

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 164**  
**98TH GENERAL ASSEMBLY**

0344H.03C

D. ADAM CRUMBLISS, Chief Clerk

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**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.

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*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Section A. Sections 375.534, 375.1070, 375.1072, 376.370, 376.380, 376.670, 456.950, 2 and 513.430, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known 3 as sections 375.534, 375.1070, 375.1072, 375.1074, 375.1078, 376.365, 376.370, 376.380, 4 376.670, 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 2 type or kind of insurance company involved, the capital, reserves and surplus of all insurance 3 companies of whatever kind and character organized under the laws of this state, having admitted 4 assets of not less than one hundred million dollars, may be invested in securities, investments 5 and deposits issued, guaranteed or assumed by a foreign government or foreign corporation, or 6 located in a foreign country, whether denominated in United States dollars or in foreign currency, 7 subject to the following conditions:

8 (1) Such securities, investments and deposits shall be of substantially the same kind, 9 class and quality of like United States investments eligible for investment by an insurance 10 company under Missouri law;

11 (2) An insurance company shall not invest or deposit in the aggregate more than [five] 12 **twenty** percent of its admitted assets under this section, except that an insurance company may 13 reinvest or redeposit any income or profits generated by investments permitted under this section; 14 [and]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

23           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 "Investments in  
2 Medium and Lower Quality Obligations Law".

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

5           375.1072. As used in sections 375.1070 to [375.1075] **375.1078**, the following terms  
6 mean:

7           (1) "Admitted assets", the amount thereof as of the last day of the most recently  
8 concluded annual statement year, computed in the same manner as admitted assets in section  
9 379.080 for insurers other than life;

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

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

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

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

**375.1078. 1. No insurer shall acquire, directly or indirectly through an investment**  
2 **subsidiary, a Canadian investment otherwise permitted under Missouri law if, after giving**  
3 **effect to the investment, the aggregate amount of the investments then held by the insurer**  
4 **would exceed twenty-five percent of its admitted assets.**

5           **2. For any insurer that is authorized to do business in Canada or that has**  
6 **outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or**

7 located in Canada and denominated in Canadian currency, the limitations of subsection  
8 1 of this section shall be increased by the greater of:

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

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

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

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

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

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

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

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

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

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

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

20 (6) "NAIC", the National Association of Insurance Commissioners;

21 (7) "Operative date of the valuation manual", January first of the first calendar  
22 year that the valuation manual is effective, as described in subdivision (2) of subsection 6  
23 of section 376.380;

24 (8) "Policyholder behavior", any action a policyholder, contract holder, or any  
25 other person with the right to elect options, such as a certificate holder, may take under a  
26 policy or contract subject to sections 376.365 to 376.380 including, but not limited to, lapse,  
27 withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections  
28 prescribed by the policy or contract but excluding events of mortality or morbidity that  
29 result in benefits prescribed in their essential aspects by the terms of the policy or contract;

30           **(9) "Principle-based valuation", a reserve valuation that uses one or more methods**  
31 **or one or more assumptions determined by the insurer and is required to comply with**  
32 **subsection 7 of section 376.380 as specified in the valuation manual;**

33           **(10) "Qualified actuary", an individual who is qualified to sign the applicable**  
34 **statement of actuarial opinion in accordance with the American Academy of Actuaries**  
35 **qualification standards for actuaries signing such statements and who meets the**  
36 **requirements specified in the valuation manual;**

37           **(11) "Tail risk", a risk that occurs either if the frequency of low probability events**  
38 **is higher than expected under a normal probability distribution or if there are observed**  
39 **events of very significant size or magnitude;**

40           **(12) "Valuation manual", the manual of valuation instructions adopted by the**  
41 **NAIC as specified in sections 376.365 to 376.380.**

376.370. 1. **(1)** The director of the department of insurance, financial institutions and  
2 professional registration shall annually value, or cause to be valued, the reserve liabilities, herein  
3 called "reserves", for all outstanding life insurance policies and [annuities] **annuity** and pure  
4 endowment contracts of every life insurance company doing business in this state[, and may  
5 certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of  
6 interest and methods, net level premium method or other, used in the calculation of such  
7 reserves] **issued on or after the operative date provided in subsection 20 of section 376.670**  
8 **and prior to the operative date of the valuation manual.** In calculating such reserves, [he]  
9 **the director** may use group methods and approximate averages for fractions of a year or  
10 otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien  
11 company, [he] **the director** may accept any valuation made, or caused to be made, by the  
12 insurance supervisory official of any state or other jurisdiction when such valuation complies  
13 with the minimum standard herein provided [and if the official of such state or jurisdiction  
14 accepts as sufficient and valid for all legal purposes the certificate of valuation of the director  
15 when such certificate states the valuation to have been made in a specified manner according to  
16 which the aggregate reserves would be at least as large as if they had been computed in the  
17 manner prescribed by the law of that state or jurisdiction].

18           **(2) The provisions of subsection 3 of this section and subsections 1 to 3 of section**  
19 **376.380 shall apply to all policies and contracts, as appropriate, issued on or after the**  
20 **operative date provided in subsection 20 of section 376.670 and prior to the operative date**  
21 **of the valuation manual, and the provisions of subsections 6 and 7 of section 376.380 shall**  
22 **not apply to such policies and contracts.**

23           **(3) The minimum standard for the valuation of policies and contracts issued prior**  
24 **to the operative date provided in subsection 20 of section 376.670 shall be that provided by**

25 the laws in effect immediately prior to the operative date provided in subsection 20 of  
26 section 376.670.

27       **2. (1) The director shall annually value or caused to be valued the reserves for all**  
28 **outstanding life insurance contracts, annuity and pure endowment contracts, accident and**  
29 **health insurance contracts, and deposit-type contracts of every company issued on or after**  
30 **the operative date of the valuation manual. In lieu of the valuation of the reserves herein**  
31 **required of any foreign or alien company, the director may accept any valuation made or**  
32 **caused to be made by the insurance supervisory official of any state or other jurisdiction**  
33 **if such valuation complies with the minimum standard provided herein.**

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

36       [2.] **3.** Reserves for all policies and contracts issued prior to August 28, 1993, may be  
37 calculated, at the option of the company, according to any standards which produce greater  
38 aggregate reserves for all such policies and contracts than the minimum reserves required by the  
39 laws in effect immediately prior to such date. Reserves for any category of policies, contracts  
40 or benefits as established by the director, issued on or after August 28, 1993, may be calculated,  
41 at the option of the company, according to any standards which produce greater aggregate  
42 reserves for such category than those calculated according to the minimum standard herein  
43 provided, but the rate or rates of interest used for policies and contracts, other than annuity and  
44 pure endowment contracts, shall not be higher than the corresponding rate or rates of interest  
45 used in calculating any nonforfeiture benefits provided therein. Any such company which at any  
46 time shall have adopted any standard of valuation producing greater aggregate reserves than  
47 those calculated according to the minimum standard herein provided may, with the approval of  
48 the director, adopt any lower standard of valuation, but not lower than the minimum herein  
49 provided; however, for purposes of this subsection, the holding of additional reserves previously  
50 determined by a qualified actuary to be necessary to render the opinion required by [subsection  
51 4] **subsections 4 and 5** of section 376.380 shall not be deemed to be the adoption of a higher  
52 standard of valuation.

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

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

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

9 all other policies and contracts; and for policies of life insurance and annuity contracts issued on  
10 and after April 13, 1934, such minimum standard shall be the American Experience Table of  
11 Mortality with interest at the rate of five percent per annum for group annuity contracts and three  
12 and one-half percent per annum for all other policies and contracts;

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

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

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

45 policies and contracts than the minimum reserves required by subdivision (1) of this subsection  
46 or the terms and provisions of the policies and contracts so assumed or reinsured, and, in such  
47 event, such reinsuring company shall not, thereafter, adopt any lower standards of valuation  
48 without the approval of the director.

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

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

62 a. For all ordinary policies of life insurance issued prior to the operative date provided  
63 in subsection [10] **12** of section 376.670 on the standard basis, excluding any disability and  
64 accidental death benefits in such policies, the Commissioners 1941 Standard Ordinary Mortality  
65 Table, and for such policies issued on or after the operative date provided in subsection [10] **12**  
66 of section 376.670, and prior to the operative date of subsection [10b] **14** of section 376.670, the  
67 Commissioners 1958 Standard Ordinary Mortality Table; provided that for any category of such  
68 policies issued on or after September 28, 1979, on female risks all modified net premiums and  
69 present values referred to in this section may be calculated according to an age not more than six  
70 years younger than the actual age of the insured; and for such policies issued on or after the  
71 operative date of subsection [10b] **14** of section 376.670:

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

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

76 iii. Any ordinary mortality table, adopted after 1980 by the [National Association of  
77 Insurance Commissioners] **NAIC**, that is approved by regulation promulgated by the director for  
78 use in determining the minimum standard of valuation for such policies;

79 b. For all industrial life insurance policies issued on the standard basis, excluding any  
80 disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality

81 Table for such policies issued prior to the operative date of subsection [10a] 13 of section  
82 376.670 and for such policies issued on or after such operative date, the Commissioners 1961  
83 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the  
84 [National Association of Insurance Commissioners] NAIC, that is approved by regulation  
85 promulgated by the director for use in determining the minimum standard of valuation for such  
86 policies;

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

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

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

106 f. For accidental death benefits in or supplementary to policies issued on or after January  
107 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table, adopted  
108 after 1980 by the [National Association of Insurance Commissioners] NAIC, that is approved  
109 by regulation promulgated by the director for use in determining the minimum standard of  
110 valuation for such policies; for policies issued on or after January 1, 1961, and prior to January  
111 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity  
112 Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double  
113 Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for  
114 calculating the reserves for life insurance policies;

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

117 (b) Except as otherwise provided in paragraphs (d), (e), and (h) of this subdivision,  
118 reserves according to the commissioners reserve valuation method, for the life insurance and  
119 endowment benefits of policies providing for a uniform amount of insurance and requiring the  
120 payment of uniform premiums shall be the excess, if any, of the present value, at the date of  
121 valuation, of such future guaranteed benefits provided for by such policies, over the then present  
122 value of any future modified net premiums therefor. The modified net premiums for any such  
123 policy shall be such uniform percentage of the respective contract premiums for such benefits  
124 that the present value, at the date of issue of the policy, of all such modified net premiums shall  
125 be equal to the sum of the then present value of such benefits provided for by the policy and the  
126 excess of a. over b., as follows:

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

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

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

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

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

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

- 153 (c) Reserves according to the commissioners reserve valuation method for:
- 154 a. Life insurance policies providing for a varying amount of insurance or requiring the  
155 payment of varying premiums;
- 156 b. Group annuity and pure endowment contracts purchased under a retirement plan or  
157 plan of deferred compensation, established or maintained by an employer (including a  
158 partnership or sole proprietorship) or by an employee organization, or by both, other than a plan  
159 providing individual retirement accounts or individual retirement annuities under section 408 of  
160 the Internal Revenue Code, as now or hereafter amended;
- 161 c. Disability and accidental death benefits in all policies and contracts; and
- 162 d. All other benefits, except life insurance and endowment benefits in life insurance  
163 policies and benefits provided by all other annuity and pure endowment contracts, shall be  
164 calculated by a method consistent with the principles of paragraph (b) of this subdivision;
- 165 (d) Paragraph (e) of this subdivision shall apply to all annuity and pure endowment  
166 contracts other than group annuity and pure endowment contracts purchased under a retirement  
167 plan or plan of deferred compensation, established or maintained by an employer (including a  
168 partnership or sole proprietorship), or by an employee organization, or by both, other than a plan  
169 providing individual retirement accounts or individual retirement annuities under section 408 of  
170 the Internal Revenue Code, as now or hereafter amended;
- 171 (e) Reserves according to the commissioners annuity reserve method for benefits under  
172 annuity or pure endowment contracts, excluding any disability and accidental death benefits in  
173 such contracts, shall be the greatest of the respective excesses of the present values, at the date  
174 of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits,  
175 provided for by such contracts at the end of each respective contract year, over the present value,  
176 at the date of valuation, of any future valuation considerations derived from future gross  
177 considerations, required by the terms of such contract, that become payable prior to the end of  
178 such respective contract year. The future guaranteed benefits shall be determined by using the  
179 mortality table, if any, and the interest rate, or rates, specified in such contracts for determining  
180 guaranteed benefits. The valuation considerations are the portions of the respective gross  
181 considerations applied under the terms of such contracts to determine nonforfeiture values;
- 182 (f) In no event shall a company's aggregate reserves for all life insurance policies,  
183 excluding disability and accidental death benefits, be less than the aggregate reserves calculated  
184 in accordance with the method set forth in paragraphs (b), (c), (d), (e), (h) and (i) of this  
185 subdivision and the mortality table or tables and rate or rates of interest used in calculating  
186 nonforfeiture benefits for such policies;

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

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

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

216 a. Be appropriate in relation to the benefits and the pattern of premiums for that plan; and  
217 b. Be computed by a method which is consistent with the principles of this section as  
218 determined by regulations promulgated by the director.

219 (3) Except as provided in subsection 2 of this section, the minimum standard for the  
220 valuation of all individual annuity and pure endowment contracts issued on or after the operative  
221 date of this subdivision, as defined herein, and for all annuities and pure endowments purchased  
222 on or after such operative date under group annuity and pure endowment contracts, shall be the

223 commissioners reserve valuation methods defined in paragraphs (b), (c), (d), and (e) of  
224 subdivision (2) of this subsection, and the following tables and interest rates:

225 (a) For individual annuity and pure endowment contracts issued prior to September 28,  
226 1979, excluding any disability and accidental death benefits in such contracts, the 1971  
227 Individual Annuity Mortality Table, or any modification of this table approved by the director,  
228 and six percent interest for single premium immediate annuity contracts, and four percent interest  
229 for all other individual annuity and pure endowment contracts;

230 (b) For individual single premium immediate annuity contracts issued on or after  
231 September 28, 1979, excluding any disability and accidental death benefits in such contracts, the  
232 1971 Individual Annuity Mortality Table, or any individual annuity mortality table adopted after  
233 1980 by the [National Association of Insurance Commissioners] NAIC, that is approved by  
234 regulation promulgated by the director for use in determining the minimum standard of valuation  
235 for such contracts, or any modification of these tables approved by the director, and seven and  
236 one-half percent interest;

237 (c) For individual annuity and pure endowment contracts issued on or after September  
238 28, 1979, other than single premium immediate annuity contracts, excluding any disability and  
239 accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any  
240 individual annuity mortality table adopted after 1980 by the [National Association of Insurance  
241 Commissioners] NAIC, that is approved by regulation promulgated by the director for use in  
242 determining the minimum standard of valuation for such contracts, or any modification of these  
243 tables approved by the director, and five and one-half percent interest for single premium  
244 deferred annuity and pure endowment contracts and four and one-half percent interest for all  
245 other such individual annuity and pure endowment contracts;

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

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

257 (f) On and after September 28, 1975, any company may file with the director a written  
258 notice of its election to comply with the provisions of this subdivision after a specified date

259 before January 1, 1980, which shall be the operative date of this subdivision for such company,  
260 provided a company may elect a different operative date for individual annuity and pure  
261 endowment contracts from that elected for group annuity and pure endowment contracts. If a  
262 company makes no such election, the operative date of this subdivision for such company shall  
263 be January 1, 1980.

264 2. (1) The calendar year statutory valuation interest rates as defined in this subsection  
265 shall be the interest rates used in determining the minimum standard for the valuation of:

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

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

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

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

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

276 (a) For life insurance:

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

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

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

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

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

294 (e) For other annuities with cash settlement options and guaranteed interest contracts  
 295 with cash settlement options, valued on a change in fund basis, the formula for single premium  
 296 immediate annuities stated in paragraph (b) of this subdivision shall apply. If the calendar year  
 297 statutory valuation interest rate for any life insurance policies issued in any calendar year  
 298 determined without reference to this sentence differs from the corresponding actual rate for  
 299 similar policies issued in the immediately preceding calendar year by less than one-half of one  
 300 percent, the calendar year statutory valuation interest rate for such life insurance policies shall  
 301 be equal to the corresponding actual rate for the immediately preceding calendar year. For  
 302 purposes of applying the immediately preceding sentence, the calendar year statutory valuation  
 303 interest rate for life insurance policies issued in a calendar year shall be determined for 1980  
 304 (using the reference interest rate defined for 1979) and shall be determined for each subsequent  
 305 calendar year regardless of when subsection [10b] 14 of section 376.670 becomes operative.

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

308 (a) Weighting factors for life insurance:

309 Guarantee	Weighting
310 Duration	Factors
311 (Years)	
312 10 or less	.50
313 More than 10, but not more than 20	.45
314 More than 20	.35

315

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

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

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

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

328 Guarantee	Weighting
329 Factor Duration	for

330	Plan Type (Years)	A	B	C
331	5 or less:	.80	.60	.50
332	More than 5, but not more than 10:	.75	.60	.50
333	More than 10, but not more than 20:	.65	.50	.45
334	More than 20:	.45	.35	.35;

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

337	Plan Type			
338	A	B	C	
339	.15	.25	.05;	

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

347	Plan Type			
348	A	B	C	
349	.05	.05	.05;	

350           d. For other annuities with cash settlement options and guaranteed interest contracts with  
 351 cash settlement options, the guarantee duration is the number of years for which the contract  
 352 guarantees interest rates in excess of the calendar year statutory valuation interest rate for life  
 353 insurance policies with guarantee duration in excess of twenty years. For other annuities with  
 354 no cash settlement options and for guaranteed interest contracts with no cash settlement options,  
 355 the guarantee duration is the number of years from the date of issue or date of purchase to the  
 356 date annuity benefits are scheduled to commence;

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

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

362           Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw  
 363 funds only with an adjustment to reflect changes in interest rates or asset values since receipt of  
 364 the funds by the insurance company, or without such adjustment but in installments over five

365 years or more, or no withdrawal permitted. At the end of interest rate guarantee, funds may be  
366 withdrawn without such adjustment in a single sum or installments over fewer than five years;

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

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

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

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

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

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

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

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

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

415 (5) In the event that the Monthly Average of the Composite Yield on Seasoned  
416 Corporate Bonds is no longer published by Moody's Investors Service, Inc., or in the event that  
417 the [National Association of Insurance Commissioners] NAIC determines that the Monthly  
418 Average of the Composite Yield on Seasoned Corporate Bonds as published by Moody's  
419 Investors Service, Inc., is no longer appropriate for the determination of the reference interest  
420 rate, then an alternative method for determination of the reference interest rate, which is adopted  
421 by the [National Association of Insurance Commissioners] NAIC and approved by regulation  
422 promulgated by the director, may be substituted.

423 3. [The director shall promulgate a regulation containing the minimum standards  
424 applicable to the valuation of health, disability and sickness and accident plans] **For accident  
425 and health insurance contracts issued on or after the operative date of the valuation  
426 manual, the standard prescribed in the valuation manual is the minimum standard of  
427 valuation required under subsection 2 of section 376.370. For disability, accident and  
428 sickness, and accident and health insurance contracts issued on or after the operative date  
429 provided in subsection 20 of section 376.670 and prior to the operative date of the valuation  
430 manual, the minimum standard of valuation is the standard adopted by the director by  
431 regulation.**

432 4. (1) **This subsection shall apply to actuarial opinions of reserves prior to the date  
433 of the valuation manual.**

434 (2) Every life insurance company doing business in this state shall annually submit the  
435 opinion of a qualified actuary as to whether the reserves and related actuarial items held in

436 support of the policies and contracts specified by the director by regulation are computed  
437 appropriately, are based on assumptions which satisfy contractual provisions, are consistent with  
438 prior reported amounts and comply with applicable laws of this state. The director by regulation  
439 shall define the specifics of this opinion and add any other items deemed to be necessary to its  
440 scope.

441       [(2)] (3) (a) Every life insurance company, except as exempted by or pursuant to  
442 regulation, shall also annually include in the opinion required by subdivision [(1)] (2) of this  
443 subsection, an opinion of the same qualified actuary as to whether the reserves and related  
444 actuarial items held in support of the policies and contracts specified by the director by  
445 regulation, when considered in light of the assets held by the company with respect to the  
446 reserves and related actuarial items, including but not limited to the investment earnings on the  
447 assets and the considerations anticipated to be received and retained under the policies and  
448 contracts, make adequate provision for the company's obligations under the policies and  
449 contracts, including but not limited to the benefits under and expenses associated with the  
450 policies and contracts.

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

454       [(3)] (4) Each opinion required by subdivision [(2)] (3) of this subsection shall be  
455 governed by the following provisions:

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

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

464       [(4)] (5) Every opinion **required by this subsection** shall be governed by the following  
465 provisions:

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

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

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

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

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

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

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

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

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

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

498 **5. (1) This subsection shall apply to actuarial opinions of reserves after the**  
499 **operative date of the valuation manual.**

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

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

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

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

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

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

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

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

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

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

542           **(e) In the case of an opinion required to be submitted by a foreign or alien**  
543 **company, the director may accept the opinion filed by such company with the insurance**

544 **supervisory official of another state if the director determines that the opinion reasonably**  
545 **meets the requirements applicable to a company domiciled in Missouri;**

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

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

552 **6. (1) For policies issued on or after the operative date of the valuation manual, the**  
553 **standard prescribed in the valuation manual is the minimum standard of valuation**  
554 **required under subsection 2 of section 376.370, except as provided under subdivision (5)**  
555 **or (7) of this subsection.**

556 **(2) The operative date of the valuation manual is January first of the first calendar**  
557 **year following the first July first as of which all of the following have occurred:**

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

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

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

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

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

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

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

578 **b. Members of the NAIC representing jurisdictions totaling greater than seventy-**  
579 **five percent of the direct premiums written as reported in the following annual statements**

580 most recently available prior to the vote in subparagraph a. of this paragraph: life,  
581 accident, and health annual statements; health annual statements; or fraternal annual  
582 statements;

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

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

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

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

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

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

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

596 (c) For policies and contracts subject to principle-based valuation under subsection  
597 7 of this section:

598 a. Requirements for the format of reports to the director under paragraph (c) of  
599 subdivision (2) of subsection 7 of this section and which shall include information necessary  
600 to determine if the valuation is appropriate and in compliance with sections 376.365 to  
601 376.380;

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

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

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

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

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

613 (e) Other requirements including, but not limited to, those relating to reserve  
614 methods, models for measuring risk, generation of economic scenarios, assumptions,

615 margins, use of company experience, risk measurement, disclosure, certifications, reports,  
616 actuarial opinions and memorandums, transition rules, and internal controls; and

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

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

624 (6) The director may engage a qualified actuary, at the expense of the company, to  
625 perform an actuarial examination of the company and opine on the appropriateness of any  
626 reserve assumption or method used by the company, or to review and opine on a  
627 company's compliance with any requirement set forth in sections 376.365 to 376.380. The  
628 director may rely upon the opinion regarding provisions contained in sections 376.365 to  
629 376.380 of a qualified actuary engaged by the director of another state, district, or territory  
630 of the United States. As used in this subdivision, engage includes employment and  
631 contracting.

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

637 7. (1) A company shall establish reserves using a principle-based valuation that  
638 meets the following conditions for policies or contracts as specified in the valuation  
639 manual:

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

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

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

650 a. The assumption is prescribed in the valuation manual; or

- 651           **b. For assumptions that are not prescribed, the assumption shall:**
- 652           **(i) Be established utilizing the company's available experience to the extent it is**  
653 **relevant and statistically credible; or**
- 654           **(ii) To the extent that company data is not available, relevant, or statistically**  
655 **credible, be established utilizing other relevant statistically credible experience;**
- 656           **(d) Provide margins for uncertainty, including adverse deviation and estimation**  
657 **error, such that the greater the uncertainty the larger the margin and resulting reserve.**
- 658           **(2) A company using a principle-based valuation for one or more policies or**  
659 **contracts subject to this section as specified in the valuation manual shall:**
- 660           **(a) Establish procedures for corporate governance and oversight of the actuarial**  
661 **valuation function consistent with those described in the valuation manual;**
- 662           **(b) Provide to the director an annual certification of the effectiveness of the internal**  
663 **controls with respect to the principle-based valuation. Such controls shall be designed to**  
664 **ensure that all material risks inherent in the liabilities and associated assets subject to such**  
665 **valuation are included in the valuation and that valuations are made in accordance with**  
666 **the valuation manual. The certification shall be based on the controls in place as of the end**  
667 **of the preceding calendar year;**
- 668           **(c) Develop, and file with the director upon request, a principle-based valuation**  
669 **report that complies with standards prescribed in the valuation manual.**
- 670           **(3) A principle-based valuation may include a prescribed formulaic reserve**  
671 **component.**
- 672           **8. For policies in force on or after the operative date of the valuation manual, a**  
673 **company shall submit mortality, morbidity, policyholder behavior, or expense experience**  
674 **and other data as prescribed in the valuation manual.**
- 675           **9. (1) For purposes of this subsection, "confidential information" means:**
- 676           **(a) A memorandum in support of an opinion submitted under subsection 4 or 5 of**  
677 **this section and any other documents, materials, and other information including, but not**  
678 **limited to, all working papers and copies thereof created, produced, or obtained by or**  
679 **disclosed to the director or any other person in connection with such memorandum;**
- 680           **(b) All documents, materials, and other information including, but not limited to,**  
681 **all working papers and copies thereof created, produced, or obtained by or disclosed to the**  
682 **director or any other person in the course of an examination made under subdivision (6)**  
683 **of subsection 6 of this section; provided, however, that if an examination report or other**  
684 **material prepared in connection with an examination made under section 374.205 is not**  
685 **held as private and confidential information under section 374.205, an examination report**  
686 **or other material prepared in connection with an examination made under subdivision (6)**

687 of subsection 6 of this section shall not be confidential information to the same extent as  
688 if such examination report or other material had been prepared under section 374.205;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

755           **(a) May be subject to subpoena for the purpose of defending an action seeking**  
756 **damages from the appointed actuary submitting the related memorandum in support of**  
757 **an opinion submitted under subsection 4 or 5 of this section or principle-based valuation**  
758 **report developed under paragraph (c) of subdivision (2) of subsection 7 of this section by**

759 reason of an action required by sections 376.365 to 376.380 or by regulations promulgated  
760 hereunder;

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

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

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

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

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

777

778 For any company granted an exemption under this section, subsection 3 of section 376.370  
779 and subsections 1 to 5 of this section shall be applicable. With respect to any company  
780 applying this exemption, any reference to subsection 6 of this section found in subsection  
781 3 of section 376.370 and subsections 1 to 5 of this section shall not be applicable.

782 11. (1) A company that has less than three hundred million dollars of ordinary life  
783 premium and that is licensed and doing business in Missouri and that is subject to the  
784 requirements of subsections 6 and 7 of this section, may hold reserves based on the  
785 mortality tables and interest rates defined by the valuation manual for net premium  
786 reserves and using the methodology defined in the provisions of paragraphs (b) through  
787 (i) of subdivision (2) of subsection 1 of this section and subsection 3 of section 376.370 as  
788 they apply to ordinary life insurance in lieu of the reserves required by subsections 6 and  
789 7 of this section, provided that:

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

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

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

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

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

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

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

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

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

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

22 pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may  
23 be herein specified;

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

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

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

44 (6) A statement that the cash surrender values and the paid-up nonforfeiture benefits  
45 available under the policy are not less than the minimum values and benefits required by or  
46 pursuant to the insurance law of the state in which the policy is delivered; an explanation of the  
47 manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by  
48 the existence of any paid-up additions credited to the policy or any indebtedness to the company  
49 on the policy; if a detailed statement of the method of computation of the values and benefits  
50 shown in the policy is not stated therein, a statement that such method of computation has been  
51 filed with the insurance supervisory official of the state in which the policy is delivered; and a  
52 statement of the method to be used in calculating the cash surrender value and paid-up  
53 nonforfeiture benefit available under the policy on any policy anniversary beyond the last  
54 anniversary for which such values and benefits are consecutively shown in the policy.

55 [2.] 3. Any of the foregoing provisions or portions thereof not applicable by reason of  
56 the plan of insurance may, to the extent inapplicable, be omitted from the policy.

57 [3.] 4. The company shall reserve the right to defer the payment of any cash surrender  
58 value for a period of six months after demand therefor with surrender of the policy.

59 [4.] 5. (1) Any cash surrender value available under the policy in the event of default  
60 in a premium payment due on any policy anniversary, whether or not required by subsection [1]  
61 **2 of this section**, shall be an amount not less than the excess, if any, of the present value, on such  
62 anniversary, of the future guaranteed benefits which would have been provided for by the policy  
63 if there had been no default, including any existing paid-up additions, over the sum of the then  
64 present value of the adjusted premiums as defined in subsections [6, 7, 8, 8a, 9, 10, 10a, and 10b]  
65 **7, 8, 9, 10, 11, 12, 13, and 14 of this section** corresponding to premiums which would have  
66 fallen due on and after such anniversary, and the amount of any indebtedness to the company on  
67 the policy.

68 (2) For any policy issued on or after the operative date of subsection [10b] **14** of this  
69 section which provides supplemental life insurance or annuity benefits at the option of the  
70 insured for an identifiable additional premium by rider or supplemental policy provision, the cash  
71 surrender value referred to in subdivision (1) of this subsection shall be an amount not less than  
72 the sum of the cash surrender value for an otherwise similar policy issued at the same age  
73 without such rider or supplemental policy provision and the cash surrender value for a policy  
74 which provides only the benefits otherwise provided by such rider or supplemental policy  
75 provision.

76 (3) For any family policy issued on or after the operative date of subsection [10b] **14** of  
77 this section which defines a primary insured and provides term insurance on the life of the spouse  
78 of the primary insured expiring before the spouse's age seventy-one, the cash surrender value  
79 referred to in subdivision (1) of this subsection shall be an amount not less than the sum of the  
80 cash surrender value for an otherwise similar policy issued at the same age without such term  
81 insurance on the life of the spouse and the cash surrender value for a policy which provides only  
82 the benefits otherwise provided by such term insurance on the life of the spouse.

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

89 [5.] 6. Any paid-up nonforfeiture benefit available under the policy in the event of  
90 default in a premium payment due on any policy anniversary shall be such that its present value  
91 as of such anniversary shall be at least equal to the cash surrender value then provided for by the  
92 policy or, if none is provided for, that cash surrender value which would have been required by

93 this section in the absence of the condition that premiums shall have been paid for at least a  
94 specified period.

95 [6.] **7.** This subsection and subsections [7, 8, 8a, and 9] **8, 9, 10, and 11** of this section  
96 shall not apply to policies issued on or after the operative date of subsection [10b] **14** of this  
97 section. Except as provided in subsection [8a] **10 of this section**, the adjusted premiums for any  
98 policy shall be calculated on an annual basis and shall be such uniform percentage of the  
99 respective premiums specified in the policy for each policy year, excluding any extra premiums  
100 charged because of impairments or special hazards, that the present value, at the date of issue of  
101 the policy, of all such adjusted premiums shall be equal to the sum of:

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

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

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

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

111 [7.] **8.** Provided, however, that in applying the percentages specified in subdivisions (3)  
112 and (4) of subsection [6] **7 of this section**, no adjusted premium shall be deemed to exceed four  
113 percent of the amount of insurance or uniform amount equivalent thereto. The date of issue of  
114 a policy for the purpose of subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11 of this section** shall  
115 be the date as of which the rated age of the insured is determined.

116 [8.] **9.** In the case of a policy providing an amount of insurance varying with duration of  
117 the policy, the equivalent uniform amount thereof for the purpose of subsections [6, 7, 8, 8a and  
118 9] **7, 8, 9, 10, and 11 of this section** shall be deemed to be the uniform amount of insurance  
119 provided by an otherwise similar policy, containing the same endowment benefit or benefits, if  
120 any, issued at the same age and for the same term, the amount of which does not vary with  
121 duration and the benefits under which have the same present value at the date of issue as the  
122 benefits under the policy; provided, however, that in the case of a policy providing a varying  
123 amount of insurance issued on the life of a child under age ten, the equivalent uniform amount  
124 may be computed as though the amount of insurance provided by the policy prior to the  
125 attainment of age ten were the amount provided by such policy at age ten.

126 [8a.] **10.** The adjusted premiums for any policy providing term insurance benefits by  
127 rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an  
128 otherwise similar policy issued at the same age without such term insurance benefits, increased,

129 during the period for which premiums for such term insurance benefits are payable, by (b) the  
130 adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated  
131 separately and as specified in subsections [6, 7 and 8] **7, 8, and 9 of this section** except that, for  
132 the purposes of subdivisions (2), (3) and (4) of subsection [6] **7 of this section**, the amount of  
133 insurance or equivalent uniform amount of insurance used in the calculation of the adjusted  
134 premiums referred to in (b) shall be equal to the excess of the corresponding amount determined  
135 for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

136 [9.] **11.** Except as otherwise provided in subsections [10 and 10a] **12 and 13 of this**  
137 **section**, all adjusted premiums and present values referred to in this section shall, for all policies  
138 of ordinary insurance, be calculated on the basis of the Commissioners 1941 Standard Ordinary  
139 Mortality Table, provided that for any category of ordinary insurance issued on and after the  
140 effective date of this amendment on female risks, adjusted premiums and present values may be  
141 calculated according to an age not more than three years younger than the actual age of the  
142 insured and such calculations for all policies of industrial insurance shall be made on the basis  
143 of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of  
144 the rate of interest, not exceeding three and one-half percent per annum, specified in the policy  
145 for calculating cash surrender values and paid-up nonforfeiture benefits; provided, however, that  
146 in calculating the present value of any paid-up term insurance with accompanying pure  
147 endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not  
148 more than one hundred and thirty percent of the rates of mortality according to such applicable  
149 table; provided, further, that for insurance issued on a substandard basis, the calculation of any  
150 such adjusted premiums and present values may be based on such other table of mortality as may  
151 be specified by the company and approved by the director.

152 [10.] **12.** This subsection shall not apply to ordinary policies issued on or after the  
153 operative date of subsection [10b] **14 of this section**. In the case of ordinary policies issued on  
154 or after the operative date provided in this subsection, all adjusted premiums and present values  
155 referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard  
156 Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash  
157 surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not  
158 exceed three and one-half percent per annum, except that a rate of interest not exceeding four  
159 percent per annum may be used for policies issued on or after September 28, 1975, and prior to  
160 September 28, 1979, and a rate of interest not exceeding five and one-half percent per annum  
161 may be used for policies issued on or after September 28, 1979, and provided that for any  
162 category of ordinary insurance issued on female risks, adjusted premiums and present values may  
163 be calculated according to an age not more than six years younger than the actual age of the  
164 insured; provided, however, that in calculating the present value of any paid-up term insurance

165 with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of  
166 mortality assumed may be not more than those shown in the Commissioners 1958 Extended  
167 Term Insurance Table; provided, further, that for insurance issued on a substandard basis, the  
168 calculation of any such adjusted premiums and present values may be based on such other table  
169 of mortality as may be specified by the company and approved by the director. After the date  
170 when this subsection becomes effective, any company may file with the director a written notice  
171 of its election to comply with the provisions of this subsection after a specified date before  
172 January 1, 1966. After the filing of such notice, then upon such specified date, which shall be  
173 the operative date of this subsection for such company, this subsection shall become operative  
174 with respect to the ordinary policies thereafter issued by such company. If a company makes no  
175 such election, the operative date of this subsection for such company shall be January 1, 1966.

176 [10a.] **13.** This subsection shall not apply to industrial policies issued on or after the  
177 operative date of subsection [10b] **14 of this section.** In the case of industrial policies issued on  
178 or after the operative date of this subsection as defined herein, all adjusted premiums and present  
179 values referred to in this section shall be calculated on the basis of the Commissioners 1961  
180 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating  
181 cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall  
182 not exceed three and one-half percent per annum, except that a rate of interest not exceeding four  
183 percent per annum may be used for policies issued on or after September 28, 1975, and prior to  
184 September 28, 1979, and a rate of interest not exceeding five and one-half percent per annum  
185 may be used for policies issued on or after September 28, 1979; provided, however, that in  
186 calculating the present value of any paid-up term insurance with accompanying pure endowment,  
187 if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than  
188 those shown in the Commissioners 1961 Industrial Extended Term Insurance Table; provided,  
189 further, that for insurance issued on a substandard basis, the calculation of any such adjusted  
190 premiums and present values may be based on such other table of mortality as may be specified  
191 by the company and approved by the director. After the date when this subsection becomes  
192 effective, any company may file with the director a written notice of its election to comply with  
193 the provisions of this subsection after a specified date before January 1, 1968. After the filing  
194 of such notice, then upon such specified date, which shall be the operative date of this subsection  
195 for such company, this subsection shall become operative with respect to the industrial policies  
196 thereafter issued by such company. If a company makes no such election, the operative date of  
197 this subsection for such company shall be January 1, 1968.

198 [10b.] **14.** (1) This subsection shall apply to all policies issued on or after the operative  
199 date of this subsection as defined herein. Except as provided in subdivision (7) of this  
200 subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall

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

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

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

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

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

221 (3) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled  
222 changes in benefits or premiums, or which provide an option for changes in benefits or premiums  
223 other than a change to a new policy, the adjusted premiums and present values shall initially be  
224 calculated on the assumption that future benefits and premiums do not change from those  
225 stipulated at the date of issue of the policy. At the time of any such change in the benefits or  
226 premiums the future adjusted premiums, nonforfeiture net level premiums and present values  
227 shall be recalculated on the assumption that future benefits and premiums do not change from  
228 those stipulated by the policy immediately after the change.

229 (4) Except as otherwise provided in subdivision (7) of this subsection, the recalculated  
230 future adjusted premiums for any such policy shall be such uniform percentage of the respective  
231 future premiums specified in the policy for each policy year, excluding amounts payable as extra  
232 premiums to cover impairments and special hazards, and also excluding any uniform annual  
233 contract charge or policy fee specified in the policy in a statement of the method to be used in  
234 calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value,  
235 at the time of change to the newly defined benefits or premiums, of all such future adjusted  
236 premiums shall be equal to the excess of (A) the sum of the then present value of the then future

237 guaranteed benefits provided for by the policy and the additional expense allowance, if any, over  
238 (B) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit  
239 under the policy.

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

242 (a) One percent of the excess, if positive, of the average amount of insurance at the  
243 beginning of each of the first ten policy years subsequent to the change over the average amount  
244 of insurance prior to the change at the beginning of each of the first ten policy years subsequent  
245 to the time of the most recent previous change, or, if there has been no previous change, the date  
246 of issue of the policy; and

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

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

251 (a) Equals the sum of:

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

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

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

260 (7) Notwithstanding any other provisions of this subsection to the contrary, in the case  
261 of a policy issued on a substandard basis which provides reduced graded amounts of insurance  
262 so that in each policy year such policy has the same tabular mortality cost as an otherwise similar  
263 policy issued on the standard basis which provides higher uniform amounts of insurance,  
264 adjusted premiums and present values for such substandard policy may be calculated as if it were  
265 issued to provide such higher uniform amounts of insurance on the standard basis.

266 (8) All adjusted premiums and present values referred to in this section shall for all  
267 policies of ordinary insurance be calculated on the basis of the Commissioners 1980 Standard  
268 Ordinary Mortality Table or, at the election of the company for any one or more specified plans  
269 of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year  
270 Select Mortality Factors. All adjusted premiums and present values referred to in this section  
271 shall for all policies of industrial insurance be calculated on the basis of the Commissioners 1961  
272 Standard Industrial Mortality Table. All adjusted premiums and present values referred to in this

273 section shall for all policies issued in a particular calendar year be calculated on the basis of a  
274 rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection for  
275 policies issued in that calendar year.

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

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

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

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

288 (d) In calculating the present value of any paid-up term insurance with accompanying  
289 pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may  
290 be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for  
291 policies of ordinary insurance and not more than the Commissioners 1961 Industrial Extended  
292 Term Insurance Table for policies of industrial insurance;

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

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

302 (g) **For policies issued on or after the operative date of the valuation manual, the**  
303 **valuation manual shall provide the mortality table for use in determining the minimum**  
304 **nonforfeiture standard that may be substituted for the Commissioners 1980 Standard**  
305 **Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the**  
306 **Commissioners 1980 Extended Term Insurance Table. If the director approves by**  
307 **regulation any ordinary mortality table adopted by the NAIC for use in determining the**  
308 **minimum nonforfeiture standard for policies issued on or after the operative date of the**

309 **valuation manual, such minimum nonforfeiture standard supersedes the minimum**  
310 **nonforfeiture standard provided by the valuation manual;**

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

317 **(i) For policies issued on or after the operative date of the valuation manual, the**  
318 **valuation manual shall provide the mortality table for use in determining the minimum**  
319 **nonforfeiture standard that may be substituted for the Commissioners 1961 Standard**  
320 **Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term**  
321 **Insurance Table. If the director approves by regulation any industrial mortality table**  
322 **adopted by the NAIC for use in determining the minimum nonforfeiture standard for**  
323 **policies issued on or after the operative date of the valuation manual, such minimum**  
324 **nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the**  
325 **valuation manual.**

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

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

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

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

338 (12) After the effective date of this subsection, any company may file with the director  
339 a written notice of its election to comply with the provisions of this subsection after a specified  
340 date before January 1, 1989, which shall be the operative date of this subsection for such  
341 company. If a company makes no such election, the operative date of this subsection for such  
342 company shall be January 1, 1989.

343 [10c.] **15.** In the case of any plan of life insurance which provides for future premium  
344 determination, the amounts of which are to be determined by the insurance company based on

345 then estimates of future experience, or in the case of any plan of life insurance which is of such  
346 a nature that minimum values cannot be determined by the methods described in subsections 1  
347 to [10b] **14** of this section, then:

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

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

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

357 [11.] **16.** Any cash surrender value and any paid-up nonforfeiture benefit, available under  
358 the policy in the event of default in a premium payment due at any time other than on the policy  
359 anniversary, shall be calculated with allowance for the lapse of time and the payment of  
360 fractional premiums beyond the last preceding policy anniversary. All values referred to in  
361 subsections [4, 5, 6, 7, 8, 8a, 9, 10, 10a and 10b] **5, 6, 7, 8, 9, 10, 11, 12, 13, and 14** of this  
362 section may be calculated upon the assumption that any death benefit is payable at the end of the  
363 policy year of death. The net value of any paid-up additions, other than paid-up term additions,  
364 shall be not less than the amounts used to provide such additions.

365 [12.] **17.** Notwithstanding the provisions of subsection [4] **5 of this section**, additional  
366 benefits payable:

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

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

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

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

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

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

380 [12a.] **18.** (1) This subsection, in addition to all other applicable subsections of this  
381 section, shall apply to all policies issued on or after January 1, 1986. Any cash surrender value  
382 available under the policy in the event of default in a premium payment due on any policy  
383 anniversary shall be in an amount which does not differ by more than two-tenths of one percent  
384 of either the amount of insurance, if the insurance be uniform in amount, or the average amount  
385 of insurance at the beginning of each of the first ten policy years, from the sum of the greater of  
386 zero and the basic cash value hereinafter specified and the present value of any existing paid-up  
387 additions less the amount of any indebtedness to the company under the policy.

388 (2) The basic cash value shall be equal to the present value, on such anniversary, of the  
389 future guaranteed benefits which would have been provided for by the policy, excluding any  
390 existing paid-up additions and before deduction of any indebtedness to the company, if there had  
391 been no default, less the then present value of the nonforfeiture factors, as defined in subdivision  
392 (3) of this subsection, corresponding to premiums which would have fallen due on and after such  
393 anniversary. The effects on the basic cash value of supplemental life insurance or annuity  
394 benefits or of family coverage, as described in subsection [4] **5** of this section or in subsections  
395 [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11** of this section, whichever is applicable, shall be the same  
396 as are the effects specified in subsection [4] **5** of this section or in subsections [6, 7, 8, 8a and 9]  
397 **7, 8, 9, 10, and 11** of this section, whichever is applicable on the cash surrender values defined  
398 in that subsection.

399 (3) The nonforfeiture factor for each policy year shall be an amount equal to a percentage  
400 of the adjusted premium for the policy year, as defined in subsections [6, 7, 8, 8a and 9] **7, 8, 9,**  
401 **10, and 11** of this section or in subsection [10b] **14** of this section, whichever is applicable.  
402 Except as is required by subdivision (4) of this subsection, such percentage:

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

409 (b) Must be such that no percentage after the later of the two policy anniversaries  
410 specified in paragraph (a) of this subdivision may apply to fewer than five consecutive policy  
411 years. No basic cash value may be less than the value which would be obtained if the adjusted  
412 premiums for the policy, as defined in subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11** of this  
413 section or in subsection [10b] **14** of this section, whichever is applicable, were substituted for  
414 the nonforfeiture factors in the calculation of the basic cash value.

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

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

428 [13.] **19.** (1) This section shall not apply to any of the following:

429 (a) Reinsurance;

430 (b) Group insurance;

431 (c) Pure endowments;

432 (d) Annuities or reversionary annuity contracts;

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

436 (f) Term policies of decreasing amounts, which provide no guaranteed nonforfeiture or  
437 endowment benefits, on which each adjusted premium calculated as specified in subsections [6,  
438 7, 8, 8a, 9, 10, 10a, and 10b] **7, 8, 9, 10, 11, 12, 13, and 14 of this section** is less than the  
439 adjusted premium so calculated on a term policy of uniform amount, or renewal thereof, which  
440 provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the  
441 same initial amount of insurance, and for a term of twenty years or less expiring before age  
442 seventy-one, for which uniform premiums are payable during the entire term of the policy;

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

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

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

452 [14.] 20. After the effective date of this section, any company may file with the director  
453 a written notice of its election to comply with the provisions of this section after a specified date  
454 before January 1, 1948. After the filing of such notice, then upon such specified date, which  
455 shall be the operative date for such company, this section shall become operative with respect  
456 to the policies thereafter issued by such company. If a company makes no such election, the  
457 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 trust:

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

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

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

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

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

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

21 3. [Any property or interests in property that are at any time transferred to the trustee of  
22 a qualified spousal trust of which the husband and wife are the settlors, shall thereafter be  
23 administered as provided by the trust terms in accordance with paragraph (a), (b), or (c) of  
24 subdivision (2) of subsection 1 of this section. All trust property and interests in property that  
25 is deemed for purposes of this section to be held as tenants by the entirety, including the proceeds  
26 thereof, the income thereon, and any property into which such property, proceeds, or income may  
27 be converted, shall have the same immunity from the claims of the separate creditors of the  
28 settlors as would have existed if the settlors had continued to hold that property as husband and

29 wife as tenants by the entirety. Property or interests in property held by a husband and wife as  
30 tenants by the entirety or as joint tenants or other form of joint ownership with right of  
31 survivorship shall be conclusively deemed for purposes of this section to be held as tenants by  
32 the entirety upon its transfer to the qualified spousal trust. All such transfers shall retain said  
33 immunity, so long as:

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

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

45 4. [Property or interests in property held by a husband and wife or held in the sole name  
46 of a husband or wife that are not held as tenants by the entirety or deemed held as tenants by the  
47 entirety for purposes of this section and are transferred to a qualified spousal trust shall be held  
48 as directed in the qualified spousal trust's governing instrument or in the instrument of transfer  
49 and the rights of any claimant to any interest in that property shall not be affected by this section]  
50 **As used in this section, "property" means any interest in any type of property held in a**  
51 **qualified spousal trust, the income thereon, and any property into which such interest,**  
52 **proceeds, or income may be converted.**

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

61 6. **The respective rights of settlors who are married to each other in any property**  
62 **for purposes of a dissolution of the settlors' marriage shall not be affected or changed by**  
63 **reason of the transfer of that property to, or its subsequent administration as an asset of,**

64 **a qualified spousal trust during the marriage of the settlors, unless both settlors expressly**  
65 **agree otherwise in writing.**

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

71 [7.] **8.** This section shall apply to all trusts which fulfill the criteria set forth in this  
72 section for a qualified spousal trust regardless of whether such trust was created before, **on,** or  
73 after August 28, 2011.

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

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

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

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

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

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

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

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

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

22 (8) The amount of any accrued dividend or interest under, or loan value of, any one or  
23 more unmaturred life insurance contracts owned by such person under which the insured is such

24 person or an individual of whom such person is a dependent; provided, however, that if  
25 proceedings under Title 11 of the United States Code are commenced by or against such person,  
26 the amount exempt in such proceedings shall not exceed in value one hundred fifty thousand  
27 dollars in the aggregate less any amount of property of such person transferred by the life  
28 insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a  
29 premium or to carry out a nonforfeiture insurance option and is required to be so transferred  
30 automatically under a life insurance contract with such company or society that was entered into  
31 before commencement of such proceedings. No amount of any accrued dividend or interest  
32 under, or loan value of, any such life insurance contracts shall be exempt from any claim for  
33 child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such  
34 proceedings under any such insurance contract which was purchased by such person within one  
35 year prior to the commencement of such proceedings;

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

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

38 (a) A Social Security benefit, unemployment compensation or a public assistance  
39 benefit;

40 (b) A veteran's benefit;

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

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

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

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

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

54 c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A  
55 or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. Section 401(a), 403(a),  
56 403(b), 408, 408A or 409);

57

58 except that any such payment to any person shall be subject to attachment or execution pursuant  
59 to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue

60 Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or  
61 legal separation or a proceeding for disposition of property following dissolution of marriage by  
62 a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to  
63 dispose of marital property at the time of the original judgment of dissolution;

64 (f) Any money or assets, payable to a participant or beneficiary from, or any interest of  
65 any participant or beneficiary in, a retirement plan, profit-sharing plan, health savings plan, or  
66 similar plan, including an inherited account or plan, that is qualified under Section 401(a),  
67 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, whether  
68 such participant's or beneficiary's interest arises by inheritance, designation, appointment, or  
69 otherwise, except as provided in this paragraph. Any plan or arrangement described in this  
70 paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic  
71 relations order; however, the interest of any and all alternate payees under a qualified domestic  
72 relations order shall be exempt from any and all claims of any creditor, other than the state of  
73 Missouri through its department of social services. As used in this paragraph, the terms  
74 "alternate payee" and "qualified domestic relations order" have the meaning given to them in  
75 Section 414(p) of the Internal Revenue Code of 1986, as amended. If proceedings under Title  
76 11 of the United States Code are commenced by or against such person, no amount of funds shall  
77 be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as  
78 defined in subsection 2 of section 428.024 and for the period such person participated within  
79 three years prior to the commencement of such proceedings. For the purposes of this section,  
80 when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and  
81 then treated as though the funds had never been contributed to the plan, contract, or trust;

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

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

✓