 by NAIC and that is approved by regulation for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.

(4) For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the commissioners standard mortality table for use in determining the

minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. If the commissioner approves by regulation any commissioners standard industrial mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, that minimum nonforfeiture standard shall supersede the minimum nonforfeiture standard provided by the valuation manual.

(c) Nonforfeiture interest rate.—Notwithstanding any provision of The Insurance Company Law of 1921, the nonforfeiture rate shall be as follows:

(1) For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per year for any policy issued in a particular calendar year shall be equal to 125% of the calendar year statutory valuation interest rate for the policy as defined in section 7117 (relating to computation of minimum standard by calendar year of issue) rounded to the nearest 0.25%, but the nonforfeiture interest rate shall not be less than 4%.

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

Section 2. Repeals are as follows:

(1) The General Assembly declares that the repeals under paragraphs (2) and (3) are necessary to effectuate the addition of 40 Pa.C.S. Pt. IV.

(2) Sections 301, 301.1, 303 and 311.1 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921, are repealed.

(3) Section 410A(e)(8)(F) and (G) and (9) of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, are repealed.

(4) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 3. This act shall take effect immediately.

APPROVED—The 30th day of June, A.D. 2016

TOM WOLF