17B:19-6

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(Health & life insurance--reserve liabilities)

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P.L.1995, CHAPTER 339, *approved January 5, 1996*

1995 Senate No. 2320

AN ACT concerning the valuation of the reserve liabilities for life and health insurance policies, amending and supplementing Title 17B of the New Jersey Statutes and repealing N.J.S.17B:19-6 and N.J.S.17B:19-9.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. N.J.S.17B:19-8 is amended to read as follows:

17B:19-8. This section shall be known as the standard valuation law and shall apply to all the life insurance policies, pure endowment contracts and annuity contracts issued by every life insurer on or after January 1, 1948 or such earlier date as shall have been elected by the insurer as the operative date for such insurer of the standard nonforfeiture law.

a. [The] Except as otherwise provided in paragraph (ix) and paragraph (x) of this subsection, the minimum standard for the valuation of [the reserve liabilities for] all such policies and contracts shall be the commissioner's reserve valuation methods defined in subsections b., e. and f. of this section, 3 1/2% interest, [except as otherwise provided in paragraphs (iii), (iv), (ix) and (x) of this subsection for] or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts [and paragraph (x) of this subsection for life insurance policies and disability and accidental death benefits], [and except] issued on or after January 1, 1973, 4% interest for such policies [and benefits] issued [on and after January 1, 1973 and] prior to January 1, 1977 and 4 1/2% interest for such policies [and benefits] issued on or after January 1, 1977, and the following tables:

(i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the Commissioners 1941 Standard Ordinary Mortality Table; provided, however, that the Commissioners 1958 Standard Ordinary Mortality Table shall be the table for the minimum standard for such policies issued on or after January 1, 1966 or, for policies in any category of ordinary insurance, such earlier date as shall have been elected by the insurer for the purpose and prior to the operative date, for such category, provided for in paragraph (xi) of subsection h. of the standard nonforfeiture law for life insurance (N.J.S.17B:25-19); [and provided that the Commissioners 1980 Standard Ordinary Mortality Table, or at the election of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select

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

Matter underlined thus is new matter.

Mortality Factors, or any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies shall be the table for the minimum standard for policies in any category of ordinary insurance issued on or after the operative date, for such category provided for in paragraph (xi) of subsection h. of section 17B:25-19, the standard nonforfeiture law for life insurance. Notwithstanding the above provisions of this paragraph, for any category of ordinary insurance, reserves for such policies issued on or after July 1, 1957 and prior to the operative date provided for in paragraph (xi) of subsection h. of section 17B:25-19, the standard nonforfeiture law for life insurance, may be calculated, at the option of the insurer, according to the Approved Standard Ordinary Mortality Table contained in section 17B:19-9; provided further] provided that for any category of such policies issued on female risks on or after July 1, 1957 and prior to the operative date provided for in paragraph (xi) of subsection h. of the standard nonforfeiture law for life insurance, all modified net premiums and present values, referred to in [subsection b. of this section,] this section may be calculated [, at the option of the insurer with approval of the commissioner,] according to an age not more than six years younger than the actual age of the insured; and for such policies issued on or after the operative date provided for in paragraph (xi) of subsection h. of N.J.S.17B:25-19, the Commissioners 1980 Standard Ordinary Mortality Table, or at the election of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation of those policies.

(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table; provided, however, that the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies shall be the table for the minimum standard for such policies issued on or after January 1, 1968 or such earlier date as shall have been elected by the insurer as the date on which the calculation of the adjusted premiums referred to in the standard nonforfeiture law for life insurance (N.J.S.17B:25-19) for such insurer's industrial life insurance policies became based upon said table.

(iii) For individual annuity and pure endowment contracts issued prior to the operative date of paragraph (ix) of this subsection, excluding any disability and accidental death benefits in such contracts, the 1937 Standard Annuity Mortality Table, or, at the option of the insurer, the Annuity Mortality Table for

1949, Ultimate, or any modification of either of these tables approved by the commissioner [; provided, however, that for single stipulated payment individual annuity and single premium pure endowment contracts issued on or after January 1, 1970, excluding any disability and accidental death benefits in such contracts, the minimum standard shall be the lesser of (a) the standard just described and (b) the standard based on 4% interest and the Annuity Mortality Table for 1949, Ultimate, or any modification of such table approved by the commissioner].

(iv) For group annuity and pure endowment contracts, except annuities and pure endowments purchased thereunder on or after the operative date of paragraph (ix) of this subsection, excluding any disability and accidental death benefits in such contracts, the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts[; provided, however, that the commissioner may establish regulations governing the use of 5% interest and either the 1971 Group Annuity Mortality Table or any modification of such table approved by the commissioner for either contracts whose reserves are considered as pension plan reserves of the type set forth in section 805(d) of the U.S. Internal Revenue Code, as amended, or contracts of a similar type; and provided further that for group annuity benefits arising from considerations received on or after January 1, 1970, excluding any disability and accidental death benefits, the minimum standard shall be the lesser of (a) the standard just described and (b) the standard based on 4% interest and the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of such table specified for individual annuity and pure endowment contracts].

(v) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefits or any tables of disablement rates and termination rates [,] adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961 and prior to January 1, 1966, either such tables, or, at the option of the insurer, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). [Any such] Either table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vi) For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table, adopted after 1980 by the National Association of

Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies issued on or after January 1, 1961 and prior to January 1, 1966, either such table or, at the option of the insurer, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. [Any such] Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vii) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner.

(viii) For ordinary and industrial paid-up nonforfeiture term insurance, and accompanying pure endowment, the table of mortality based on the rates of mortality assumed in calculating the paid-up nonforfeiture benefits.

(ix) Except as provided in paragraph (x) of this subsection, [for] the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph (ix), as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, the commissioner's reserve valuation methods defined in subsections b. [, e.] and f. and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of any such table approved by the commissioner, and, for such contracts issued prior to January 1, 1977, 6% interest for single [stipulated payment] premium immediate annuity [and single premium pure endowment] contracts, and 4% interest for all other individual annuity and pure endowment contracts, and such contracts issued on or after January 1, 1977, 7 1/2% interest for single [stipulated payment] premium immediate annuity contracts [either of the type whose reserves are considered as pension plan reserves as set forth in section 805(d) of the U.S. Internal Revenue Code, as amended, or of similar type, and 6% interest for other single stipulated payment immediate annuity contracts,] and 4 1/2% interest for other individual annuity and pure endowment contracts[, provided, however, that the commissioner may establish regulations governing the use, in subsequent valuations of single stipulated payments not previously valued, of an interest rate not more than 7 1/2% or less than 6%].

(2) For all annuities and pure endowments purchased under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table or any group annuity mortality table, adopted after 1980 by the National

Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of any such table approved by the commissioner, and 6% interest; except 7 1/2% interest for purchases on or after January 1, 1977 [under either contracts whose reserves are considered as pension plan reserves of the type set forth in section 805(d) of the U.S. Internal Revenue Code, as amended, or contracts of similar type, provided, however, that the commissioner may establish regulations governing the use, in subsequent valuations of purchases not previously valued, of an interest rate not more than 7 1/2% or less than 6%].

[For individual single stipulated payment immediate annuity and single premium pure endowment contracts and for annuities and pure endowments purchased under group annuity and pure endowment contracts, the operative date of this paragraph (ix) shall be January 1, 1973.

For other individual annuity and pure endowment contracts,] After January 1, 1973, an insurer may file with the commissioner a written notice of its election to comply with the provisions of this paragraph (ix) beginning on a specific date that is on or after January 1, 1973 but prior to January 1, 1979. Such specific date shall be the operative date of this paragraph for such [contracts of the] insurer, provided that if an insurer makes no such election, the operative date of this paragraph for such [contracts of the] insurer shall be January 1, 1979.

(x) The interest rates used in determining the minimum standard for the valuation of:

[benefits which are subject to the provisions of N.J.S.17B:25-19 under] all life insurance policies issued in a particular calendar year on or after the operative date provided for in subsection h. (xi) of N.J.S.17B:25-19; [and all other benefits in life insurance policies and] all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1981; [and] all annuities and pure endowments purchased in a particular calendar year on or after January 1, 1981 under group annuity and pure endowment contracts; and the net increase, if any, in a particular calendar year after January 1, 1981, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation interest rates established below.

The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer 1/4 of 1%:

(1) For life insurance,

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

(2) For single [stipulated payment] premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

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

where R_1 is the lesser of R and .09,

R_2 is the greater of R and .09,

R is the reference interest rate defined in subparagraph (7) of this paragraph, and W is the weighting factor defined in subparagraph (6) of this paragraph;

(3) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subparagraph (2) [above] of this paragraph, the formula for life insurance stated in subparagraph (1) [above] of this paragraph shall apply to annuities and guaranteed interest contracts with [guaranteed] guarantee durations in excess of 10 years and the formula for single [stipulated payment] premium immediate annuities stated in subparagraph (2) [above] of this paragraph shall apply to annuities and guaranteed interest contracts with [guaranteed] guarantee durations of 10 years or less;

(4) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single [stipulated payment] premium immediate annuities stated in subparagraph (2) [above] of this paragraph shall apply; and

(5) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single [stipulated payment] premium immediate annuities stated in subparagraph (2) [above] of this paragraph shall apply.

However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than 1/2 of 1%, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year, notwithstanding when the provisions of subsection h. of [section] N.J.S.17B:25-19, the standard nonforfeiture law for life insurance become operative;

(6) The weighting factors, W, referred to in the formulas stated above are given in the following schedules:

SCHEDULE A

Weighting Factors for Life Insurance:

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

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

SCHEDULE B

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

.80

SCHEDULE C

Weighting factors for other annuities and for guaranteed interest contracts, except as stated in Schedule B above, shall be as specified in Tables A, B and C below, according to the rules and definitions in D, E and F below:

TABLE A

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

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

TABLE B

	Plan Type A	B	C
For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in Table A above increased by:	.15	.25	.05

TABLE C

	Plan Type A	B	C
For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in Table A or derived in Table B increased by:	.05	.05	.05

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

Rule E. Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only: (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer, or (2) without such [adjustments] adjustment but in installments over five years or more, or (3) as an immediate life annuity, or (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only: (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer, or (2) without such adjustment but in installments over five years or more, or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either: (1) without adjustment to reflect changes in interest [rate] rates or asset values since receipt of the funds by the insurer, or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

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

(7) The reference interest rate, R, referred to in this paragraph (x) is defined as follows:

For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of [Moody's Corporate Bond Yield Average--Monthly Average Corporates] the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

For single [stipulated payment] premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of [Moody's Corporate Bond Yield Average--Monthly Average Corporates] the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated above, with [guaranteed] guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of [Moody's Corporate Bond Yield Average--Monthly Average Corporates] the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated above, with [guaranteed] guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of [Moody's Corporate Bond Yield Average--Monthly Average Corporates] the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of [Moody's Corporate Bond Yield Average--Monthly Average Corporates] the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in [funds] fund basis, except as stated above, the average over a period of 12 months, ending on June 30 of the calendar year of [a] the change in the fund, of [Moody's Corporate Bond Yield Average--Monthly Average Corporates] the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

In the event that [Moody's Corporate Bond Yield Average--Monthly Average Corporates] the Monthly Average of the Composite Yield on Seasoned Corporate Bonds is no longer published by Moody's Investors Service, Inc., or in the event that the National Association of Insurance Commissioners determines that [Moody's Corporate Bond Yield Average--Monthly Average Corporates] the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the commissioner, may be substituted.

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

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

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

Provided that for any life insurance [policies] policy issued on or after January 1, 1985 for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subsection e., be the greater of the reserve as of such policy anniversary calculated as described in the first paragraph of this subsection and the reserve as of such policy anniversary calculated as described in that paragraph, but with (i) the value defined in subparagraph (A) of that paragraph being reduced by 15% of the amount of such excess first year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment, and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in subsection a. of this section shall be used.

Reserves according to the commissioner's reserve valuation method for (i) life insurance policies providing for a varying [amounts] amount of insurance or requiring the payment of varying premiums, (ii) group annuity and pure endowment contracts purchased [in connection with] under a retirement [plans] plan or [plans] plan of deferred compensation, established or maintained by [or for one or more employers] an employer (including [partnerships] a partnership or sole [proprietorships] proprietorship), or by an employee [organizations] organization, or [any combination thereof] by both, other than [plans] a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code of 1986, as now or hereafter amended, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this subsection b. [, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.]

c. In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections b., e. , f. and g. and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies. Reserves for any category of policies, contracts or benefits as established by the commissioner shall not be calculated according to any standards which produce smaller aggregate reserves for such category than the corresponding aggregate values of nonforfeiture benefits available as of the valuation date. In no event shall the aggregate reserves for all policies, contracts and benefits be less than the aggregate reserves determined by a qualified actuary to be necessary to render the opinion required pursuant to section 2 of P.L. , c. (C.)(pending in the Legislature as this bill).

d. Reserves for any category of policies, contracts or benefits as established by the commissioner may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided. An insurer which adopts any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard pursuant to this section may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum standard pursuant to this section herein provided; provided, however, that, for purposes of this subsection, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required pursuant to section 2 of P.L. , c. (C.)(pending in the Legislature as this bill) shall not be deemed to be the adoption of a higher standard of valuation.

e. If in any contract year the gross premium charged by any life insurer on any policy or contract [to which this section applies] is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract [is] shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. [At the option of the insurer and with the consent of the commissioner, the minimum reserve defined in this subsection e. may be determined for each policy or contract except one issued on the substandard basis by substituting, for the actual gross premium on the policy or contract, the average gross premium charged by the insurer for all policies or contracts classified other than substandard which have the same valuation characteristics apart from variation in premium on account of differences in mortality experience.]

The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subsection a. of this section.

Provided that for any life insurance policy issued on or after January 1, 1985 for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection e. shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subsection b., notwithstanding the provisions of the second paragraph of such subsection b. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subsection b., including the second paragraph of that subsection, and the minimum reserve calculated in accordance with this subsection e.

f. This subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased [in connection with] under a retirement [plans] plan or [plans] plan of deferred compensation, established or maintained by [or for one or more employers] an employer (including [partnerships] a partnership or sole [proprietorships] proprietorship), or by an employee [organizations] organization, or [any combination thereof, except such plans] by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code of 1986, as now or hereafter amended.

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

g. In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections b., e., and f. of this section, the reserves which are held under any such plan [must] shall:

(i) be appropriate in relation to the benefits and the pattern of premiums for that plan, and

(ii) be computed by a method which is consistent with the principles of this standard valuation law, as determined by regulations promulgated by the commissioner.

(cf: P.L.1987, c.14, s.1)

2. (New section) a. Every insurer authorized to transact life, health or annuity business and every fraternal benefit society doing business in this State shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are: computed appropriately; based on assumptions which satisfy contractual provisions; and consistent with prior reported amounts and comply with applicable laws of this State. The commissioner shall define by regulation the specifics of this opinion and add such other items deemed to be necessary to its scope.

b. (1) Every insurer authorized to transact life, health or annuity business and every fraternal benefit society, except as exempted by the commissioner by regulation, shall also annually include in the opinion required pursuant to subsection a. of this section, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation, when considered in light of the assets held by the insurer or society with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the insurer's or society's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

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

c. Each opinion required pursuant to subsection b. of this section shall be governed by the following provisions:

(1) A memorandum, in form and substance acceptable to the commissioner as specified by regulation, shall be prepared to support each actuarial opinion.

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

d. Every opinion shall be governed by the following provisions:

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

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

(3) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the commissioner may by regulation prescribe.

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

(5) For the purpose of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in those regulations.

(6) Except in cases of fraud or willfull misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurer, the fraternal benefit society and the commissioner, for any act, error, omission, decision or conduct with respect to the actuary's opinion.

(7) Disciplinary action by the commissioner against the insurer, fraternal benefit society or the qualified actuary shall be defined in regulation by the commissioner.

(8) Any memorandum in support of the opinion, and any other material provided by the insurer or fraternal benefit society to the commissioner in connection therewith, shall be kept confidential by the commissioner and shall not be made public

and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by regulations promulgated hereunder; provided, however, that the memorandum or other material may otherwise be released by the commissioner (a) with the written consent of the insurer or fraternal benefit society or (b) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the insurer or fraternal benefit society in its marketing or is cited before any governmental agency other than a state insurance department or is released by the insurer or fraternal benefit society to the news media, all portions of the confidential memorandum shall no longer be confidential.

3. N.J.S.17B:19-6 and 17B:19-9 are repealed.

4. This act shall take effect immediately.

STATEMENT

This bill updates New Jersey's standard valuation law. The standard valuation law provides detailed procedures by which life insurers establish reserves for the payment of obligations under life insurance policies, pure endowment contracts and annuity contracts. Reserves are the monies set aside by the insurer to pay expected obligations under those policies and contracts. The law recognizes that for these types of policies or contracts, payment on the obligations may not become due for many years. During that time, insurers receive investment income on the premium received for a policy or contract during the policy or contract period. The statutory standards recognize this and specify the interest rate, as well as the various mortality tables and valuation method, to be utilized based on the kind of policy or contract and the date it was issued.

The bill requires all life insurers and fraternal benefit societies to submit an opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of policies are computed appropriately and sets forth the requirements relating to those opinions.

The bill provides that the aggregate reserves established by the insurer for all policies and contracts may not be less than the aggregate reserves determined by a qualified actuary to be necessary to render the required opinion.

The bill provides that establishment of additional reserves, determined as necessary by a qualified actuary, does not constitute the adoption of a higher standard of valuation.

The bill revises the interest rate to be utilized for single premium pure endowment contracts issued prior to January 1, 1977 from 6% to 4%.

Finally, the bill makes certain technical changes, to conform current law to proper form.

Concerns the valuation of reserve liabilities for life and health insurance policies.

and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by regulations promulgated hereunder; provided, however, that the memorandum or other material may otherwise be released by the commissioner (a) with the written consent of the insurer or fraternal benefit society or (b) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the insurer or fraternal benefit society in its marketing or is cited before any governmental agency other than a state insurance department or is released by the insurer or fraternal benefit society to the news media, all portions of the confidential memorandum shall no longer be confidential.

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The bill provides that establishment of additional reserves, determined as necessary by a qualified actuary, does not constitute the adoption of a higher standard of valuation.

The bill revises the interest rate to be utilized for single premium pure endowment contracts issued prior to January 1, 1977 from 6% to 4%.

Finally, the bill makes certain technical changes, to conform current law to proper form.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2320

STATE OF NEW JERSEY

DATED: NOVEMBER 27, 1995

The Senate Commerce Committee reports favorably Senate, No. 2320.

This bill updates New Jersey's standard valuation law. The standard valuation law provides detailed procedures by which life insurers establish reserves for the payment of obligations under life insurance policies, pure endowment contracts and annuity contracts. Reserves are the monies set aside by the insurer to pay expected obligations under those policies and contracts. The law recognizes that for these types of policies or contracts, payment on the obligations may not become due for many years. During that time, insurers receive investment income on the premium received for a policy or contract during the policy or contract period. The statutory standards recognize this and specify the interest rate, as well as the various mortality tables and valuation method, to be utilized based on the kind of policy or contract and the date it was issued.

The bill requires all insurers authorized to transact life, health or annuity business and fraternal benefit societies to submit an opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of policies or contracts are computed appropriately and sets forth the requirements relating to those opinions. This opinion must also contain an opinion by the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts, when considered in light of the insurer's or society's assets, make adequate provision for the insurer's or society's obligations under the policies and contracts. Each actuarial opinion must be supported by a memorandum. If the insurer or society fails to provide the required memorandum or the memorandum is unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the insurer or society to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the commissioner.

The bill provides that the aggregate reserves established by the insurer for all life, pure endowment and annuity policies and contracts may not be less than the aggregate reserves determined by a qualified actuary to be necessary to render the required opinion.

The bill provides that establishment of additional reserves, previously determined as necessary by a qualified actuary, does not constitute the permanent adoption of a higher standard of valuation in regard to life, pure endowment and annuity policies and contracts.

The bill revises the interest rate to be utilized for single premium pure endowment contracts issued prior to January 1, 1977 from 6% to 4%.

Finally, the bill makes certain technical changes to conform current law to proper form and repeals N.J.S.17B:19-6 (Accepting valuation of other states) and N.J.S.17B:19-9 (Approved Standard Ordinary Mortality Table) because they are otherwise provided for in law.