

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 276
98TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industry, May 5, 2015, with recommendation that the Senate Committee Substitute do pass.

1012S.04C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 375.534, 375.1070, 375.1072, 376.370, 376.380, 376.670, 456.950, and 513.430, RSMo, and to enact in lieu thereof twelve new sections relating to financial transactions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 375.534, 375.1070, 375.1072, 376.370, 376.380, 376.670, 456.950, and 513.430, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 375.534, 375.1070, 375.1072, 375.1074, 375.1078, 376.365, 376.370, 376.380, 376.670, 456.950, 456.1-113, and 513.430, to read as follows:

375.534. 1. In addition to other foreign investments permitted by Missouri law for the type or kind of insurance company involved, the capital, reserves and surplus of all insurance companies of whatever kind and character organized under the laws of this state, having admitted assets of not less than one hundred million dollars, may be invested in securities, investments and deposits issued, guaranteed or assumed by a foreign government or foreign corporation, or located in a foreign country, whether denominated in United States dollars or in foreign currency, subject to the following conditions:

(1) Such securities, investments and deposits shall be of substantially the same kind, class and quality of like United States investments eligible for investment by an insurance company under Missouri law;

(2) An insurance company shall not invest or deposit in the aggregate more than **[five] twenty** percent of its admitted assets under this section, except that an insurance company may reinvest or redeposit any income or profits

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 generated by investments permitted under this section; [and]

16 (3) **The aggregate amount of foreign investments then held by the**
17 **insurer under this subsection in a single foreign jurisdiction shall not**
18 **exceed ten percent of its admitted assets as to a foreign jurisdiction**
19 **that has a sovereign debt rating of SVO "1" or five percent of its**
20 **admitted assets as to any other foreign jurisdiction; and**

21 (4) Such securities, investments and deposits shall be aggregated with
22 United States investments of the same class in determining compliance with
23 percentage limitations imposed under Missouri law for investments in that class
24 for the type or kind of insurance company involved.

25 2. This section shall not apply to an insurer organized under chapter 376.
375.1070. [1. Sections 375.1070 to 375.1075 may be cited as the
2 "Investments in Medium and Lower Quality Obligations Law".

3 2.] Sections 375.1070 to [375.1075] **375.1078** shall not apply to an insurer
4 organized under chapter 376.

375.1072. As used in sections 375.1070 to [375.1075] **375.1078**, the
2 following terms mean:

3 (1) "Admitted assets", the amount thereof as of the last day of the most
4 recently concluded annual statement year, computed in the same manner as
5 admitted assets in section 379.080 for insurers other than life;

6 (2) "Aggregate amount of medium to lower quality obligations", the
7 aggregate statutory statement value thereof;

8 (3) "Institution", a corporation, a joint-stock company, an association, a
9 trust, a business partnership, a business joint venture or similar entity;

10 (4) "Medium to lower quality obligations", obligations which are rated
11 three, four, five and six by the Securities Valuation Office of the National
12 Association of Insurance Commissioners.

375.1074. Except as otherwise specified by Missouri law, no
2 **domestic insurer shall acquire an investment directly or indirectly**
3 **through an investment subsidiary if, as a result of and after giving**
4 **effect to the investment, the insurer would hold more than five percent**
5 **of its admitted assets in the investments of all kinds issued, assumed,**
6 **accepted, insured, or guaranteed by a single person.**

375.1078. 1. No insurer shall acquire, directly or indirectly
2 **through an investment subsidiary, a Canadian investment otherwise**
3 **permitted under Missouri law if, after giving effect to the investment,**

4 the aggregate amount of the investments then held by the insurer
5 would exceed twenty-five percent of its admitted assets.

6 2. For any insurer that is authorized to do business in Canada or
7 that has outstanding insurance, annuity, or reinsurance contracts on
8 lives or risks resident or located in Canada and denominated in
9 Canadian currency, the limitations of subsection 1 of this section shall
10 be increased by the greater of:

11 (1) The amount the insurer is required by applicable Canadian
12 law to invest in Canada or to be denominated in Canadian currency; or

13 (2) One hundred twenty-five percent of the amount of the
14 insurer's reserves and other obligations under contracts on risks
15 resident or located in Canada.

376.365. 1. Sections 376.365 to 376.380 shall be known and may
2 be cited as the "Standard Valuation Law".

3 2. As used in sections 376.365 to 376.380, the following terms shall
4 mean and apply on or after the operative date of the valuation manual:

5 (1) "Accident and health insurance", contracts that incorporate
6 morbidity risk and provide protection against economic loss resulting
7 from accidents, sickness, or medical conditions and as may be specified
8 in the valuation manual;

9 (2) "Appointed actuary", a qualified actuary who is appointed in
10 accordance with the valuation manual to prepare the actuarial opinion
11 required under subsection 5 of section 376.380;

12 (3) "Company", an entity which has written, issued, or reinsured
13 life insurance contracts, accident and health insurance contracts, or
14 deposit-type contracts:

15 (a) In Missouri and has at least one such policy in force or on
16 claim; or

17 (b) In any state and is required to hold a certificate of authority
18 to write life insurance, accident and health insurance, or deposit-type
19 contracts in Missouri;

20 (4) "Deposit-type contract", a contract that does not incorporate
21 mortality or morbidity risks and as may be specified in the valuation
22 manual;

23 (5) "Life insurance", contracts that incorporate mortality risk
24 including annuity and pure endowment contracts and as may be
25 specified in the valuation manual;

- 26 (6) "NAIC", the National Association of Insurance Commissioners;
- 27 (7) "Operative date of the valuation manual", January first of the
28 first calendar year that the valuation manual is effective, as described
29 in subdivision (2) of subsection 6 of section 376.380;
- 30 (8) "Policyholder behavior", any action a policyholder, contract
31 holder, or any other person with the right to elect options, such as a
32 certificate holder, may take under a policy or contract subject to
33 sections 376.365 to 376.380 including, but not limited to, lapse,
34 withdrawal, transfer, deposit, premium payment, loan, annuitization,
35 or benefit elections prescribed by the policy or contract but excluding
36 events of mortality or morbidity that result in benefits prescribed in
37 their essential aspects by the terms of the policy or contract;
- 38 (9) "Principle-based valuation", a reserve valuation that uses one
39 or more methods or one or more assumptions determined by the
40 insurer and is required to comply with subsection 7 of section 376.380
41 as specified in the valuation manual;
- 42 (10) "Qualified actuary", an individual who is qualified to sign
43 the applicable statement of actuarial opinion in accordance with the
44 American Academy of Actuaries qualification standards for actuaries
45 signing such statements and who meets the requirements specified in
46 the valuation manual;
- 47 (11) "Tail risk", a risk that occurs either if the frequency of low
48 probability events is higher than expected under a normal probability
49 distribution or if there are observed events of very significant size or
50 magnitude;
- 51 (12) "Valuation manual", the manual of valuation instructions
52 adopted by the NAIC as specified in sections 376.365 to 376.380.
- 376.370. 1. (1) The director of the department of insurance, financial
2 institutions and professional registration shall annually value, or cause to be
3 valued, the reserve liabilities, herein called "reserves", for all outstanding life
4 insurance policies and [annuities] **annuity** and pure endowment contracts of
5 every life insurance company doing business in this state[, and may certify the
6 amount of any such reserves, specifying the mortality table or tables, rate or rates
7 of interest and methods, net level premium method or other, used in the
8 calculation of such reserves] **issued on or after the operative date provided**
9 **in subsection 20 of section 376.670 and prior to the operative date of**
10 **the valuation manual.** In calculating such reserves, [he] **the director** may

11 use group methods and approximate averages for fractions of a year or otherwise.
12 In lieu of the valuation of the reserves herein required of any foreign or alien
13 company, [he] **the director** may accept any valuation made, or caused to be
14 made, by the insurance supervisory official of any state or other jurisdiction when
15 such valuation complies with the minimum standard herein provided [and if the
16 official of such state or jurisdiction accepts as sufficient and valid for all legal
17 purposes the certificate of valuation of the director when such certificate states
18 the valuation to have been made in a specified manner according to which the
19 aggregate reserves would be at least as large as if they had been computed in the
20 manner prescribed by the law of that state or jurisdiction].

21 **(2) The provisions of subsection 3 of this section and subsections**
22 **1 to 3 of section 376.380 shall apply to all policies and contracts, as**
23 **appropriate, issued on or after the operative date provided in**
24 **subsection 20 of section 376.670 and prior to the operative date of the**
25 **valuation manual, and the provisions of subsections 6 and 7 of section**
26 **376.380 shall not apply to such policies and contracts.**

27 **(3) The minimum standard for the valuation of policies and**
28 **contracts issued prior to the operative date provided in subsection 20**
29 **of section 376.670 shall be that provided by the laws in effect**
30 **immediately prior to the operative date provided in subsection 20 of**
31 **section 376.670.**

32 **2. (1) The director shall annually value or caused to be valued**
33 **the reserves for all outstanding life insurance contracts, annuity and**
34 **pure endowment contracts, accident and health insurance contracts,**
35 **and deposit-type contracts of every company issued on or after the**
36 **operative date of the valuation manual. In lieu of the valuation of the**
37 **reserves herein required of any foreign or alien company, the director**
38 **may accept any valuation made or caused to be made by the insurance**
39 **supervisory official of any state or other jurisdiction if such valuation**
40 **complies with the minimum standard provided in this section.**

41 **(2) The provisions of subsections 6 and 7 of section 376.380 shall**
42 **apply to all policies and contracts issued on or after the operative date**
43 **of the valuation manual.**

44 **[2.] 3. Reserves for all policies and contracts issued prior to August 28,**
45 **1993, may be calculated, at the option of the company, according to any standards**
46 **which produce greater aggregate reserves for all such policies and contracts than**

47 the minimum reserves required by the laws in effect immediately prior to such
48 date. Reserves for any category of policies, contracts or benefits as established
49 by the director, issued on or after August 28, 1993, may be calculated, at the
50 option of the company, according to any standards which produce greater
51 aggregate reserves for such category than those calculated according to the
52 minimum standard herein provided, but the rate or rates of interest used for
53 policies and contracts, other than annuity and pure endowment contracts, shall
54 not be higher than the corresponding rate or rates of interest used in calculating
55 any nonforfeiture benefits provided therein. Any such company which at any
56 time shall have adopted any standard of valuation producing greater aggregate
57 reserves than those calculated according to the minimum standard herein
58 provided may, with the approval of the director, adopt any lower standard of
59 valuation, but not lower than the minimum herein provided; however, for
60 purposes of this subsection, the holding of additional reserves previously
61 determined by a qualified actuary to be necessary to render the opinion required
62 by [subsection 4] **subsections 4 and 5** of section 376.380 shall not be deemed
63 to be the adoption of a higher standard of valuation.

376.380. 1. The legal minimum standard for valuation of policies and
2 contracts and the reserves to be maintained thereon shall be as follows:

3 (1) For those policies and contracts issued prior to the operative date
4 provided in subsection [14] **20** of section 376.670:

5 (a) Except as otherwise provided in subdivision (3) of this subsection, the
6 legal minimum standard for valuation of policies of life insurance or annuity
7 contracts issued prior to April 13, 1934, shall be the Actuaries' or Combined
8 Experience Table of Mortality, with interest at the rate of five percent per annum
9 for group annuity contracts and four percent per annum for all other policies and
10 contracts; and for policies of life insurance and annuity contracts issued on and
11 after April 13, 1934, such minimum standard shall be the American Experience
12 Table of Mortality with interest at the rate of five percent per annum for group
13 annuity contracts and three and one-half percent per annum for all other policies
14 and contracts;

15 (b) The director may vary the legal minimum standards of interest and
16 mortality for annuity contracts and in particular cases of invalid or substandard
17 lives and other extra hazards, and shall have the right and authority to designate
18 the legal minimum standard for valuation of total and permanent disability
19 benefits and additional accidental death benefits;

20 (c) Policies issued by companies doing business in this state may provide
21 for not more than one year preliminary term insurance by incorporating in the
22 provisions thereof, specifying the premium consideration to be received, a clause
23 plainly showing that the first year's insurance under such policies is term
24 insurance, purchased by the whole or a part of the premium to be received during
25 the first policy year and shall be valued accordingly; provided, that if the
26 premium charged for term insurance under a limited payment life preliminary
27 term policy providing for the payment of all premiums thereon in less than
28 twenty years from the date of the policy, or under an endowment preliminary
29 term policy, exceeds that charged for life insurance twenty payment life
30 preliminary term policies of the same company, the reserve thereon at the end of
31 any year, including the first, shall not be less than the reserve on a twenty
32 payment life preliminary term policy issued in the same year and at the same
33 age, together with an amount which shall be equivalent to the accumulation of
34 a net level premium sufficient to provide for a pure endowment at the end of the
35 premium payment period equal to the difference between the value at the end of
36 such period of such twenty payment life preliminary term policy and the full
37 reserve at such time of such a limited payment life or endowment policy. The
38 premium payment period is the period during which premiums are concurrently
39 payable under such twenty payment life preliminary term policy and such limited
40 payment life or endowment policy;

41 (d) Reserves for all such policies and contracts may be calculated, at the
42 option of the company, according to any standards which produce greater
43 aggregate reserves for all such policies and contracts than the minimum reserves
44 required by subdivision (1) of this subsection. In the case of policy obligations of
45 an insolvent life insurance company assumed or reinsured in bulk by an
46 insurance company upon a basis requiring a separate accounting of the business
47 and assets of such insolvent company and an application of any part of the
48 earnings therefrom upon obligations which are not implicit in the original terms
49 of the policies or contracts assumed or reinsured, the director, in order to protect
50 all policyholders of the reinsuring company, including the holders of all policies
51 so assumed or reinsured, and to safeguard the future solvency of such reinsuring
52 company, shall have the right and authority to designate standards of valuation
53 for such reinsured policies and contracts which will produce greater aggregate
54 reserves for all such policies and contracts than the minimum reserves required
55 by subdivision (1) of this subsection or the terms and provisions of the policies

56 and contracts so assumed or reinsured, and, in such event, such reinsuring
57 company shall not, thereafter, adopt any lower standards of valuation without the
58 approval of the director.

59 (2) For those policies and contracts issued on or after the operative date
60 provided in subsection [14] **20** of section 376.670:

61 (a) Except as otherwise provided in subdivision (3) of this subsection and
62 subsection 2 of this section, the minimum standard for the valuation of all such
63 policies and contracts shall be the commissioners reserve valuation methods
64 defined in paragraphs (b), (c), (d), (e), and (h) of this subdivision, three and
65 one-half percent interest on all such policies and contracts except those contracts
66 specified in subparagraph c. of **this** paragraph [(a) of this subdivision] which
67 consist of single premium annuity contracts and in subparagraph d. of **this**
68 paragraph [(a) of this subdivision] which consists of group annuity contracts
69 where the interest rate shall be five percent, and except policies and contracts,
70 other than annuity and pure endowment contracts, issued on or after September
71 28, 1975, where the interest rate shall be four percent interest for such policies
72 issued prior to September 28, 1979, and four and one-half percent interest for
73 such policies issued on or after September 28, 1979, and the following tables:

74 a. For all ordinary policies of life insurance issued prior to the operative
75 date provided in subsection [10] **12** of section 376.670 on the standard basis,
76 excluding any disability and accidental death benefits in such policies, the
77 Commissioners 1941 Standard Ordinary Mortality Table, and for such policies
78 issued on or after the operative date provided in subsection [10] **12** of section
79 376.670, and prior to the operative date of subsection [10b] **14** of section 376.670,
80 the Commissioners 1958 Standard Ordinary Mortality Table; provided that for
81 any category of such policies issued on or after September 28, 1979, on female
82 risks all modified net premiums and present values referred to in this section
83 may be calculated according to an age not more than six years younger than the
84 actual age of the insured; and for such policies issued on or after the operative
85 date of subsection [10b] **14** of section 376.670:

86 i. The Commissioners 1980 Standard Ordinary Mortality Table; or

87 ii. At the election of the company for any one or more specified plans of
88 life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with
89 Ten-Year Select Mortality Factors; or

90 iii. Any ordinary mortality table, adopted after 1980 by the [National
91 Association of Insurance Commissioners] **NAIC**, that is approved by regulation

92 promulgated by the director for use in determining the minimum standard of
93 valuation for such policies;

94 b. For all industrial life insurance policies issued on the standard basis,
95 excluding any disability and accidental death benefits in such policies, the 1941
96 Standard Industrial Mortality Table for such policies issued prior to the operative
97 date of subsection [10a] 13 of section 376.670 and for such policies issued on or
98 after such operative date, the Commissioners 1961 Standard Industrial Mortality
99 Table or any industrial mortality table, adopted after 1980 by the [National
100 Association of Insurance Commissioners] NAIC, that is approved by regulation
101 promulgated by the director for use in determining the minimum standard of
102 valuation for such policies;

103 c. For individual annuity and pure endowment contracts, excluding any
104 disability and accidental death benefits in such policies, the 1937 Standard
105 Annuity Mortality Table or, at the option of the company, the Annuity Mortality
106 Table for 1949, Ultimate, or any modification of either of these tables approved
107 by the director;

108 d. For group annuity and pure endowment contracts, excluding any
109 disability and accidental death benefits in such policies, the Group Annuity
110 Mortality Table for 1951, any modification of such table approved by the director,
111 or, at the option of the company, any of the tables or modifications of tables
112 specified for individual annuity and pure endowment contracts;

113 e. For total and permanent disability benefits in or supplementary to
114 ordinary policies or contracts, for policies or contracts issued on or after January
115 1, 1966, the tables of period two disablement rates and the 1930 to 1950
116 termination rates of the 1952 disability study of the Society of Actuaries, with
117 due regard to the type of benefit or any tables of disablement rates and
118 termination rates, adopted after 1980 by the [National Association of Insurance
119 Commissioners] NAIC, that are approved by regulation promulgated by the
120 director for use in determining the minimum standard of valuation for such
121 policies; for policies or contracts issued on or after January 1, 1961, and prior to
122 January 1, 1966, either such tables or at the option of the company, the Class (3)
123 Disability Table (1926); and for policies issued prior to January 1, 1961, the Class
124 (3) Disability Table (1926). Any such table shall, for active lives, be combined
125 with a mortality table permitted for calculating the reserves for life insurance
126 policies;

127 f. For accidental death benefits in or supplementary to policies issued on

128 or after January 1, 1966, the 1959 Accidental Death Benefits Table or any
129 accidental death benefits table, adopted after 1980 by the [National Association
130 of Insurance Commissioners] NAIC, that is approved by regulation promulgated
131 by the director for use in determining the minimum standard of valuation for
132 such policies; for policies issued on or after January 1, 1961, and prior to January
133 1, 1966, either such table or, at the option of the company, the Inter-Company
134 Double Indemnity Mortality Table; and for policies issued prior to January 1,
135 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall
136 be combined with a mortality table permitted for calculating the reserves for life
137 insurance policies;

138 g. For group life insurance, life insurance issued on the substandard basis
139 and other special benefits, such tables as may be approved by the director;

140 (b) Except as otherwise provided in paragraphs (d), (e), and (h) of this
141 subdivision, reserves according to the commissioners reserve valuation method,
142 for the life insurance and endowment benefits of policies providing for a uniform
143 amount of insurance and requiring the payment of uniform premiums shall be the
144 excess, if any, of the present value, at the date of valuation, of such future
145 guaranteed benefits provided for by such policies, over the then present value of
146 any future modified net premiums therefor. The modified net premiums for any
147 such policy shall be such uniform percentage of the respective contract premiums
148 for such benefits that the present value, at the date of issue of the policy, of all
149 such modified net premiums shall be equal to the sum of the then present value
150 of such benefits provided for by the policy and the excess of a. over b., as follows:

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

159 b. A net one year term premium for such benefit provided for in the first
160 policy year; provided, that for any life insurance policy issued on or after January
161 1, 1986, for which the contract premium in the first policy year exceeds that of
162 the second year and for which no comparable additional benefit is provided in the
163 first year for such excess and which provides an endowment benefit or a cash

164 surrender value or a combination thereof in an amount greater than such excess
165 premium, the reserve according to the commissioners reserve valuation method
166 as of any policy anniversary occurring on or before the assumed ending date
167 defined herein as the first policy anniversary on which the sum of any endowment
168 benefit and any cash surrender value then available is greater than such excess
169 premium shall, except as otherwise provided in paragraph (h) of this subdivision,
170 be the greater of the reserve as of such policy anniversary calculated as described
171 in paragraph (b) of this subdivision and the reserve as of such policy anniversary
172 calculated as described in paragraph (b) of this subdivision, but with:

173 i. The value defined in subparagraph a. of paragraph (b) **of this**
174 **subdivision** being reduced by fifteen percent of the amount of such excess first
175 year premium;

176 ii. All present values of benefits and premiums being determined without
177 reference to premiums or benefits provided for by the policy after the assumed
178 ending date;

179 iii. The policy being assumed to mature on such date as an endowment;
180 and

181 iv. The cash surrender value provided on such date being considered as
182 an endowment benefit. In making the above comparison the mortality and
183 interest bases stated in paragraph (a) of this subdivision and subsection 2 of this
184 section shall be used;

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

186 a. Life insurance policies providing for a varying amount of insurance or
187 requiring the payment of varying premiums;

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

194 c. Disability and accidental death benefits in all policies and contracts;
195 and

196 d. All other benefits, except life insurance and endowment benefits in life
197 insurance policies and benefits provided by all other annuity and pure
198 endowment contracts, shall be calculated by a method consistent with the
199 principles of paragraph (b) of this subdivision;

200 (d) Paragraph (e) of this subdivision shall apply to all annuity and pure
201 endowment contracts other than group annuity and pure endowment contracts
202 purchased under a retirement plan or plan of deferred compensation, established
203 or maintained by an employer (including a partnership or sole proprietorship), or
204 by an employee organization, or by both, other than a plan providing individual
205 retirement accounts or individual retirement annuities under section 408 of the
206 Internal Revenue Code, as now or hereafter amended;

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

220 (f) In no event shall a company's aggregate reserves for all life insurance
221 policies, excluding disability and accidental death benefits, be less than the
222 aggregate reserves calculated in accordance with the method set forth in
223 paragraphs (b), (c), (d), (e), (h) and (i) of this subdivision and the mortality table
224 or tables and rate or rates of interest used in calculating nonforfeiture benefits
225 for such policies;

226 (g) In no event shall the aggregate reserves for all policies, contracts and
227 benefits be less than the aggregate reserves determined by the qualified actuary
228 to be necessary to render the opinion required by [subsection 4] **subsections 4**
229 **and 5** of this section;

230 (h) If in any contract year the gross premium charged by any life
231 insurance company on any policy or contract is less than the valuation net
232 premium for the policy or contract calculated by the method used in calculating
233 the reserve thereon but using the minimum valuation standards of mortality and
234 rate of interest, the minimum reserve required for such policy or contract shall
235 be the greater of either the reserve calculated according to the mortality table,

236 rate of interest, and method actually used for such policy or contract, or the
237 reserve calculated by the method actually used for such policy or contract but
238 using the minimum valuation standards of mortality and rate of interest and
239 replacing the valuation net premium by the actual gross premium in each
240 contract year for which the valuation net premium exceeds the actual gross
241 premium. The minimum valuation standards of mortality and rate of interest
242 referred to in this section are those standards stated in paragraph (a) of this
243 subdivision and subsection 2 of this section; provided, that for any life insurance
244 policy issued on or after January 1, 1986, for which the gross premium in the first
245 policy year exceeds that of the second year and for which no comparable
246 additional benefit is provided in the first year for such excess and which provides
247 an endowment benefit or a cash surrender value or a combination thereof in an
248 amount greater than such excess premium, the foregoing provisions of this
249 paragraph shall be applied as if the method actually used in calculating the
250 reserve for such policy were the method described in paragraph (b) of this
251 subdivision. The minimum reserve at each policy anniversary of such a policy
252 shall be the greater of the minimum reserve calculated in accordance with
253 paragraphs (b) and (c) **of this subdivision** and the minimum reserve calculated
254 in accordance with this paragraph;

255 (i) In the case of any plan of life insurance which provides for future
256 premium determination, the amounts of which are to be determined by the
257 insurance company based on then estimates of future experience, or in the case
258 of any plan of life insurance or annuity which is of such a nature that the
259 minimum reserves cannot be determined by the methods described in paragraphs
260 (b) to (e) of this subdivision, and paragraph (h) of this subdivision, the reserves
261 which are held under any such plan must:

262 a. Be appropriate in relation to the benefits and the pattern of premiums
263 for that plan; and

264 b. Be computed by a method which is consistent with the principles of this
265 section as determined by regulations promulgated by the director.

266 (3) Except as provided in subsection 2 of this section, the minimum
267 standard for the valuation of all individual annuity and pure endowment
268 contracts issued on or after the operative date of this subdivision, as defined
269 herein, and for all annuities and pure endowments purchased on or after such
270 operative date under group annuity and pure endowment contracts, shall be the
271 commissioners reserve valuation methods defined in paragraphs (b), (c), (d), and

272 (e) of subdivision (2) of this subsection, and the following tables and interest
273 rates:

274 (a) For individual annuity and pure endowment contracts issued prior to
275 September 28, 1979, excluding any disability and accidental death benefits in
276 such contracts, the 1971 Individual Annuity Mortality Table, or any modification
277 of this table approved by the director, and six percent interest for single premium
278 immediate annuity contracts, and four percent interest for all other individual
279 annuity and pure endowment contracts;

280 (b) For individual single premium immediate annuity contracts issued on
281 or after September 28, 1979, excluding any disability and accidental death
282 benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any
283 individual annuity mortality table adopted after 1980 by the [National
284 Association of Insurance Commissioners] NAIC, that is approved by regulation
285 promulgated by the director for use in determining the minimum standard of
286 valuation for such contracts, or any modification of these tables approved by the
287 director, and seven and one-half percent interest;

288 (c) For individual annuity and pure endowment contracts issued on or
289 after September 28, 1979, other than single premium immediate annuity
290 contracts, excluding any disability and accidental death benefits in such
291 contracts, the 1971 Individual Annuity Mortality Table, or any individual annuity
292 mortality table adopted after 1980 by the [National Association of Insurance
293 Commissioners] NAIC, that is approved by regulation promulgated by the
294 director for use in determining the minimum standard of valuation for such
295 contracts, or any modification of these tables approved by the director, and five
296 and one-half percent interest for single premium deferred annuity and pure
297 endowment contracts and four and one-half percent interest for all other such
298 individual annuity and pure endowment contracts;

299 (d) For all annuities and pure endowments purchased prior to September
300 28, 1979, under group annuity and pure endowment contracts, excluding any
301 disability and accidental death benefits purchased under such contracts, the 1971
302 Group Annuity Mortality Table, or any modification of this table approved by the
303 director, and six percent interest;

304 (e) For all annuities and pure endowments purchased on or after
305 September 28, 1979, under group annuity and pure endowment contracts,
306 excluding any disability and accidental death benefits purchased under such
307 contracts, the 1971 Group Annuity Mortality Table, or any group annuity

308 mortality table adopted after 1980 by the [National Association of Insurance
309 Commissioners] **NAIC**, that is approved by regulation promulgated by the
310 director for use in determining the minimum standard of valuation for such
311 annuities and pure endowments, or any modification of these tables approved by
312 the director, and seven and one-half percent interest;

313 (f) On and after September 28, 1975, any company may file with the
314 director a written notice of its election to comply with the provisions of this
315 subdivision after a specified date before January 1, 1980, which shall be the
316 operative date of this subdivision for such company, provided a company may
317 elect a different operative date for individual annuity and pure endowment
318 contracts from that elected for group annuity and pure endowment contracts. If
319 a company makes no such election, the operative date of this subdivision for such
320 company shall be January 1, 1980.

321 2. (1) The calendar year statutory valuation interest rates as defined in
322 this subsection shall be the interest rates used in determining the minimum
323 standard for the valuation of:

324 (a) All life insurance policies issued in a particular calendar year, on or
325 after the operative date of subsection [10b] 14 of section 376.670;

326 (b) All individual annuity and pure endowment contracts issued in a
327 particular calendar year on or after January 1, 1983;

328 (c) All annuities and pure endowment contracts purchased in a particular
329 calendar year on or after January 1, 1983, under group annuity and pure
330 endowment contracts; and

331 (d) The net increase, if any, in a particular calendar year after January
332 1, 1983, in amounts held under guaranteed interest contracts.

333 (2) The calendar year statutory valuation interest rates, I , shall be
334 determined as follows and the results rounded to the nearer one-quarter of one
335 percent:

336 (a) For life insurance:

337 $I = .03 + W (R_1 - .03) + W/2 (R_2 - .09)$;

338 (b) For single premium immediate annuities and for annuity benefits
339 involving life contingencies arising from other annuities with cash settlement
340 options and from guaranteed interest contracts with cash settlement options:

341 $I = .03 + W (R - .03)$, where R_1 is the lesser of R and $.09$; R_2 is the greater
342 of R and $.09$; R is the reference interest rate defined in this subsection; and W is
343 the weighting factor defined in this subsection;

344 (c) For other annuities with cash settlement options and guaranteed
 345 interest contracts with cash settlement options, valued on an issue year basis,
 346 except as stated in paragraph (b) of this subdivision, the formula for life
 347 insurance stated in paragraph (a) of this subdivision shall apply to annuities and
 348 guaranteed interest contracts with guarantee durations in excess of ten years and
 349 the formula for single premium immediate annuities stated in paragraph (b) of
 350 this subdivision shall apply to annuities and guaranteed interest contracts with
 351 guarantee durations of ten years or less;

352 (d) For other annuities with no cash settlement options and for
 353 guaranteed interest contracts with no cash settlement options, the formula for
 354 single premium immediate annuities stated in paragraph (b) of this subdivision
 355 shall apply;

356 (e) For other annuities with cash settlement options and guaranteed
 357 interest contracts with cash settlement options, valued on a change in fund basis,
 358 the formula for single premium immediate annuities stated in paragraph (b) of
 359 this subdivision shall apply. If the calendar year statutory valuation interest
 360 rate for any life insurance policies issued in any calendar year determined
 361 without reference to this sentence differs from the corresponding actual rate for
 362 similar policies issued in the immediately preceding calendar year by less than
 363 one-half of one percent, the calendar year statutory valuation interest rate for
 364 such life insurance policies shall be equal to the corresponding actual rate for the
 365 immediately preceding calendar year. For purposes of applying the immediately
 366 preceding sentence, the calendar year statutory valuation interest rate for life
 367 insurance policies issued in a calendar year shall be determined for 1980 (using
 368 the reference interest rate defined for 1979) and shall be determined for each
 369 subsequent calendar year regardless of when subsection [10b] 14 of section
 370 376.670 becomes operative.

371 (3) The weighting factors referred to in the formulas stated in subdivision
 372 (2) of this subsection are given in the following tables:

373 (a) Weighting factors for life insurance:

374	Guarantee	Weighting
375	Duration	Factors
376	(Years)	
377	10 or less	.50
378	More than 10, but not more than 20	.45
379	More than 20	.35

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

384 (b) Weighting factor for single premium immediate annuities and for
 385 annuity benefits involving life contingencies arising from other annuities with
 386 cash settlement options and guaranteed interest contracts with cash settlement
 387 options: .80;

388 (c) Weighting factors for other annuities and for guaranteed interest
 389 contracts, except as stated in paragraph (b) of this subdivision, shall be as
 390 specified in subparagraphs a., b., and c. of this paragraph, according to the rules
 391 and definitions in subparagraphs d., e., and f. of this paragraph:

392 a. For annuities and guaranteed interest contracts valued on an issue
 393 year basis:

394 Guarantee	Weighting Factor		
395 Duration	for Plan Type		
396 (Years)	A	B	C
397 5 or less:	.80	.60	.50
398 More than 5, but not more than 10:	.75	.60	.50
399 More than 10, but not more than 20:	.65	.50	.45
400 More than 20:	.45	.35	.35;

401 b. For annuities and guaranteed interest contracts valued on a change in
 402 fund basis, the factors shown in subparagraph a. of this paragraph increased by:

403	Plan Type		
404	A	B	C
405	.15	.25	.05;

406 c. For annuities and guaranteed interest contracts valued on an issue year
 407 basis (other than those with no cash settlement options) which do not guarantee
 408 interest on considerations received more than one year after issue or purchase
 409 and for annuities and guaranteed interest contracts valued on a change in fund
 410 basis which do not guarantee interest rates on considerations received more than
 411 twelve months beyond the valuation date, the factors shown in subparagraph a.
 412 of this paragraph or derived in subparagraph b. of this paragraph increased by:

413	Plan Type		
414	A	B	C
415	.05	.05	.05;

416 d. For other annuities with cash settlement options and guaranteed
417 interest contracts with cash settlement options, the guarantee duration is the
418 number of years for which the contract guarantees interest rates in excess of the
419 calendar year statutory valuation interest rate for life insurance policies with
420 guarantee duration in excess of twenty years. For other annuities with no cash
421 settlement options and for guaranteed interest contracts with no cash settlement
422 options, the guarantee duration is the number of years from the date of issue or
423 date of purchase to the date annuity benefits are scheduled to commence;

424 e. Plan type as used in subparagraphs a., b., and c. of this paragraph is
425 defined as follows:

426 Plan Type A: At any time policyholder may withdraw funds only with an
427 adjustment to reflect changes in interest rates or asset values since receipt of the
428 funds by the insurance company, or without such adjustment but in installments
429 over five years or more, or as an immediate life annuity, or no withdrawal
430 permitted;

431 Plan Type B: Before expiration of the interest rate guarantee, policyholder
432 may withdraw funds only with an adjustment to reflect changes in interest rates
433 or asset values since receipt of the funds by the insurance company, or without
434 such adjustment but in installments over five years or more, or no withdrawal
435 permitted. At the end of interest rate guarantee, funds may be withdrawn
436 without such adjustment in a single sum or installments over fewer than five
437 years;

438 Plan Type C: Policyholder may withdraw funds before expiration of
439 interest rate guarantee in a single sum or installments over fewer than five years
440 either without adjustment to reflect changes in interest rates or asset values
441 since receipt of the funds by the insurance company, or subject only to a fixed
442 surrender charge stipulated in the contract as a percentage of the fund;

443 f. A company may elect to value guaranteed interest contracts with cash
444 settlement options and annuities with cash settlement options on either an issue
445 year basis or on a change in fund basis. Guaranteed interest contracts with no
446 cash settlement options and other annuities with no cash settlement options must
447 be valued on an issue year basis. As used in this subsection an issue year basis
448 of valuation refers to a valuation basis under which the interest rate used to
449 determine the minimum valuation standard for the entire duration of the annuity
450 or guaranteed interest contract is the calendar year valuation interest rate for the
451 year of issue or year of purchase of the annuity or guaranteed interest contract,

452 and the change in fund basis of valuation refers to a valuation basis under which
453 the interest rate used to determine the minimum valuation standard applicable
454 to each change in the fund held under the annuity or guaranteed interest contract
455 is the calendar year valuation interest rate for the year of the change in the fund.

456 (4) The "reference interest rate" referred to in subdivision (2) of this
457 subsection shall be defined as follows:

458 (a) For all life insurance, the lesser of the average over a period of
459 thirty-six months and the average over a period of twelve months, ending on June
460 thirtieth of the calendar year next preceding the year of issue, of the Monthly
461 Average of the Composite Yield on Seasoned Corporate Bonds, as published by
462 Moody's Investors Service, Inc.;

463 (b) For single premium immediate annuities and for annuity benefits
464 involving life contingencies arising from other annuities with cash settlement
465 options and guaranteed interest contracts with cash settlement options, the
466 average over a period of twelve months, ending on June thirtieth of the calendar
467 year of issue or purchase, of the Monthly Average of the Composite Yield on
468 Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.;

469 (c) For other annuities with cash settlement options and guaranteed
470 interest contracts with cash settlement options, valued on a year of issue basis,
471 except as stated in paragraph (b) of this subdivision, with guarantee duration in
472 excess of ten years, the lesser of the average over a period of thirty-six months
473 and the average over a period of twelve months, ending on June thirtieth of the
474 calendar year of issue or purchase, of the Monthly Average of the Composite Yield
475 on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.;

476 (d) For other annuities with cash settlement options and guaranteed
477 interest contracts with cash settlement options, valued on a year of issue basis,
478 except as stated in paragraph (b) of this subdivision, with guarantee duration of
479 ten years or less, the average over a period of twelve months, ending on June
480 thirtieth of the calendar year of issue or purchase, of the Monthly Average of the
481 Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors
482 Service, Inc.;

483 (e) For other annuities with no cash settlement options and for
484 guaranteed interest contracts with no cash settlement options, the average over
485 a period of twelve months, ending on June thirtieth of the calendar year of issue
486 or purchase, of the Monthly Average of the Composite Yield on Seasoned
487 Corporate Bonds, as published by Moody's Investors Service, Inc.;

488 (f) For other annuities with cash settlement options and guaranteed
489 interest contracts with cash settlement options, valued on a change in fund basis,
490 except as stated in paragraph (b) of this subdivision, the average over a period
491 of twelve months, ending on June thirtieth of the calendar year of the change in
492 the fund, of the Monthly Average of the Composite Yield on Seasoned Corporate
493 Bonds, as published by Moody's Investors Service, Inc.

494 (5) In the event that the Monthly Average of the Composite Yield on
495 Seasoned Corporate Bonds is no longer published by Moody's Investors Service,
496 Inc., or in the event that the [National Association of Insurance Commissioners]
497 NAIC determines that the Monthly Average of the Composite Yield on Seasoned
498 Corporate Bonds as published by Moody's Investors Service, Inc., is no longer
499 appropriate for the determination of the reference interest rate, then an
500 alternative method for determination of the reference interest rate, which is
501 adopted by the [National Association of Insurance Commissioners] NAIC and
502 approved by regulation promulgated by the director, may be substituted.

503 3. [The director shall promulgate a regulation containing the minimum
504 standards applicable to the valuation of health, disability and sickness and
505 accident plans] **For accident and health insurance contracts issued on or**
506 **after the operative date of the valuation manual, the standard**
507 **prescribed in the valuation manual is the minimum standard of**
508 **valuation required under subsection 2 of section 376.370. For**
509 **disability, accident and sickness, and accident and health insurance**
510 **contracts issued on or after the operative date provided in subsection**
511 **20 of section 376.670 and prior to the operative date of the valuation**
512 **manual, the minimum standard of valuation is the standard adopted by**
513 **the director by regulation.**

514 4. (1) **This subsection shall apply to actuarial opinions of**
515 **reserves prior to the date of the valuation manual.**

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

524 [(2)] **(3)** (a) Every life insurance company, except as exempted by or
525 pursuant to regulation, shall also annually include in the opinion required by
526 subdivision [(1)] **(2)** of this subsection, an opinion of the same qualified actuary
527 as to whether the reserves and related actuarial items held in support of the
528 policies and contracts specified by the director by regulation, when considered in
529 light of the assets held by the company with respect to the reserves and related
530 actuarial items, including but not limited to the investment earnings on the
531 assets and the considerations anticipated to be received and retained under the
532 policies and contracts, make adequate provision for the company's obligations
533 under the policies and contracts, including but not limited to the benefits under
534 and expenses associated with the policies and contracts.

535 (b) The director may provide by regulation for a transition period for
536 establishing any higher reserves which the qualified actuary may deem necessary
537 in order to render the opinion required by this subsection.

538 **[(3)] (4)** Each opinion required by subdivision **[(2)] (3)** of this subsection
539 shall be governed by the following provisions:

540 (a) A memorandum, in form and substance acceptable to the director as
541 specified by regulation, shall be prepared to support each actuarial opinion; and

542 (b) If the insurance company fails to provide a supporting memorandum
543 at the request of the director within a period specified by regulation or the
544 director determines that the supporting memorandum provided by the insurance
545 company fails to meet the standards prescribed by the regulations or is otherwise
546 unacceptable to the director, the director may engage a qualified actuary at the
547 expense of the company to review the opinion and the basis for the opinion and
548 prepare such supporting memorandum as is required by the director.

549 **[(4)] (5)** Every opinion **required by this subsection** shall be governed
550 by the following provisions:

551 (a) The opinion shall be submitted with the annual statement reflecting
552 the valuation of such reserve liabilities for each year ending on or after December
553 31, 1993;

554 (b) The opinion shall apply to all business in force including individual
555 and group health insurance plans, in form and substance acceptable to the
556 director as specified by regulation;

557 (c) The opinion shall be based on standards adopted from time to time by
558 the Actuarial Standards Board and on such additional standards as the director
559 may by regulation prescribe;

560 (d) In the case of an opinion required to be submitted by a foreign or alien
561 company, the director may accept the opinion filed by that company with the
562 insurance supervisory official of another state if the director determines that the
563 opinion reasonably meets the requirements applicable to a company domiciled in
564 this state;

565 (e) For the purposes of this section, "qualified actuary" means a member
566 in good standing of the American Academy of Actuaries who meets the
567 requirements set forth in such regulations;

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

572 (g) Disciplinary action by the director against the company or the
573 qualified actuary shall be defined in regulations by the director; and

574 (h) Any memorandum in support of the opinion, and any other material
575 provided by the company to the director in connection therewith, shall be kept
576 confidential by the director and shall not be made public and shall not be subject
577 to subpoena, other than for the purpose of defending an action seeking damages
578 from any person by reason of any action required by this section or by regulations
579 promulgated hereunder; except that the memorandum or other material may
580 otherwise be released by the director:

581 a. With the written consent of the company; or

582 b. To the American Academy of Actuaries upon request stating that the
583 memorandum or other material is required for the purpose of professional
584 disciplinary proceedings and setting forth procedures satisfactory to the director
585 for preserving the confidentiality of the memorandum or other material. Once
586 any portion of the confidential memorandum is cited by the company in its
587 marketing or is cited before any governmental agency other than a state
588 insurance department or is released by the company to the news media, all
589 portions of the confidential memorandum shall be no longer confidential.

590 **5. (1) This subsection shall apply to actuarial opinions of**
591 **reserves after the operative date of the valuation manual.**

592 **(2) Every company with outstanding life insurance contracts,**
593 **accident and health insurance contracts, or deposit-type contracts in**
594 **Missouri and subject to regulation by the director shall annually submit**
595 **the opinion of the appointed actuary as to whether the reserves and**

596 related actuarial items held in support of the policies and contracts are
597 computed appropriately, are based on assumptions that satisfy
598 contractual provisions, are consistent with prior reported amounts, and
599 comply with applicable Missouri law. The valuation manual shall
600 prescribe the specifics of such opinion, including any items deemed to
601 be necessary to its scope.

602 (3) Every company with outstanding life insurance contracts,
603 accident and health insurance contracts, or deposit-type contracts in
604 Missouri and subject to regulation by the director, except as exempted
605 in the valuation manual, shall also annually include in the opinion
606 required under subdivision (2) of this subsection an opinion of the same
607 appointed actuary as to whether the reserves and related actuarial
608 items held in support of the policies and contracts specified in the
609 valuation manual, when considered in light of the assets held by the
610 company with respect to the reserves and related actuarial items
611 including, but not limited to, the investment earnings on the assets and
612 the considerations anticipated to be received and retained under the
613 policies and contracts, make adequate provision for the company's
614 obligations under the policies and contracts including, but not limited
615 to, benefits under and expenses associated with the policies and
616 contracts.

617 (4) Each opinion required by subdivision (3) of this subsection
618 shall be governed by the following provisions:

619 (a) A memorandum, in form and substance as specified in the
620 valuation manual and acceptable to the director, shall be prepared to
621 support each actuarial opinion; and

622 (b) If the insurance company fails to provide a supporting
623 memorandum at the request of the director within a period specified
624 in the valuation manual or the director determines that the supporting
625 memorandum provided by the insurance company fails to meet the
626 standards prescribed by the valuation manual or is otherwise
627 unacceptable to the director, the director may engage a qualified
628 actuary at the expense of the company to review the opinion and the
629 basis for the opinion and prepare the supporting memorandum
630 required by the director.

631 (5) Every opinion required by this subsection shall be governed
632 by the following:

633 (a) The opinion shall be in form and substance as specified in the
634 valuation manual and acceptable to the director;

635 (b) The opinion shall be submitted with the annual statement
636 reflecting the valuation of such reserve liabilities for each year ending
637 on or after the operative date of the valuation manual;

638 (c) The opinion shall apply to all policies and contracts subject
639 to subdivision (3) of this subsection, plus other actuarial liabilities as
640 may be specified in the valuation manual;

641 (d) The opinion shall be based on standards adopted from time
642 to time by the Actuarial Standards Board or its successor, and on such
643 additional standards as may be prescribed in the valuation manual;

644 (e) In the case of an opinion required to be submitted by a
645 foreign or alien company, the director may accept the opinion filed by
646 such company with the insurance supervisory official of another state
647 if the director determines that the opinion reasonably meets the
648 requirements applicable to a company domiciled in Missouri;

649 (f) Except in cases of fraud or willful misconduct, the appointed
650 actuary shall not be liable for damages to any person, other than the
651 insurance company and the director, for any act, error, omission,
652 decision, or conduct with respect to the appointed actuary's opinion;
653 and

654 (g) Disciplinary action by the director against the company or
655 the appointed actuary shall be defined in regulations by the director.

656 6. (1) For policies issued on or after the operative date of the
657 valuation manual, the standard prescribed in the valuation manual is
658 the minimum standard of valuation required under subsection 2 of
659 section 376.370, except as provided under subdivision (5) or (7) of this
660 subsection.

661 (2) The operative date of the valuation manual is January first
662 of the first calendar year following the first July first as of which all of
663 the following have occurred:

664 (a) The valuation manual has been adopted by the NAIC by an
665 affirmative vote of at least forty-two members or three-fourths of the
666 members voting, whichever is greater;

667 (b) The Standard Valuation Law as amended by the NAIC in 2009
668 or legislation including substantially similar terms and provisions has
669 been enacted by states representing greater than seventy-five percent

670 of the direct premiums written as reported in the following annual
671 statements submitted for 2008: life, accident, and health annual
672 statements; health annual statements; or fraternal annual statements;

673 (c) The Standard Valuation Law as amended by the NAIC in 2009
674 or legislation including substantially similar terms and provisions has
675 been enacted by at least forty-two of the following fifty-five
676 jurisdictions: the fifty states of the United States, American Samoa, the
677 American Virgin Islands, the District of Columbia, Guam, and Puerto
678 Rico; and

679 (d) The valuation manual becomes effective under an order of
680 the director.

681 (3) Unless a change in the valuation manual specifies a later
682 effective date, changes to the valuation manual shall be effective on
683 January first following the date when all of the following have
684 occurred:

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

687 a. At least three-fourths of the members of the NAIC voting, but
688 not less than a majority of the total membership; and

689 b. Members of the NAIC representing jurisdictions totaling
690 greater than seventy-five percent of the direct premiums written as
691 reported in the following annual statements most recently available
692 prior to the vote in subparagraph a. of this paragraph: life, accident,
693 and health annual statements; health annual statements; or fraternal
694 annual statements;

695 (b) The valuation manual becomes effective under an order of
696 the director.

697 (4) The valuation manual shall specify all of the following:

698 (a) Minimum valuation standards for and definitions of the
699 policies or contracts subject to subsection 2 of section 376.370. Such
700 minimum standards shall be:

701 a. The commissioners reserve valuation method for life insurance
702 contracts, other than annuity contracts, subject to subsection 2 of
703 section 376.370;

704 b. The commissioners annuity reserve valuation method for
705 annuity contracts subject to subsection 2 of section 376.370; and

706 c. Minimum reserves for all other policies and contracts subject

707 to subsection 2 of section 376.370;

708 (b) Which policies or contracts or types of policies or contracts
709 are subject to the requirements of a principle-based valuation under
710 subdivision (1) of subsection 7 of this section and the minimum
711 valuation standards consistent with such requirements;

712 (c) For policies and contracts subject to principle-based
713 valuation under subsection 7 of this section:

714 a. Requirements for the format of reports to the director under
715 paragraph (c) of subdivision (2) of subsection 7 of this section and
716 which shall include information necessary to determine if the valuation
717 is appropriate and in compliance with sections 376.365 to 376.380;

718 b. Assumptions which shall be prescribed for risks over which
719 the company does not have significant control or influence;

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

723 (d) For policies not subject to a principle-based valuation under
724 subsection 7 of this section, the minimum valuation standard shall
725 either:

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

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

732 (e) Other requirements including, but not limited to, those
733 relating to reserve methods, models for measuring risk, generation of
734 economic scenarios, assumptions, margins, use of company experience,
735 risk measurement, disclosure, certifications, reports, actuarial opinions
736 and memorandums, transition rules, and internal controls; and

737 (f) The data and form of the data required under subsection 8 of
738 this section, to whom the data shall be submitted, and may specify
739 other requirements, including data analyses and reporting of analyses.

740 (5) In the absence of a specific valuation requirement or if a
741 specific valuation requirement in the valuation manual is not, in the
742 opinion of the director, in compliance with sections 376.365 to 376.380,
743 the company shall, with respect to such requirements, comply with

744 minimum valuation standards prescribed by the director by regulation.

745 (6) The director may engage a qualified actuary, at the expense
746 of the company, to perform an actuarial examination of the company
747 and opine on the appropriateness of any reserve assumption or method
748 used by the company, or to review and opine on a company's
749 compliance with any requirement set forth in sections 376.365 to
750 376.380. The director may rely upon the opinion regarding provisions
751 contained in sections 376.365 to 376.380 of a qualified actuary engaged
752 by the director of another state, district, or territory of the United
753 States. As used in this subdivision, engage includes employment and
754 contracting.

755 (7) The director may require a company to change any
756 assumption or method that in the opinion of the director is necessary
757 in order to comply with the requirements of the valuation manual or
758 sections 376.365 to 376.380, and the company shall adjust the reserves
759 as required by the director. The director may take other disciplinary
760 action as permitted under chapter 354 and chapters 374 to 385.

761 7. (1) A company shall establish reserves using a principle-based
762 valuation that meets the following conditions for policies or contracts
763 as specified in the valuation manual:

764 (a) Quantify the benefits and guarantees, and the funding,
765 associated with the contracts and their risks at a level of conservatism
766 that reflects conditions that include unfavorable events that have a
767 reasonable probability of occurring during the lifetime of the
768 contracts. For policies or contracts with significant tail risk, the
769 company's valuation shall reflect conditions appropriately adverse to
770 quantify the tail risk;

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

776 (c) Incorporate assumptions that are derived in one of the
777 following manners:

778 a. The assumption is prescribed in the valuation manual; or
779 b. For assumptions that are not prescribed, the assumption shall:
780 (i) Be established utilizing the company's available experience

781 to the extent it is relevant and statistically credible; or

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

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

788 (2) A company using a principle-based valuation for one or more
789 policies or contracts subject to this section as specified in the valuation
790 manual shall:

791 (a) Establish procedures for corporate governance and oversight
792 of the actuarial valuation function consistent with those described in
793 the valuation manual;

794 (b) Provide to the director an annual certification of the
795 effectiveness of the internal controls with respect to the principle-
796 based valuation. Such controls shall be designed to ensure that all
797 material risks inherent in the liabilities and associated assets subject
798 to such valuation are included in the valuation and that valuations are
799 made in accordance with the valuation manual. The certification shall
800 be based on the controls in place as of the end of the preceding
801 calendar year;

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

805 (3) A principle-based valuation may include a prescribed
806 formulaic reserve component.

807 8. For policies in force on or after the operative date of the
808 valuation manual, a company shall submit mortality, morbidity,
809 policyholder behavior, or expense experience and other data as
810 prescribed in the valuation manual.

811 9. (1) For purposes of this subsection, "confidential information"
812 means:

813 (a) A memorandum in support of an opinion submitted under
814 subsection 4 or 5 of this section and any other documents, materials,
815 and other information including, but not limited to, all working papers
816 and copies thereof created, produced, or obtained by or disclosed to the
817 director or any other person in connection with such memorandum;

818 (b) All documents, materials, and other information including,
819 but not limited to, all working papers and copies thereof created,
820 produced, or obtained by or disclosed to the director or any other
821 person in the course of an examination made under subdivision (6) of
822 subsection 6 of this section; provided, however, that if an examination
823 report or other material prepared in connection with an examination
824 made under section 374.205 is not held as private and confidential
825 information under section 374.205, an examination report or other
826 material prepared in connection with an examination made under
827 subdivision (6) of subsection 6 of this section shall not be confidential
828 information to the same extent as if such examination report or other
829 material had been prepared under section 374.205;

830 (c) Any reports, documents, materials, and other information
831 developed by a company in support of or in connection with an annual
832 certification by the company under paragraph (b) of subdivision (2) of
833 subsection 7 of this section evaluating the effectiveness of the
834 company's internal controls with respect to a principle-based valuation
835 and any other documents, materials, and other information including,
836 but not limited to, all working papers and copies thereof created,
837 produced, or obtained by or disclosed to the director or any other
838 person in connection with such reports, documents, material, and other
839 information;

840 (d) Any principle-based valuation report developed under
841 paragraph (c) of subdivision (2) of subsection 7 of this section and any
842 other documents, materials, and other information including, but not
843 limited to, all working papers and copies thereof created, produced, or
844 obtained by or disclosed to the director or any other person in
845 connection with such report; and

846 (e) Any documents, materials, data, and other information
847 submitted by a company under subsection 8 of this section (collectively,
848 "experience data") and any other documents, materials, data, and other
849 information including, but not limited to, all working papers and copies
850 thereof created or produced in connection with such experience data,
851 in each case that include any potentially company-identifying or
852 personally identifiable information, that is provided to or obtained by
853 the director (together with any "experience data", the "experience
854 materials") and any other documents, materials, data, and other

855 information including, but not limited to, all working papers and copies
856 thereof created, produced, or obtained by or disclosed to the director
857 or any other person in connection with such experience materials.

858 (2) (a) Except as provided in this subsection, a company's
859 confidential information is confidential by law and privileged, and shall
860 not be subject to chapter 610, shall not be subject to subpoena, and
861 shall not be subject to discovery or admissible in evidence in any
862 private civil action; provided, however, that the director is authorized
863 to use the confidential information in the furtherance of any regulatory
864 or legal action brought against the company as a part of the director's
865 official duties.

866 (b) Neither the director nor any person who received
867 confidential information while acting under the authority of the
868 director shall be permitted or required to testify in any private civil
869 action concerning any confidential information.

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

872 a. Other state, federal, and international regulatory agencies and
873 with the NAIC and its affiliates and subsidiaries; and

874 b. In the case of confidential information specified in paragraphs
875 (a) and (d) of subdivision (1) of this subsection only, the Actuarial
876 Board for Counseling and Discipline or its successor upon request
877 stating that the confidential information is required for the purpose of
878 professional disciplinary proceedings and with state, federal, and
879 international law enforcement officials.

880 (d) The sharing of confidential information detailed in
881 paragraph (c) of this subdivision shall be contingent on such recipient
882 agreeing and having the legal authority to agree to maintain the
883 confidentiality and privileged status of such documents, materials,
884 data, and other information in the same manner and to the same extent
885 as required for the director.

886 (e) The director may receive documents, materials, data, and
887 other information, including otherwise confidential and privileged
888 documents, materials, data, or information, from the NAIC and its
889 affiliates and subsidiaries, from regulatory or law enforcement officials
890 of other foreign or domestic jurisdictions, and from the Actuarial Board
891 for Counseling and Discipline or its successor and shall maintain as

892 confidential or privileged any document, material, data, or other
893 information received with notice or the understanding that it is
894 confidential or privileged under the laws of the jurisdiction that is the
895 source of the document, material, or other information.

896 (f) The director may enter into agreements governing sharing
897 and use of information consistent with this subdivision.

898 (g) No waiver of any applicable privilege or claim of
899 confidentiality in the confidential information shall occur as a result
900 of disclosure to the director under this section or as a result of sharing
901 as authorized in paragraph (c) of this subdivision.

902 (h) A privilege established under the law of any state or
903 jurisdiction that is substantially similar to the privilege established
904 under this subdivision shall be available and enforced in any
905 proceeding in, and in any court of, Missouri.

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

909 (3) Notwithstanding subdivision (2) of this subsection, any
910 confidential information specified in paragraphs (a) and (d) of
911 subdivision (1) of this subsection:

912 (a) May be subject to subpoena for the purpose of defending an
913 action seeking damages from the appointed actuary submitting the
914 related memorandum in support of an opinion submitted under
915 subsection 4 or 5 of this section or principle-based valuation report
916 developed under paragraph (c) of subdivision (2) of subsection 7 of this
917 section by reason of an action required by sections 376.365 to 376.380
918 or by regulations promulgated hereunder;

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

921 (c) Once any portion of a memorandum in support of an opinion
922 submitted under subsection 4 or 5 of this section or a principle-based
923 valuation report developed under paragraph (c) of subdivision (2) of
924 subsection 7 of this section is cited by the company in its marketing, or
925 is publicly volunteered to or before a governmental agency other than
926 a state insurance department, or is released by the company to the
927 news media, all portions of such memorandum or report shall no longer
928 be confidential.

929 10. The director may exempt specific product forms or product
930 lines of a domestic company that is licensed and doing business only in
931 Missouri from the requirements of subsection 6 of this section provided:

932 (1) The director has issued an exemption in writing to the
933 company and has not subsequently revoked the exemption in writing;
934 and

935 (2) The company computes reserves using assumptions and
936 methods used prior to the operative date of the valuation manual in
937 addition to any requirements established by the director and
938 promulgated by regulation.

939 For any company granted an exemption under this section, subsection
940 3 of section 376.370 and subsections 1 to 5 of this section shall be
941 applicable. With respect to any company applying this exemption, any
942 reference to subsection 6 of this section found in subsection 3 of section
943 376.370 and subsections 1 to 5 of this section shall not be applicable.

944 11. (1) A company that has less than three hundred million
945 dollars of ordinary life premium and that is licensed and doing
946 business in Missouri and that is subject to the requirements of
947 subsections 6, 7, 8, and 9 of this section, may hold reserves based on the
948 mortality tables and interest rates defined by the valuation manual for
949 net premium reserves and using the methodology defined in the
950 provisions of paragraphs (b) through (i) of subdivision (2) of subsection
951 1 of this section and subsection 3 of section 376.370 as they apply to
952 ordinary life insurance, provided that:

953 (a) If the company is a member of a group of life insurers, the
954 group has combined ordinary life premiums of less than six hundred
955 million dollars;

956 (b) The company reported total adjusted capital of at least four
957 hundred fifty percent of authorized control level risk-based capital in
958 the risk-based capital report for the prior calendar year;

959 (c) The appointed actuary has provided an unqualified opinion
960 on the reserves in accordance with subsections 4 and 5 of this section
961 for the prior calendar year;

962 (d) The company has provided a certification by a qualified
963 actuary that any universal life policy with a secondary guarantee
964 issued after the operative date of the valuation manual meets the
965 definition of a nonmaterial secondary guarantee universal life product

966 as defined in the valuation manual.

967 (2) For purposes of subdivision (1) of this subsection, ordinary
968 life premiums are measured as direct premium plus reinsurance
969 assumed from an unaffiliated company, as reported in the prior
970 calendar year annual statement.

971 (3) A domestic company meeting all of the above conditions may
972 file a statement with the director certifying that these conditions are
973 met for the current calendar year based on premiums and other values
974 from the prior calendar year financial statements prior to July first of
975 the year. The director may reject such statement prior to September
976 first and require a company to comply with the valuation manual
977 requirements for life insurance reserves.

376.670. 1. As used in this section, "operative date of the
2 valuation manual" shall have the same meaning as set forth in section
3 376.365.

4 2. In the case of policies issued on or after the operative date of this
5 section, as defined in subsection [14] 20 of this section, no policy of life
6 insurance, except as stated in subsection [13] 19 of this section, shall be
7 delivered or issued for delivery in this state unless it shall contain in substance
8 the following provisions, or corresponding provisions which in the opinion of the
9 director of the department of insurance, financial institutions and professional
10 registration are at least as favorable to the defaulting or surrendering
11 policyholder as are the minimum requirements specified in this section and are
12 essentially in compliance with subsection [12a] 18 of this section:

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

22 (2) That, upon surrender of the policy within sixty days after the due date
23 of any premium payment in default after premiums have been paid for at least
24 three full years in the case of ordinary insurance or five full years in the case of

25 industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture
26 benefit, a cash surrender value of such amount as may be herein specified;

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

31 (4) That, if the policy shall have become paid up by completion of all
32 premium payments or if it is continued under any paid-up nonforfeiture benefit
33 which became effective on or after the third policy anniversary in the case of
34 ordinary insurance or the fifth policy anniversary in the case of industrial
35 insurance, the company will pay, upon surrender of the policy within thirty days
36 after any policy anniversary, a cash surrender value of such amount as may be
37 herein specified;

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

52 (6) A statement that the cash surrender values and the paid-up
53 nonforfeiture benefits available under the policy are not less than the minimum
54 values and benefits required by or pursuant to the insurance law of the state in
55 which the policy is delivered; an explanation of the manner in which the cash
56 surrender values and the paid-up nonforfeiture benefits are altered by the
57 existence of any paid-up additions credited to the policy or any indebtedness to
58 the company on the policy; if a detailed statement of the method of computation
59 of the values and benefits shown in the policy is not stated therein, a statement
60 that such method of computation has been filed with the insurance supervisory

61 official of the state in which the policy is delivered; and a statement of the
62 method to be used in calculating the cash surrender value and paid-up
63 nonforfeiture benefit available under the policy on any policy anniversary beyond
64 the last anniversary for which such values and benefits are consecutively shown
65 in the policy.

66 [2.] 3. Any of the foregoing provisions or portions thereof not applicable
67 by reason of the plan of insurance may, to the extent inapplicable, be omitted
68 from the policy.

69 [3.] 4. The company shall reserve the right to defer the payment of any
70 cash surrender value for a period of six months after demand therefor with
71 surrender of the policy.

72 [4.] 5. (1) Any cash surrender value available under the policy in the
73 event of default in a premium payment due on any policy anniversary, whether
74 or not required by subsection [1] 2 of this section, shall be an amount not less
75 than the excess, if any, of the present value, on such anniversary, of the future
76 guaranteed benefits which would have been provided for by the policy if there had
77 been no default, including any existing paid-up additions, over the sum of the
78 then present value of the adjusted premiums as defined in subsections [6, 7, 8,
79 8a, 9, 10, 10a, and 10b] 7, 8, 9, 10, 11, 12, 13, and 14 of this section
80 corresponding to premiums which would have fallen due on and after such
81 anniversary, and the amount of any indebtedness to the company on the policy.

82 (2) For any policy issued on or after the operative date of subsection [10b]
83 14 of this section which provides supplemental life insurance or annuity benefits
84 at the option of the insured for an identifiable additional premium by rider or
85 supplemental policy provision, the cash surrender value referred to in subdivision
86 (1) of this subsection shall be an amount not less than the sum of the cash
87 surrender value for an otherwise similar policy issued at the same age without
88 such rider or supplemental policy provision and the cash surrender value for a
89 policy which provides only the benefits otherwise provided by such rider or
90 supplemental policy provision.

91 (3) For any family policy issued on or after the operative date of
92 subsection [10b] 14 of this section which defines a primary insured and provides
93 term insurance on the life of the spouse of the primary insured expiring before
94 the spouse's age seventy-one, the cash surrender value referred to in subdivision
95 (1) of this subsection shall be an amount not less than the sum of the cash
96 surrender value for an otherwise similar policy issued at the same age without

97 such term insurance on the life of the spouse and the cash surrender value for a
98 policy which provides only the benefits otherwise provided by such term
99 insurance on the life of the spouse.

100 (4) Any cash surrender value available within thirty days after any policy
101 anniversary under any policy paid up by completion of all premium payments or
102 any policy continued under any paid-up nonforfeiture benefit, whether or not
103 required by subsection **[1] 2 of this section**, shall be an amount not less than
104 the present value, on such anniversary, of the future guaranteed benefits
105 provided for the policy, including any existing paid-up additions, decreased by
106 any indebtedness to the company on the policy.

107 **[5.] 6.** Any paid-up nonforfeiture benefit available under the policy in the
108 event of default in a premium payment due on any policy anniversary shall be
109 such that its present value as of such anniversary shall be at least equal to the
110 cash surrender value then provided for by the policy or, if none is provided for,
111 that cash surrender value which would have been required by this section in the
112 absence of the condition that premiums shall have been paid for at least a
113 specified period.

114 **[6.] 7.** This subsection and subsections **[7, 8, 8a, and 9] 8, 9, 10, and 11**
115 of this section shall not apply to policies issued on or after the operative date of
116 subsection **[10b] 14** of this section. Except as provided in subsection **[8a] 10 of**
117 **this section**, the adjusted premiums for any policy shall be calculated on an
118 annual basis and shall be such uniform percentage of the respective premiums
119 specified in the policy for each policy year, excluding any extra premiums charged
120 because of impairments or special hazards, that the present value, at the date of
121 issue of the policy, of all such adjusted premiums shall be equal to the sum of:

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

124 (2) Two percent of the amount of insurance, if the insurance be uniform
125 in amount, or of the equivalent uniform amount, as herein defined, if the amount
126 of insurance varies with duration of the policy;

127 (3) Forty percent of the adjusted premium for the first policy year;

128 (4) Twenty-five percent of either the adjusted premiums for the first policy
129 year or the adjusted premium for a whole life policy of the same uniform or
130 equivalent uniform amount with uniform premiums for the whole of life issued
131 at the same age for the same amount of insurance, whichever is less.

132 **[7.] 8.** Provided, however, that in applying the percentages specified in

133 subdivisions (3) and (4) of subsection [6] **7 of this section**, no adjusted premium
134 shall be deemed to exceed four percent of the amount of insurance or uniform
135 amount equivalent thereto. The date of issue of a policy for the purpose of
136 subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11 of this section** shall be the
137 date as of which the rated age of the insured is determined.

138 [8.] **9.** In the case of a policy providing an amount of insurance varying
139 with duration of the policy, the equivalent uniform amount thereof for the
140 purpose of subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11 of this section**
141 shall be deemed to be the uniform amount of insurance provided by an otherwise
142 similar policy, containing the same endowment benefit or benefits, if any, issued
143 at the same age and for the same term, the amount of which does not vary with
144 duration and the benefits under which have the same present value at the date
145 of issue as the benefits under the policy; provided, however, that in the case of a
146 policy providing a varying amount of insurance issued on the life of a child under
147 age ten, the equivalent uniform amount may be computed as though the amount
148 of insurance provided by the policy prior to the attainment of age ten were the
149 amount provided by such policy at age ten.

150 [8a.] **10.** The adjusted premiums for any policy providing term insurance
151 benefits by rider or supplemental policy provision shall be equal to (a) the
152 adjusted premiums for an otherwise similar policy issued at the same age without
153 such term insurance benefits, increased, during the period for which premiums
154 for such term insurance benefits are payable, by (b) the adjusted premiums for
155 such term insurance, the foregoing items (a) and (b) being calculated separately
156 and as specified in subsections [6, 7 and 8] **7, 8, and 9 of this section** except
157 that, for the purposes of subdivisions (2), (3) and (4) of subsection [6] **7 of this**
158 **section**, the amount of insurance or equivalent uniform amount of insurance
159 used in the calculation of the adjusted premiums referred to in (b) shall be equal
160 to the excess of the corresponding amount determined for the entire policy over
161 the amount used in the calculation of the adjusted premiums in (a).

162 [9.] **11.** Except as otherwise provided in subsections [10 and 10a] **12 and**
163 **13 of this section**, all adjusted premiums and present values referred to in this
164 section shall, for all policies of ordinary insurance, be calculated on the basis of
165 the Commissioners 1941 Standard Ordinary Mortality Table, provided that for
166 any category of ordinary insurance issued on and after the effective date of this
167 amendment on female risks, adjusted premiums and present values may be
168 calculated according to an age not more than three years younger than the actual

169 age of the insured and such calculations for all policies of industrial insurance
170 shall be made on the basis of the 1941 Standard Industrial Mortality Table. All
171 calculations shall be made on the basis of the rate of interest, not exceeding three
172 and one-half percent per annum, specified in the policy for calculating cash
173 surrender values and paid-up nonforfeiture benefits; provided, however, that in
174 calculating the present value of any paid-up term insurance with accompanying
175 pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality
176 assumed may be not more than one hundred and thirty percent of the rates of
177 mortality according to such applicable table; provided, further, that for insurance
178 issued on a substandard basis, the calculation of any such adjusted premiums and
179 present values may be based on such other table of mortality as may be specified
180 by the company and approved by the director.

181 **[10.] 12.** This subsection shall not apply to ordinary policies issued on or
182 after the operative date of subsection [10b] **14 of this section.** In the case of
183 ordinary policies issued on or after the operative date provided in this subsection,
184 all adjusted premiums and present values referred to in this section shall be
185 calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality
186 Table and the rate of interest specified in the policy for calculating cash
187 surrender values and paid-up nonforfeiture benefits, provided that such rate of
188 interest shall not exceed three and one-half percent per annum, except that a rate
189 of interest not exceeding four percent per annum may be used for policies issued
190 on or after September 28, 1975, and prior to September 28, 1979, and a rate of
191 interest not exceeding five and one-half percent per annum may be used for
192 policies issued on or after September 28, 1979, and provided that for any category
193 of ordinary insurance issued on female risks, adjusted premiums and present
194 values may be calculated according to an age not more than six years younger
195 than the actual age of the insured; provided, however, that in calculating the
196 present value of any paid-up term insurance with accompanying pure endowment,
197 if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be
198 not more than those shown in the Commissioners 1958 Extended Term Insurance
199 Table; provided, further, that for insurance issued on a substandard basis, the
200 calculation of any such adjusted premiums and present values may be based on
201 such other table of mortality as may be specified by the company and approved
202 by the director. After the date when this subsection becomes effective, any
203 company may file with the director a written notice of its election to comply with
204 the provisions of this subsection after a specified date before January 1,

205 1966. After the filing of such notice, then upon such specified date, which shall
206 be the operative date of this subsection for such company, this subsection shall
207 become operative with respect to the ordinary policies thereafter issued by such
208 company. If a company makes no such election, the operative date of this
209 subsection for such company shall be January 1, 1966.

210 [10a.] **13.** This subsection shall not apply to industrial policies issued on
211 or after the operative date of subsection [10b] **14 of this section.** In the case
212 of industrial policies issued on or after the operative date of this subsection as
213 defined herein, all adjusted premiums and present values referred to in this
214 section shall be calculated on the basis of the Commissioners 1961 Standard
215 Industrial Mortality Table and the rate of interest specified in the policy for
216 calculating cash surrender values and paid-up nonforfeiture benefits, provided
217 that such rate of interest shall not exceed three and one-half percent per annum,
218 except that a rate of interest not exceeding four percent per annum may be used
219 for policies issued on or after September 28, 1975, and prior to September 28,
220 1979, and a rate of interest not exceeding five and one-half percent per annum
221 may be used for policies issued on or after September 28, 1979; provided,
222 however, that in calculating the present value of any paid-up term insurance with
223 accompanying pure endowment, if any, offered as a nonforfeiture benefit, the
224 rates of mortality assumed may be not more than those shown in the
225 Commissioners 1961 Industrial Extended Term Insurance Table; provided,
226 further, that for insurance issued on a substandard basis, the calculation of any
227 such adjusted premiums and present values may be based on such other table of
228 mortality as may be specified by the company and approved by the director. After
229 the date when this subsection becomes effective, any company may file with the
230 director a written notice of its election to comply with the provisions of this
231 subsection after a specified date before January 1, 1968. After the filing of such
232 notice, then upon such specified date, which shall be the operative date of this
233 subsection for such company, this subsection shall become operative with respect
234 to the industrial policies thereafter issued by such company. If a company makes
235 no such election, the operative date of this subsection for such company shall be
236 January 1, 1968.

237 [10b.] **14.** (1) This subsection shall apply to all policies issued on or after
238 the operative date of this subsection as defined herein. Except as provided in
239 subdivision (7) of this subsection, the adjusted premiums for any policy shall be
240 calculated on an annual basis and shall be such uniform percentage of the

241 respective premiums specified in the policy for each policy year, excluding
242 amounts payable as extra premiums to cover impairments or special hazards and
243 also excluding any uniform annual contract charge or policy fee specified in the
244 policy in a statement of the method to be used in calculating the cash surrender
245 values and paid-up nonforfeiture benefits, that the present value, at the date of
246 issue of the policy, of all adjusted premiums shall be equal to the sum of:

247 (a) The then present value of the future guaranteed benefits provided for
248 by the policy; **provided, however, that the nonforfeiture interest rate**
249 **shall not be less than four percent;**

250 (b) One percent of either the amount of insurance, if the insurance be
251 uniform in amount, or the average amount of insurance at the beginning of each
252 of the first ten policy years; and

253 (c) One hundred twenty-five percent of the nonforfeiture net level
254 premium as hereinafter defined. In applying the percentage specified in
255 paragraph (c) above, no nonforfeiture net level premium shall be deemed to
256 exceed four percent of either the amount of insurance, if the insurance be uniform
257 in amount, or the average amount of insurance at the beginning of each of the
258 first ten policy years. The date of issue of a policy for the purpose of this
259 subsection shall be the date as of which the rated age of the insured is
260 determined.

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

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

276 (4) Except as otherwise provided in subdivision (7) of this subsection, the

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

289 (5) The additional expense allowance, at the time of the change to the
290 newly defined benefits or premiums, shall be the sum of:

291 (a) One percent of the excess, if positive, of the average amount of
292 insurance at the beginning of each of the first ten policy years subsequent to the
293 change over the average amount of insurance prior to the change at the beginning
294 of each of the first ten policy years subsequent to the time of the most recent
295 previous change, or, if there has been no previous change, the date of issue of the
296 policy; and

297 (b) One hundred twenty-five percent of the increase, if positive, in the
298 nonforfeiture net level premium.

299 (6) The recalculated nonforfeiture net level premium shall be equal to the
300 result obtained by dividing (a) by (b) where:

301 (a) Equals the sum of:

302 a. The nonforfeiture net level premium applicable prior to the change
303 times the present value of an annuity of one per annum payable on each
304 anniversary of the policy on or subsequent to the date of the change on which a
305 premium would have fallen due had the change not occurred; and

306 b. The present value of the increase in future guaranteed benefits
307 provided for by the policy; and

308 (b) Equals the present value of an annuity of one per annum payable on
309 each anniversary of the policy on or subsequent to the date of change on which
310 a premium falls due.

311 (7) Notwithstanding any other provisions of this subsection to the
312 contrary, in the case of a policy issued on a substandard basis which provides

313 reduced graded amounts of insurance so that in each policy year such policy has
314 the same tabular mortality cost as an otherwise similar policy issued on the
315 standard basis which provides higher uniform amounts of insurance, adjusted
316 premiums and present values for such substandard policy may be calculated as
317 if it were issued to provide such higher uniform amounts of insurance on the
318 standard basis.

319 (8) All adjusted premiums and present values referred to in this section
320 shall for all policies of ordinary insurance be calculated on the basis of the
321 Commissioners 1980 Standard Ordinary Mortality Table or, at the election of the
322 company for any one or more specified plans of life insurance, the Commissioners
323 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors.
324 All adjusted premiums and present values referred to in this section shall for all
325 policies of industrial insurance be calculated on the basis of the Commissioners
326 1961 Standard Industrial Mortality Table. All adjusted premiums and present
327 values referred to in this section shall for all policies issued in a particular
328 calendar year be calculated on the basis of a rate of interest not exceeding the
329 nonforfeiture interest rate as defined in this subsection for policies issued in that
330 calendar year.

331 (9) Except as provided in subdivision (8) of this subsection:

332 (a) At the option of the company, calculations for all policies issued in a
333 particular calendar year may be made on the basis of a rate of interest not
334 exceeding the nonforfeiture interest rate, as defined in this subsection, for policies
335 issued in the immediately preceding calendar year;

336 (b) Under any paid-up nonforfeiture benefit, including any paid-up
337 dividend additions, any cash surrender value available, whether or not required
338 by subsection [1] 2 of this section, shall be calculated on the basis of the
339 mortality table and rate of interest used in determining the amount of such
340 paid-up nonforfeiture benefit and paid-up dividend additions, if any;

341 (c) A company may calculate the amount of any guaranteed paid-up
342 nonforfeiture benefit including any paid-up additions under the policy on the
343 basis of an interest rate no lower than that specified in the policy for calculating
344 cash surrender values;

345 (d) In calculating the present value of any paid-up term insurance with
346 accompanying pure endowment, if any, offered as a nonforfeiture benefit, the
347 rates of mortality assumed may be not more than those shown in the
348 Commissioners 1980 Extended Term Insurance Table for policies of ordinary

349 insurance and not more than the Commissioners 1961 Industrial Extended Term
350 Insurance Table for policies of industrial insurance;

351 (e) For insurance issued on a substandard basis, the calculation of any
352 such adjusted premiums and present values may be based on appropriate
353 modifications of the tables listed in [subdivision] **paragraph** (d) of this
354 [subsection] **subdivision**;

355 (f) **For policies issued prior to the operative date of the valuation**
356 **manual**, any ordinary mortality tables, adopted after 1980 by the [National
357 Association of Insurance Commissioners] **NAIC**, that are approved by regulation
358 promulgated by the director for use in determining the minimum nonforfeiture
359 standard may be substituted for the Commissioners 1980 Standard Ordinary
360 Mortality Table with or without Ten-Year Select Mortality Factors or for the
361 Commissioners 1980 Extended Term Insurance Table;

362 (g) **For policies issued on or after the operative date of the**
363 **valuation manual**, the valuation manual shall provide the mortality
364 **table for use in determining the minimum nonforfeiture standard that**
365 **may be substituted for the Commissioners 1980 Standard Ordinary**
366 **Mortality Table with or without Ten-Year Select Mortality Factors or**
367 **for the Commissioners 1980 Extended Term Insurance Table. If the**
368 **director approves by regulation any ordinary mortality table adopted**
369 **by the NAIC for use in determining the minimum nonforfeiture**
370 **standard for policies issued on or after the operative date of the**
371 **valuation manual, such minimum nonforfeiture standard supersedes**
372 **the minimum nonforfeiture standard provided by the valuation manual;**

373 (h) **For policies issued prior to the operative date of the**
374 **valuation manual**, any industrial mortality tables, adopted after 1980 by the
375 [National Association of Insurance Commissioners] **NAIC**, that are approved by
376 regulation promulgated by the director for use in determining the minimum
377 nonforfeiture standard may be substituted for the Commissioners 1961 Standard
378 Industrial Mortality Table or for the Commissioners 1961 Industrial Extended
379 Term Insurance Table;

380 (i) **For policies issued on or after the operative date of the**
381 **valuation manual**, the valuation manual shall provide the mortality
382 **table for use in determining the minimum nonforfeiture standard that**
383 **may be substituted for the Commissioners 1961 Standard Industrial**
384 **Mortality Table or the Commissioners 1961 Industrial Extended Term**

385 **Insurance Table. If the director approves by regulation any industrial**
386 **mortality table adopted by the NAIC for use in determining the**
387 **minimum nonforfeiture standard for policies issued on or after the**
388 **operative date of the valuation manual, such minimum nonforfeiture**
389 **standard supersedes the minimum nonforfeiture standard provided by**
390 **the valuation manual.**

391 (10) The nonforfeiture interest rate is defined as follows:

392 (a) For policies issued prior to the operative date of the
393 valuation manual, the nonforfeiture rate per annum for any policy issued
394 in a particular calendar year shall be equal to one hundred twenty-five percent
395 of the calendar year statutory valuation interest rate for such policy as defined
396 in section 376.380 rounded to the nearer one-quarter of one percent;

397 (b) For policies issued on or after the operative date of the
398 valuation manual, the nonforfeiture interest rate per annum for any
399 policy issued in a particular calendar year shall be provided by the
400 valuation manual.

401 (11) Notwithstanding any other provision of law to the contrary, any
402 refiling of nonforfeiture values or their methods of computation for any previously
403 approved policy form which involves only a change in the interest rate or
404 mortality table used to compute nonforfeiture values shall not require refiling of
405 any other provisions of that policy form[;].

406 (12) After the effective date of this subsection, any company may file with
407 the director a written notice of its election to comply with the provisions of this
408 subsection after a specified date before January 1, 1989, which shall be the
409 operative date of this subsection for such company. If a company makes no such
410 election, the operative date of this subsection for such company shall be January
411 1, 1989.

412 [10c.] 15. In the case of any plan of life insurance which provides for
413 future premium determination, the amounts of which are to be determined by the
414 insurance company based on then estimates of future experience, or in the case
415 of any plan of life insurance which is of such a nature that minimum values
416 cannot be determined by the methods described in subsections 1 to [10b] 14 of
417 this section, then:

418 (1) The director must be satisfied that the benefits provided under the
419 plan are substantially as favorable to policyholders and insureds as the minimum
420 benefits otherwise required by subsections 1 to [10b] 14 of this section;

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

424 (3) The cash surrender values and paid-up nonforfeiture benefits provided
425 by the plan must not be less than the minimum values and benefits required for
426 the plan computed by a method consistent with the principles of this section, as
427 determined by regulations promulgated by the director.

428 [11.] **16.** Any cash surrender value and any paid-up nonforfeiture benefit,
429 available under the policy in the event of default in a premium payment due at
430 any time other than on the policy anniversary, shall be calculated with allowance
431 for the lapse of time and the payment of fractional premiums beyond the last
432 preceding policy anniversary. All values referred to in subsections [4, 5, 6, 7, 8,
433 8a, 9, 10, 10a and 10b] **5, 6, 7, 8, 9, 10, 11, 12, 13, and 14** of this section may
434 be calculated upon the assumption that any death benefit is payable at the end
435 of the policy year of death. The net value of any paid-up additions, other than
436 paid-up term additions, shall be not less than the amounts used to provide such
437 additions.

438 [12.] **17.** Notwithstanding the provisions of subsection [4] **5 of this**
439 **section**, additional benefits payable:

440 (1) In the event of death or dismemberment by accident or accidental
441 means;

442 (2) In the event of total and permanent disability;

443 (3) As reversionary annuity or deferred reversionary annuity benefits;

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

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

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

456 [12a.] **18.** (1) This subsection, in addition to all other applicable

457 subsections of this section, shall apply to all policies issued on or after January
458 1, 1986. Any cash surrender value available under the policy in the event of
459 default in a premium payment due on any policy anniversary shall be in an
460 amount which does not differ by more than two-tenths of one percent of either the
461 amount of insurance, if the insurance be uniform in amount, or the average
462 amount of insurance at the beginning of each of the first ten policy years, from
463 the sum of the greater of zero and the basic cash value hereinafter specified and
464 the present value of any existing paid-up additions less the amount of any
465 indebtedness to the company under the policy.

466 (2) The basic cash value shall be equal to the present value, on such
467 anniversary, of the future guaranteed benefits which would have been provided
468 for by the policy, excluding any existing paid-up additions and before deduction
469 of any indebtedness to the company, if there had been no default, less the then
470 present value of the nonforfeiture factors, as defined in subdivision (3) of this
471 subsection, corresponding to premiums which would have fallen due on and after
472 such anniversary. The effects on the basic cash value of supplemental life
473 insurance or annuity benefits or of family coverage, as described in subsection [4]
474 **5** of this section or in subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11** of this
475 section, whichever is applicable, shall be the same as are the effects specified in
476 subsection [4] **5** of this section or in subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10,**
477 **and 11** of this section, whichever is applicable on the cash surrender values
478 defined in that subsection.

479 (3) The nonforfeiture factor for each policy year shall be an amount equal
480 to a percentage of the adjusted premium for the policy year, as defined in
481 subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11** of this section or in subsection
482 [10b] **14** of this section, whichever is applicable. Except as is required by
483 subdivision (4) of this subsection, such percentage:

484 (a) Must be the same percentage for each policy year between the second
485 policy anniversary and the later of the fifth policy anniversary or the first policy
486 anniversary at which there is available under the policy a cash surrender value
487 in an amount, before including any paid-up additions and before deducting any
488 indebtedness, of at least two-tenths of one percent of either the amount of
489 insurance, if the insurance be uniform in amount, or the average amount of
490 insurance at the beginning of each of the first ten policy years; and

491 (b) Must be such that no percentage after the later of the two policy
492 anniversaries specified in paragraph (a) of this subdivision may apply to fewer

493 than five consecutive policy years. No basic cash value may be less than the value
494 which would be obtained if the adjusted premiums for the policy, as defined in
495 subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11** of this section or in subsection
496 [10b] **14** of this section, whichever is applicable, were substituted for the
497 nonforfeiture factors in the calculation of the basic cash value.

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

503 (5) Any cash surrender value available other than in the event of default
504 in a premium payment due on a policy anniversary, and the amount of any
505 paid-up nonforfeiture benefit available under the policy in the event of default in
506 a premium payment shall be determined in manners consistent with the manners
507 specified for determining the analogous minimum amounts in subsections [3, 4,
508 5, 10b and 11] **4, 5, 6, 14, and 16** of this section. The amounts of any cash
509 surrender values and of any paid-up nonforfeiture benefits granted in connection
510 with additional benefits such as those listed as subdivisions (1) to (6) in
511 subsection [12] **17** shall conform with the principles of this subsection.

512 [13.] **19.** (1) This section shall not apply to any of the following:

513 (a) Reinsurance;

514 (b) Group insurance;

515 (c) Pure endowments;

516 (d) Annuities or reversionary annuity contracts;

517 (e) Term policies of uniform amounts, which provide no guaranteed
518 nonforfeiture or endowment benefits, or renewals thereof of twenty years or less
519 expiring before age seventy-one, for which uniform premiums are payable during
520 the entire term of the policy;

521 (f) Term policies of decreasing amounts, which provide no guaranteed
522 nonforfeiture or endowment benefits, on which each adjusted premium calculated
523 as specified in subsections [6, 7, 8, 8a, 9, 10, 10a, and 10b] **7, 8, 9, 10, 11, 12, 13,**
524 **and 14 of this section** is less than the adjusted premium so calculated on a
525 term policy of uniform amount, or renewal thereof, which provides no guaranteed
526 nonforfeiture or endowment benefits, issued at the same age and for the same
527 initial amount of insurance, and for a term of twenty years or less expiring before
528 age seventy-one, for which uniform premiums are payable during the entire term

529 of the policy;

530 (g) Policies, which provide no guaranteed nonforfeiture or endowment
531 benefits, for which no cash surrender value, if any, or present value of any
532 paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as
533 specified in subsections [4 to 10b] **5 to 14** of this section, exceeds two and
534 one-half percent of the amount of insurance at the beginning of the same policy
535 year;

536 (h) Policies which shall be delivered outside this state through an agent
537 or other representative of the company issuing the policies.

538 (2) For purposes of determining the applicability of this section, the
539 expiration date for a joint term life insurance policy shall be the age at expiry of
540 the oldest life.

541 [14.] **20.** After the effective date of this section, any company may file
542 with the director a written notice of its election to comply with the provisions of
543 this section after a specified date before January 1, 1948. After the filing of such
544 notice, then upon such specified date, which shall be the operative date for such
545 company, this section shall become operative with respect to the policies
546 thereafter issued by such company. If a company makes no such election, the
547 operative date of this section for such company shall be January 1, 1948.

456.950. 1. As used in this section, "qualified spousal trust" means a
2 trust:

3 (1) The settlors of which are [husband and wife] **married to each other**
4 at the time of the creation of the trust; and

5 (2) The terms of which provide that during the joint lives of the settlors
6 all property [or interests in property] transferred to, or held by, the trustee are:

7 (a) Held and administered in one trust for the benefit of both settlors,
8 revocable by either **settlor** or both settlors [acting together] while either or both
9 are alive, and each settlor having the right to receive distributions of income or
10 principal, whether mandatory or within the discretion of the trustee, from the
11 entire trust for the joint lives of the settlors and for the survivor's life; or

12 (b) Held and administered in two separate shares of one trust for the
13 benefit of each of the settlors, with the trust revocable by each settlor with
14 respect to that settlor's separate share of that trust without the participation or
15 consent of the other settlor, and each settlor having the right to receive
16 distributions of income or principal, whether mandatory or within the discretion
17 of the trustee, from that settlor's separate share for that settlor's life; or

18 (c) Held and administered under the terms and conditions contained in
19 paragraphs (a) and (b) of this subdivision.

20 2. A qualified spousal trust may contain any other trust terms that are
21 not inconsistent with the provisions of this section, **including, without**
22 **limitation, a discretionary power to distribute trust property to a**
23 **person in addition to a settlor.**

24 3. [Any property or interests in property that are at any time transferred
25 to the trustee of a qualified spousal trust of which the husband and wife are the
26 settlors, shall thereafter be administered as provided by the trust terms in
27 accordance with paragraph (a), (b), or (c) of subdivision (2) of subsection 1 of this
28 section. All trust property and interests in property that is deemed for purposes
29 of this section to be held as tenants by the entirety, including the proceeds
30 thereof, the income thereon, and any property into which such property, proceeds,
31 or income may be converted, shall have the same immunity from the claims of the
32 separate creditors of the settlors as would have existed if the settlors had
33 continued to hold that property as husband and wife as tenants by the entirety.
34 Property or interests in property held by a husband and wife as tenants by the
35 entirety or as joint tenants or other form of joint ownership with right of
36 survivorship shall be conclusively deemed for purposes of this section to be held
37 as tenants by the entirety upon its transfer to the qualified spousal trust. All
38 such transfers shall retain said immunity, so long as:

39 (1) Both settlors are alive and remain married; and

40 (2) The property, proceeds, or income continue to be held in trust by the
41 trustee of the qualified spousal trust] **All property at any time held in a**
42 **qualified spousal trust, without regard to how such property was titled**
43 **prior to it being so held, shall have the same immunity from the claims**
44 **of a separate creditor of either settlor as if such property were held**
45 **outside the trust by the settlors as tenants by the entirety, unless**
46 **otherwise provided in writing by the settlor or settlors who transferred**
47 **such property to the trust, and such property shall be treated for that**
48 **purpose, including without limitation, federal and state bankruptcy**
49 **laws, as tenants by entirety property. Property held in a qualified**
50 **spousal trust shall cease to receive immunity from the claims of**
51 **creditors upon the dissolution of marriage of the settlors by a court.**

52 4. [Property or interests in property held by a husband and wife or held
53 in the sole name of a husband or wife that are not held as tenants by the entirety

54 or deemed held as tenants by the entirety for purposes of this section and are
55 transferred to a qualified spousal trust shall be held as directed in the qualified
56 spousal trust's governing instrument or in the instrument of transfer and the
57 rights of any claimant to any interest in that property shall not be affected by
58 this section] **As used in this section, "property" means any interest in any**
59 **type of property held in a qualified spousal trust, the income thereon,**
60 **and any property into which such interest, proceeds, or income may be**
61 **converted.**

62 5. Upon the death of each settlor, all property [and interests in property]
63 held by the trustee of the qualified spousal trust shall be distributed as directed
64 by the then current terms of the governing instrument of such trust. Upon the
65 death of the first settlor to die, if immediately prior to death the predeceased
66 settlor's interest in the qualified spousal trust was then held in such settlor's
67 separate share, the property [or interests in property] **held** in such settlor's
68 separate share may pass into an irrevocable trust for the benefit of the surviving
69 settlor upon such terms as the governing instrument shall direct, including
70 without limitation a spendthrift provision as provided in section 456.5-502.

71 6. **The respective rights of settlors who are married to each other**
72 **in any property for purposes of a dissolution of the settlors' marriage**
73 **shall not be affected or changed by reason of the transfer of that**
74 **property to, or its subsequent administration as an asset of, a qualified**
75 **spousal trust during the marriage of the settlors, unless both settlors**
76 **expressly agree otherwise in writing.**

77 7. No transfer [by a husband and wife as settlors] to a qualified spousal
78 trust shall [affect or change either settlor's marital property rights to the
79 transferred property or interest therein immediately prior to such transfer in the
80 event of dissolution of marriage of the spouses, unless both spouses otherwise
81 expressly agree in writing] **avoid or defeat the Missouri uniform transfer**
82 **act in chapter 428.**

83 [7.] 8. This section shall apply to all trusts which fulfill the criteria set
84 forth in this section for a qualified spousal trust regardless of whether such trust
85 was created before, **on**, or after August 28, 2011.

456.1-113. Any transfer of an asset to a trustee of a trust, to such
2 **trust itself, or to a share of such trust, in a manner that is reasonably**
3 **calculated to identify such trust or that share of such trust, subjects**
4 **that asset to the terms of such trust or that share.**

513.430. 1. The following property shall be exempt from attachment and
2 execution to the extent of any person's interest therein:

3 (1) Household furnishings, household goods, wearing apparel, appliances,
4 books, animals, crops or musical instruments that are held primarily for personal,
5 family or household use of such person or a dependent of such person, not to
6 exceed three thousand dollars in value in the aggregate;

7 (2) A wedding ring not to exceed one thousand five hundred dollars in
8 value and other jewelry held primarily for the personal, family or household use
9 of such person or a dependent of such person, not to exceed five hundred dollars
10 in value in the aggregate;

11 (3) Any other property of any kind, not to exceed in value six hundred
12 dollars in the aggregate;

13 (4) Any implements or professional books or tools of the trade of such
14 person or the trade of a dependent of such person not to exceed three thousand
15 dollars in value in the aggregate;

16 (5) Any motor vehicles, not to exceed three thousand dollars in value in
17 the aggregate;

18 (6) Any mobile home used as the principal residence but not attached to
19 real property in which the debtor has a fee interest, not to exceed five thousand
20 dollars in value;

21 (7) Any one or more unmaturred life insurance contracts owned by such
22 person, other than a credit life insurance contract, **and up to fifteen thousand**
23 **dollars of any matured life insurance proceeds for actual funeral,**
24 **cremation, or burial expenses where the deceased is the spouse, child,**
25 **or parent of the beneficiary;**

26 (8) The amount of any accrued dividend or interest under, or loan value
27 of, any one or more unmaturred life insurance contracts owned by such person
28 under which the insured is such person or an individual of whom such person is
29 a dependent; provided, however, that if proceedings under Title 11 of the United
30 States Code are commenced by or against such person, the amount exempt in
31 such proceedings shall not exceed in value one hundred fifty thousand dollars in
32 the aggregate less any amount of property of such person transferred by the life
33 insurance company or fraternal benefit society to itself in good faith if such
34 transfer is to pay a premium or to carry out a nonforfeiture insurance option and
35 is required to be so transferred automatically under a life insurance contract with
36 such company or society that was entered into before commencement of such

37 proceedings. No amount of any accrued dividend or interest under, or loan value
38 of, any such life insurance contracts shall be exempt from any claim for child
39 support. Notwithstanding anything to the contrary, no such amount shall be
40 exempt in such proceedings under any such insurance contract which was
41 purchased by such person within one year prior to the commencement of such
42 proceedings;

43 (9) Professionally prescribed health aids for such person or a dependent
44 of such person;

45 (10) Such person's right to receive:

46 (a) A Social Security benefit, unemployment compensation or a public
47 assistance benefit;

48 (b) A veteran's benefit;

49 (c) A disability, illness or unemployment benefit;

50 (d) Alimony, support or separate maintenance, not to exceed seven
51 hundred fifty dollars a month;

52 (e) Any payment under a stock bonus plan, pension plan, disability or
53 death benefit plan, profit-sharing plan, nonpublic retirement plan or any plan
54 described, defined, or established pursuant to section 456.014, the person's right
55 to a participant account in any deferred compensation program offered by the
56 state of Missouri or any of its political subdivisions, or annuity or similar plan or
57 contract on account of illness, disability, death, age or length of service, to the
58 extent reasonably necessary for the support of such person and any dependent of
59 such person unless:

60 a. Such plan or contract was established by or under the auspices of an
61 insider that employed such person at the time such person's rights under such
62 plan or contract arose;

63 b. Such payment is on account of age or length of service; and

64 c. Such plan or contract does not qualify under Section 401(a), 403(a),
65 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26
66 U.S.C. Section 401(a), 403(a), 403(b), 408, 408A or 409);

67 except that any such payment to any person shall be subject to attachment or
68 execution pursuant to a qualified domestic relations order, as defined by Section
69 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in
70 any proceeding for dissolution of marriage or legal separation or a proceeding for
71 disposition of property following dissolution of marriage by a court which lacked
72 personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of

73 marital property at the time of the original judgment of dissolution;

74 (f) Any money or assets, payable to a participant or beneficiary from, or
75 any interest of any participant or beneficiary in, a retirement plan, profit-sharing
76 plan, health savings plan, or similar plan, including an inherited account or plan,
77 that is qualified under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the
78 Internal Revenue Code of 1986, as amended, whether such participant's or
79 beneficiary's interest arises by inheritance, designation, appointment, or
80 otherwise, except as provided in this paragraph. Any plan or arrangement
81 described in this paragraph shall not be exempt from the claim of an alternate
82 payee under a qualified domestic relations order; however, the interest of any and
83 all alternate payees under a qualified domestic relations order shall be exempt
84 from any and all claims of any creditor, other than the state of Missouri through
85 its department of social services. As used in this paragraph, the terms "alternate
86 payee" and "qualified domestic relations order" have the meaning given to them
87 in Section 414(p) of the Internal Revenue Code of 1986, as amended. If
88 proceedings under Title 11 of the United States Code are commenced by or
89 against such person, no amount of funds shall be exempt in such proceedings
90 under any such plan, contract, or trust which is fraudulent as defined in
91 subsection 2 of section 428.024 and for the period such person participated within
92 three years prior to the commencement of such proceedings. For the purposes of
93 this section, when the fraudulently conveyed funds are recovered and after, such
94 funds shall be deducted and then treated as though the funds had never been
95 contributed to the plan, contract, or trust;

96 (11) The debtor's right to receive, or property that is traceable to, a
97 payment on account of the wrongful death of an individual of whom the debtor
98 was a dependent, to the extent reasonably necessary for the support of the debtor
99 and any dependent of the debtor.

100 2. Nothing in this section shall be interpreted to exempt from attachment
101 or execution for a valid judicial or administrative order for the payment of child
102 support or maintenance any money or assets, payable to a participant or
103 beneficiary from, or any interest of any participant or beneficiary in, a retirement
104 plan which is qualified pursuant to Section 408A of the Internal Revenue Code
105 of 1986, as amended.

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