SECOND REGULAR SESSION

SENATE BILL NO. 1079

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROBERTS.

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 376.380, RSMo, and to enact in lieu thereof one new section relating to the legal minimum standard for valuation of insurance policies and contracts.

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

Section A. Section 376.380, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.380, to read as follows:

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

(1) For those policies and contracts issued prior to the operative date provided in subsection 20 of section 376.670:

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

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.
contracts and three and one-half percent per annum for all
other policies and contracts;
(b) The director may vary the legal minimum standards
of interest and mortality for annuity contracts and in
particular cases of invalid or substandard lives and other
extra hazards, and shall have the right and authority to
designate the legal minimum standard for valuation of total
and permanent disability benefits and additional accidental
death benefits;
(c) Policies issued by companies doing business in
this state may provide for not more than one year
preliminary term insurance by incorporating in the
provisions thereof, specifying the premium consideration to
be received, a clause plainly showing that the first year's
insurance under such policies is term insurance, purchased
by the whole or a part of the premium to be received during
the first policy year and shall be valued accordingly;
provided, that if the premium charged for term insurance
under a limited payment life preliminary term policy
providing for the payment of all premiums thereon in less
than twenty years from the date of the policy, or under an
endowment preliminary term policy, exceeds that charged for
life insurance twenty payment life preliminary term policies
of the same company, the reserve thereon at the end of any
year, including the first, shall not be less than the
reserve on a twenty payment life preliminary term policy
issued in the same year and at the same age, together with
an amount which shall be equivalent to the accumulation of a
net level premium sufficient to provide for a pure endowment
at the end of the premium payment period equal to the
difference between the value at the end of such period of
such twenty payment life preliminary term policy and the
full reserve at such time of such a limited payment life or
endowment policy. The premium payment period is the period
during which premiums are concurrently payable under such
twenty payment life preliminary term policy and such limited
payment life or endowment policy;

(d) Reserves for all such policies and contracts may
be calculated, at the option of the company, according to
any standards which produce greater aggregate reserves for
all such policies and contracts than the minimum reserves
required by this subdivision. In the case of policy
obligations of an insolvent life insurance company assumed
or reinsured in bulk by an insurance company upon a basis
requiring a separate accounting of the business and assets
of such insolvent company and an application of any part of
the earnings therefrom upon obligations which are not
implicit in the original terms of the policies or contracts
assumed or reinsured, the director, in order to protect all
policyholders of the reinsuring company, including the
holders of all policies so assumed or reinsured, and to
safeguard the future solvency of such reinsuring company,
shall have the right and authority to designate standards of
valuation for such reinsured policies and contracts which
will produce greater aggregate reserves for all such
policies and contracts than the minimum reserves required by
this subdivision or the terms and provisions of the policies
and contracts so assumed or reinsured, and, in such event,
such reinsuring company shall not, thereafter, adopt any
lower standards of valuation without the approval of the
director.

(2) For those policies and contracts issued on or
after the operative date provided in subsection 20 of
section 376.670:
(a) Except as otherwise provided in subdivision (3) of this subsection and subsection 2 of this section, the minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation methods defined in paragraphs (b), (c), (d), (e), and (h) of this subdivision, three and one-half percent interest on all such policies and contracts except those contracts specified in subparagraph c. of this paragraph which consist of single premium annuity contracts and in subparagraph d. of this paragraph which consists of group annuity contracts where the interest rate shall be five percent, and except policies and contracts, other than annuity and pure endowment contracts, issued on or after September 28, 1975, where the interest rate shall be four percent interest for such policies issued prior to September 28, 1979, and four and one-half percent interest for such policies issued on or after September 28, 1979, and the following tables:

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

(i) The Commissioners 1980 Standard Ordinary Mortality Table; or

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

(iii) Any ordinary mortality table, adopted after 1980 by the NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies;

b. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of subsection 13 of section 376.670 and for such policies issued on or after such operative date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies;

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

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

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

f. For accidental death benefits in or supplementary to policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table, adopted after 1980 by the NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity
Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies;
g. For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the director;
(b) Except as otherwise provided in paragraphs (d), (e), and (h) of this subdivision, reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of a. over b., as follows:
a. A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan
for insurance of the same amount at an age one year higher than the age at issue of such policy;

b. A net one year term premium for such benefit provided for in the first policy year; provided, that for any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in paragraph (h) of this subdivision, be the greater of the reserve as of such policy anniversary calculated as described in paragraph (b) of this subdivision and the reserve as of such policy anniversary calculated as described in paragraph (b) of this subdivision, but with:

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

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

(iii) The policy being assumed to mature on such date as an endowment; and

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

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

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

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

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

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

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

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

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

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

(h) If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in paragraph (a) of this subdivision and subsection 2 of this section; provided, that for any life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this paragraph shall be applied as if the method actually used in calculating the reserve for such policy were the method described in paragraph (b) of this subdivision. The minimum reserve at each policy anniversary of such a policy shall be the
greater of the minimum reserve calculated in accordance with paragraphs (b) and (c) of this subdivision and the minimum reserve calculated in accordance with this paragraph;

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

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

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

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

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

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

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

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

(e) For all annuities and pure endowments purchased on or after September 28, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any group annuity mortality table adopted after 1980 by the NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the director, and seven and one-half percent interest;

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

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

(a) All life insurance policies issued in a particular calendar year, on or after the operative date of subsection 14 of section 376.670;
(b) All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1983;

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

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

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

(a) For life insurance:
\[ I = 0.03 + W (R1 - 0.03) + W/2 (R2 - 0.09); \]

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:
\[ I = 0.03 + W (R - 0.03), \text{ where } R1 \text{ is the lesser of } R \text{ and } 0.09; \text{ } R2 \text{ is the greater of } R \text{ and } 0.09; \text{ } R \text{ is the reference interest rate defined in this subsection; and } W \text{ is the weighting factor defined in this subsection; } \]

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

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

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

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

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

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

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

<table>
<thead>
<tr>
<th>Guarantee Duration (Years)</th>
<th>Guarantee Weighting Factors</th>
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<tbody>
<tr>
<td>10 or less</td>
<td>.50</td>
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<tr>
<td>More than 10, but not more than 20</td>
<td>.45</td>
</tr>
<tr>
<td>More than 20</td>
<td>.35</td>
</tr>
</tbody>
</table>

Guarantee Weighting Factors

<table>
<thead>
<tr>
<th>Guarantee Duration (Years)</th>
<th>A</th>
<th>B</th>
<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 or less</td>
<td></td>
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<tr>
<td>More than 10, but not more than 20</td>
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<td></td>
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</tr>
<tr>
<td>More than 20</td>
<td></td>
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</tbody>
</table>
b. For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in subparagraph a. of this paragraph increased by:

<table>
<thead>
<tr>
<th>Plan Type</th>
<th>A</th>
<th>B</th>
<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>.15</td>
<td>.25</td>
<td>.05</td>
</tr>
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</table>

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

<table>
<thead>
<tr>
<th>Plan Type</th>
<th>A</th>
<th>B</th>
<th>C</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>.05</td>
<td>.05</td>
<td>.05</td>
</tr>
</tbody>
</table>
d. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence;

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

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

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

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

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

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

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

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

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

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

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

(5) In the event that the Monthly Average of the Composite Yield on Seasoned Corporate Bonds is no longer published by Moody's Investors Service, Inc., or in the event that the NAIC determines that the Monthly Average of the Composite Yield on Seasoned Corporate Bonds as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the NAIC and approved by regulation promulgated by the director, may be substituted.

3. For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection 2 of section 376.370. For disability, accident and sickness, and accident and health insurance contracts issued on or after the operative date provided in subsection 20 of section 376.670 and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the director by regulation.
4. (1) This subsection shall apply to actuarial opinions of reserves prior to the date of the valuation manual.

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

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

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

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

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

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

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

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

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

(c) The opinion shall be based on standards adopted
from time to time by the Actuarial Standards Board and on
such additional standards as the director may by regulation
prescribe;
(d) In the case of an opinion required to be submitted by a foreign or alien company, the director may accept the opinion filed by that company with the insurance supervisory official of another state if the director determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state;

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

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

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

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

a. With the written consent of the company; or

b. To the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the director for
preserving the confidentiality of the memorandum or other material.

Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The operative date of the valuation manual is
January first of the first calendar year following the first
July first as of which all of the following have occurred:
(a) The valuation manual has been adopted by the NAIC by an affirmative vote of at least forty-two members or three-fourths of the members voting, whichever is greater;

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

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

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

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

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

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

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

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

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

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

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

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

c. Minimum reserves for all other policies and contracts subject to subsection 2 of section 376.370;

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

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

a. Requirements for the format of reports to the director under paragraph (c) of subdivision (2) of subsection 7 of this section and which shall include information necessary to determine if the valuation is appropriate and in compliance with sections 376.365 to 376.380;
b. Assumptions which shall be prescribed for risks over which the company does not have significant control or influence;

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

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

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

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

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

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

(5) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the director, in compliance with sections 376.365 to 376.380, the company shall, with
respect to such requirements, comply with minimum valuation standards prescribed by the director by regulation.

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

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

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

(a) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, the company's valuation shall reflect conditions appropriately adverse to quantify the tail risk;
(b) Incorporate assumptions, risk analysis methods, and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods;

(c) Incorporate assumptions that are derived in one of the following manners:
   a. The assumption is prescribed in the valuation manual; or
   b. For assumptions that are not prescribed, the assumption shall:
      (i) Be established utilizing the company's available experience to the extent it is relevant and statistically credible; or
      (ii) To the extent that company data is not available, relevant, or statistically credible, be established utilizing other relevant statistically credible experience;

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

(2) A company using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual shall:
   (a) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual;
   (b) Provide to the director an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. Such controls shall be designed to ensure that all material risks inherent in the
liabilities and associated assets subject to such valuation are included in the valuation and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) The director may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) If the company is a member of a group of life insurers, the group has combined ordinary life premiums of less than six hundred million dollars;]
(b) The company reported total adjusted capital of at least four hundred fifty percent of authorized control level risk-based capital in the risk-based capital report for the prior calendar year;

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

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

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

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