

AMENDED IN ASSEMBLY JULY 2, 2015
AMENDED IN ASSEMBLY JUNE 29, 2015
AMENDED IN SENATE MAY 5, 2015
AMENDED IN SENATE APRIL 14, 2015

SENATE BILL

No. 696

Introduced by Senator Roth

February 27, 2015

An act to amend Sections 10159.1, 10163.2, 10489.15, 10489.2, 10489.3, 10489.5, 10489.6, 10489.7, 10489.8, 10489.9, 10489.93, and 10489.94 of, to add Sections 10489.12, 10489.96, 10489.97, 10489.98, 10489.99, and 10489.992 to, and to repeal and add Sections 10489.1, 10489.4, and 10489.95 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 696, as amended, Roth. Insurance: principle-based valuation.

Existing law governs the issuance of life and disability insurance and authorizes the Insurance Commissioner to regulate those insurers. Existing law requires every life and disability insurer doing business in this state to 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, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable state law. Among other things, existing law requires insurers to calculate the minimum standard for the valuation of those policies and contracts using specified mortality tables approved by the commissioner, sets forth the applicable interest rates, and

establishes the reserve requirements for various types of life and disability policies and contracts.

This bill would explicitly refer to the body of laws imposing those requirements, as specified, as the Standard Valuation Law. The bill would require the commissioner and companies engaging in specified activities relating to the business of life insurance to incorporate the methodology employed by a specified manual of valuation instructions adopted by the National Association of Insurance Commissioners in making determinations relating to reserve requirements and the minimum standard of valuation for policies and contracts, as specified. The bill would require a company to establish reserves using a principle-based valuation that meets specified conditions in that manual, including quantifying the benefits, guarantees, and funding associated with the contracts, and would require the company to develop and file with the commissioner upon request, a principle-based valuation report. The bill would require a company to submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual. The bill would authorize the commissioner to impose an annual assessment on each company, based on the company's gross annual life insurance premium written by an insurer in California during the immediately preceding year, thereby imposing a tax. The bill would exempt certain information submitted by a company to the commissioner from disclosure pursuant to the California Public Records Act and would provide that it is not subject to subpoena or discovery or admissible in evidence in any private civil action. The bill would also authorize the commissioner to hire and assign department staff, and retain nondepartmental actuaries and other consultants, to assist the commissioner in implementing principle-based valuation.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The bill would provide that changes made by the bill would become operative on the date that the Insurance Commissioner certifies that adequate funding has been appropriated by the Legislature, and all other necessary resources, including, but not limited to, adequate staff, are available and sufficient to enable the commissioner to carry out

the duties required by the bill. The bill would require the commissioner to make that certification by submitting a letter to the Chairs of the Assembly Committee on Insurance and the Senate Committee on Insurance stating that the funding and other necessary resources are available and sufficient to carry out those duties. The bill would also require the commissioner to post a notice on the department’s Internet Web site immediately after submitting that certification letter stating that the certification letter has been submitted and that the provisions of the bill are in effect.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10159.1 of the Insurance Code is
2 amended to read:
3 10159.1. (a) This article is applicable only to policies and
4 contracts issued on or after the operative date as to such policies
5 or contracts of this article.
6 (b) The term “operative date of the valuation manual” means
7 the January 1 of the first calendar year that the valuation manual,
8 as defined in Section 10489.1, is effective.
9 SEC. 2. Section 10163.2 of the Insurance Code is amended to
10 read:
11 10163.2. (a) This section shall apply to all policies issued on
12 or after the operative date of this section as defined herein. Except
13 as provided in subdivision (g), the adjusted premiums for any
14 policy shall be calculated on an annual basis and shall be such
15 uniform percentage of the respective premiums specified in the
16 policy for each policy year, excluding amounts payable as extra
17 premiums to cover impairments or special hazards and also
18 excluding any uniform annual contract charge or policy fee
19 specified in the policy in a statement of the method to be used in
20 calculating the cash surrender values and paid-up nonforfeiture
21 benefits, that the present value, at the date of issue of the policy,
22 of all adjusted premiums shall be equal to the sum of (1) the then

1 present value of the future guaranteed benefits provided for by the
2 policy; (2) 1 percent of either the amount of insurance, if the
3 insurance be uniform in amount, or the average amount of
4 insurance at the beginning of each of the first 10 policy years; and
5 (3) 125 percent of the nonforfeiture net level premium as
6 hereinafter defined. Provided, however, that in applying the
7 percentage specified in (3) no nonforfeiture net level premium
8 shall be deemed to exceed 4 percent of either the amount of
9 insurance, if the insurance be uniform in amount, or the average
10 amount of insurance at the beginning of each of the first 10 policy
11 years. The date of issue of a policy for the purpose of this section
12 shall be the date as of which the rated age of the insured is
13 determined.

14 (b) The nonforfeiture net level premium shall be equal to the
15 present value, at the date of issue of the policy, of the guaranteed
16 benefits provided for by the policy, divided by the present value,
17 at the date of issue of the policy, of an annuity of 1 percent per
18 annum payable on the date of issue of the policy and on each
19 anniversary of such policy on which a premium falls due.

20 (c) In the case of policies which cause on a basis guaranteed in
21 the policy, unscheduled changes in benefits or premiums, or which
22 provide an option for changes in benefits or premiums other than
23 a change to a new policy, the adjusted premiums and present values
24 shall initially be calculated on the assumption that future benefits
25 and premiums do not change from those stipulated at the date of
26 issue of the policy. At the time of any such change in the benefits
27 or premiums the future adjusted premiums, nonforfeiture net level
28 premiums and present values shall be recalculated on the
29 assumption that future benefits and premiums do not change from
30 those stipulated by the policy immediately after the change.

31 (d) Except as otherwise provided in subdivision (g), the
32 recalculated future adjusted premiums for any such policy shall
33 be such uniform percentage of the respective future premiums
34 specified in the policy for each policy year, excluding amounts
35 payable as extra premiums to cover impairments and special
36 hazards, and also excluding any uniform annual contract charge
37 or policy fee specified in the policy in a statement of the method
38 to be used in calculating the cash surrender values and paid-up
39 nonforfeiture benefits, that the present value, at the time of change
40 to the newly defined benefits or premiums, of all such future

1 adjusted premiums shall be equal to the excess of (1) the sum of
2 (A) the then present value of the then future guaranteed benefits
3 provided for by the policy and (B) the additional expense
4 allowance, if any, over (2) the then cash surrender value, if any,
5 or present value of any paid-up nonforfeiture benefit under the
6 policy.

7 (e) The additional expense allowance, at the time of the change
8 to the newly defined benefits or premiums, shall be the sum of (1)
9 1 percent of the excess, if positive, of the average amount of
10 insurance at the beginning of each of the first 10 policy years
11 subsequent to the change over the average amount of insurance
12 prior to the change at the beginning of each of the first 10 policy
13 years subsequent to the time of the most recent previous change,
14 or, if there has been no previous change, the date of issue of the
15 policy; and (2) 125 percent of the increase, if positive, in the
16 nonforfeiture net level premium.

17 (f) The recalculated nonforfeiture net level premium shall be
18 equal to the result obtained by dividing (1) by (2) where:

19 (1) It equals the sum of:

20 (A) The nonforfeiture net level premium applicable prior to the
21 change times the present value of an annuity of 1 percent per
22 annum payable on each anniversary of the policy on or subsequent
23 to the date of the change on which a premium would have fallen
24 due had the change not occurred, and

25 (B) The present value of the increase in future guaranteed
26 benefits provided for by the policy, and

27 (2) It equals the present value of an annuity of 1 percent per
28 annum payable on each anniversary of the policy on or subsequent
29 to the date of change on which a premium falls due.

30 (g) Notwithstanding any other provisions of this section to the
31 contrary, in the case of a policy issued on a substandard basis
32 which provides reduced graded amounts of insurance so that, in
33 each policy year, such policy has the same tabular mortality cost
34 as an otherwise similar policy issued on the standard basis which
35 provides higher uniform amounts of insurance, adjusted premiums
36 and present values for such substandard policy may be calculated
37 as if it were issued to provide such higher uniform amounts of
38 insurance on the standard basis.

39 (h) All adjusted premiums and present values referred to in this
40 article shall for all policies of ordinary insurance be calculated on

1 the basis of (1) the Commissioners 1980 Standard Ordinary
2 Mortality Table or (2) at the election of the company for any one
3 or more specified plans of life insurance, the Commissioners 1980
4 Standard Ordinary Mortality Table with Ten-Year Select Mortality
5 Factors; shall for all policies of industrial insurance be calculated
6 on the basis of the Commissioners 1961 Standard Industrial
7 Mortality Table; and shall for all policies issued in a particular
8 calendar year be calculated on the basis of a rate of interest not
9 exceeding the nonforfeiture interest rate as defined in this section
10 for policies issued in that calendar year. Provided, however, that:

11 (1) At the option of the company, calculations for all policies
12 issued in a particular calendar year may be made on the basis of
13 a rate of interest not exceeding the nonforfeiture interest rate, as
14 defined in this section, for policies issued in the immediately
15 preceding calendar year.

16 (2) Under any paid-up nonforfeiture benefit, including any
17 paid-up dividend additions, any cash surrender value available,
18 whether or not required by Section 10160, shall be calculated on
19 the basis of the mortality table and rate of interest used in
20 determining the amount of such paid-up nonforfeiture benefit and
21 paid-up dividend additions, if any.

22 (3) A company may calculate the amount of any guaranteed
23 paid-up nonforfeiture benefit including any paid-up additions under
24 the policy on the basis of an interest rate no lower than that
25 specified in the policy for calculating cash surrender values.

26 (4) In calculating the present value of any paid-up term insurance
27 with accompanying pure endowment, if any, offered as a
28 nonforfeiture benefit, the rates of mortality assumed may be not
29 more than those shown in the Commissioners 1980 Extended Term
30 Insurance Table for policies of ordinary insurance and not more
31 than the Commissioners 1961 Industrial Extended Term Insurance
32 Table for policies of industrial insurance.

33 (5) For insurance issued on a substandard basis, the calculation
34 of any such adjusted premiums and present values may be based
35 on appropriate modifications of the aforementioned tables.

36 (6) (A) For policies issued prior to the operative date of the
37 valuation manual, any Commissioners Standard Ordinary mortality
38 tables, adopted after 1980 by the National Association of Insurance
39 Commissioners, or its successor, that are approved by regulation
40 promulgated or bulletin issued by the commissioner for use in

1 determining the minimum nonforfeiture standard may be
2 substituted for the Commissioners 1980 Standard Ordinary
3 Mortality Table with or without Ten-Year Select Mortality Factors
4 or for the Commissioners 1980 Extended Term Insurance Table.

5 (B) For policies issued on or after the operative date of the
6 valuation manual, the valuation manual shall provide the
7 Commissioners Standard mortality table for use in determining
8 the minimum nonforfeiture standard that may be substituted for
9 the Commissioners 1980 Standard Ordinary Mortality Table with
10 or without Ten-year Select Mortality Factors or for the
11 Commissioners 1980 Extended Term Insurance Table. If the
12 commissioner approves by regulation any Commissioners Standard
13 Ordinary mortality table adopted by the National Association of
14 Insurance Commissioners for use in determining the minimum
15 nonforfeiture standard for policies issued on or after the operative
16 date of the valuation manual then that minimum nonforfeiture
17 standard supersedes the minimum nonforfeiture standard provided
18 by the valuation manual.

19 (7) (A) For policies issued prior to the operative date of the
20 valuation manual, any Commissioners Standard Industrial mortality
21 tables, adopted after 1980 by the National Association of Insurance
22 Commissioners, or its successor, that are approved by regulation
23 promulgated or bulletin issued by the commissioner for use in
24 determining the minimum nonforfeiture standard may be
25 substituted for the Commissioners 1961 Standard Industrial
26 Mortality Table or the Commissioners 1961 Industrial Extended
27 Term Insurance Table.

28 (B) For policies issued on or after the operative date of the
29 valuation manual, the valuation manual shall provide the
30 Commissioners Standard mortality table for use in determining
31 the minimum nonforfeiture standard that may be substituted for
32 the Commissioners 1961 Standard Ordinary Mortality Table or
33 the Commissioners 1961 Industrial Extended Term Insurance
34 Table. If the commissioner approves by regulation any
35 Commissioners Standard Ordinary mortality table adopted by the
36 National Association of Insurance Commissioners for use in
37 determining the minimum nonforfeiture standard for policies issued
38 on or after the operative date of the valuation manual then that
39 minimum nonforfeiture standard supersedes the minimum
40 nonforfeiture standard provided by the valuation manual.

1 (i) The nonforfeiture interest rate.

2 (1) For policies issued prior to the operative date of the valuation
3 manual, the nonforfeiture interest rate per annum for any policy
4 issued in a particular calendar year shall be equal to 125 percent
5 of the calendar year statutory valuation interest rate for the policy
6 as defined in the Standard Valuation Law, rounded to the nearer
7 one-fourth of 1 percent, provided, however, that the nonforfeiture
8 interest rate shall not be less than 4 percent.

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

13 (j) Notwithstanding any other provision in this code to the
14 contrary, any refiling of nonforfeiture values or their methods of
15 computation for any previously approved policy form which
16 involves only a change in the interest rate or mortality table used
17 to compute nonforfeiture values shall not require refiling of any
18 other provisions of that policy form.

19 (k) After the effective date of this section, any company may
20 file with the commissioner a written notice of its election to comply
21 with the provision of this section after a specified date before
22 January 1, 1989, which shall be the operative date of this section
23 for such company. If a company makes no such election, the
24 operative date of this section for such company shall be January
25 1, 1989.

26 SEC. 3. Section 10489.1 of the Insurance Code is repealed.

27 SEC. 4. Section 10489.1 is added to the Insurance Code, to
28 read:

29 10489.1. (a) This article shall be known as the Standard
30 Valuation Law.

31 (b) For the purposes of this article, the following definitions
32 shall apply:

33 (1) "Accident and health insurance" means contracts that
34 incorporate morbidity risk and provide protection against economic
35 loss resulting from accident, sickness, or medical conditions and
36 as may be specified in the valuation manual.

37 (2) "Company" means an entity, which (A) has written, issued,
38 or reinsured life insurance contracts, accident and health insurance
39 contracts, or deposit-type contracts in this state and has at least
40 one policy in force or on claim or (B) has written, issued, or

1 reinsured life insurance contracts, accident and health insurance
2 contracts, or deposit-type contracts in any state and is required to
3 hold a certificate of authority to write life insurance, accident and
4 health insurance, or deposit-type contracts in this state.

5 (3) “Deposit-type contract” means contracts that do not
6 incorporate mortality or morbidity risks and as may be specified
7 in the valuation manual.

8 (4) “Life insurance” means contracts that incorporate mortality
9 risk, including annuity and pure endowment contracts, and as may
10 be specified in the valuation manual.

11 (5) “NAIC” means the National Association of Insurance
12 Commissioners.

13 (6) “Principle-based valuation” means a reserve valuation that
14 uses one or more methods or one or more assumptions determined
15 by the insurer and is required to comply with Section 10489.97,
16 as specified in the valuation manual.

17 (7) “Valuation manual” means the manual of valuation
18 instructions adopted by the NAIC as specified in this article or as
19 subsequently amended.

20 (c) For the purposes of this article, the following definitions
21 shall apply on and after the operative date of the valuation manual:

22 (1) “Appointed actuary” means a qualified actuary who is
23 appointed in accordance with the valuation manual to prepare the
24 actuarial opinion required in subdivision (b) of Section 10489.15.

25 (2) “Policyholder behavior” means any action a policyholder,
26 contractholder, or any other person with the right to elect options,
27 such as a certificate holder, may take under a policy or contract
28 subject to this article, including, but not limited to, lapse,
29 withdrawal, transfer, deposit, premium payment, loan,
30 annuitization, or benefit elections prescribed by the policy or
31 contract, but excluding events of mortality or morbidity that result
32 in benefits prescribed in their essential aspects by the terms of the
33 policy or contract.

34 (3) “Qualified actuary” means an individual who is qualified to
35 sign the applicable statement of actuarial opinion in accordance
36 with the American Academy of Actuaries qualification standards
37 for actuaries signing those statements and who meets the
38 requirements specified in the valuation manual.

39 (4) “Tail risk” means a risk that occurs either when the
40 frequency of low probability events is higher than expected under

1 a normal probability distribution or when there are observed events
2 of very significant size or magnitude.

3 (d) This article and Sections 10480, 10481, 10483, 10484, and
4 10486 shall apply (1) to the valuation of policies and contracts
5 subject to this article issued on or after the operative date of the
6 valuation manual and (2) as provided in Section 10489.3 as to the
7 valuation of benefits purchased under group annuity and pure
8 endowment contracts issued prior to that operative date.

9 SEC. 5. Section 10489.12 is added to the Insurance Code, to
10 read:

11 10489.12. (a) For policies and contracts issued prior to the
12 operative date of the valuation manual, both of the following shall
13 be satisfied:

14 (1) The commissioner shall annually value, or cause to be
15 valued, the reserve liabilities (hereinafter called reserves) for all
16 outstanding life insurance policies and annuity and pure endowment
17 contracts of every life insurance company doing business in this
18 state issued prior to the operative date of the valuation manual. In
19 calculating reserves, the commissioner may use group methods
20 and approximate averages for fractions of a year or otherwise. In
21 lieu of the valuation of the reserves required of a foreign or alien
22 company, the commissioner may accept a valuation made, or
23 caused to be made, by the insurance supervisory official of any
24 state or other jurisdiction when the valuation complies with the
25 minimum standard provided in this article.

26 (2) Sections 10489.2, 10489.3, 10489.4, 10489.5, 10489.6,
27 10489.7, 10489.8, 10489.9, 10489.93, and 10489.95 shall apply
28 to all appropriate policies and contracts subject to this article and
29 issued prior to the operative date of the valuation manual. Sections
30 10489.96 and 10489.97 shall not apply to any of those policies
31 and contracts.

32 (b) For policies and contracts issued on or after the operative
33 date of the valuation manual, both of the following shall be
34 satisfied:

35 (1) The commissioner shall annually value, or cause to be
36 valued, the reserves for all outstanding life insurance contracts,
37 annuity and pure endowment contracts, accident and health
38 contracts, and deposit-type contracts of every company issued on
39 or after the operative date of the valuation manual. In lieu of the
40 valuation of the reserves required of a foreign or alien company,

1 the commissioner may accept a valuation made, or caused to be
2 made, by the insurance supervisory official of any state or other
3 jurisdiction when the valuation complies with the minimum
4 standard provided in this article.

5 (2) Sections 10489.96 and 10489.97 shall apply to all policies
6 and contracts issued on or after the operative date of the valuation
7 manual.

8 SEC. 6. Section 10489.15 of the Insurance Code is amended
9 to read:

10 10489.15. (a) Each of the following shall apply prior to the
11 operative date of the valuation manual:

12 (1) For an actuarial opinion, every life insurance company doing
13 business in this state shall annually submit the opinion of a
14 qualified actuary as to whether the reserves and related actuarial
15 items held in support of the policies and contracts specified by the
16 commissioner by regulation are computed appropriately, are based
17 on assumptions that satisfy contractual provisions, are consistent
18 with prior reported amounts, and comply with applicable laws of
19 this state. The commissioner shall define by regulation the specifics
20 of this opinion and add any other items deemed to be necessary to
21 its scope.

22 (2) (A) For an actuarial analysis of reserves and assets
23 supporting reserves, every life insurance company, except as
24 exempted by regulation, shall also annually include in the opinion
25 required by paragraph (1), an opinion of the same qualified actuary
26 as to whether the reserves and related actuarial items held in
27 support of the policies and contracts specified by the commissioner
28 by regulation, when considered in light of the assets held by the
29 company with respect to the reserves and related actuarial items,
30 including, but not limited to, the investment earnings on the assets
31 and the considerations anticipated to be received and retained under
32 the policies and contracts, make adequate provision for the
33 company's obligations under the policies and contracts, including,
34 but not limited to, the benefits under and expenses associated with
35 the policies and contracts.

36 (B) The commissioner may provide by regulation for a transition
37 period for establishing any higher reserves that the qualified actuary
38 may deem necessary in order to render the opinion required by
39 this section.

1 (3) An opinion required by paragraph (2) shall be governed by
2 the following:

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

6 (B) If the insurance company fails to provide a supporting
7 memorandum at the request of the commissioner within a period
8 specified by regulation, or the commissioner determines that the
9 supporting memorandum provided by the insurance company fails
10 to meet the standards prescribed by the regulations or is otherwise
11 unacceptable to the commissioner, the commissioner may engage
12 a qualified actuary at the expense of the company to review the
13 opinion and the basis for the opinion and prepare the supporting
14 memorandum required by the commissioner.

15 (4) Every opinion required by this subdivision shall be governed
16 by the following provisions:

17 (A) The opinion shall be submitted with the annual statement
18 reflecting the valuation of the reserve liabilities for each year
19 ending on or after December 31, 1992.

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

23 (C) The opinion shall be based on standards adopted from time
24 to time by the Actuarial Standards Board and on any additional
25 standards as the commissioner may by regulation prescribe.

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

32 (E) For the purposes of this paragraph, “qualified actuary” means
33 a member in good standing of the American Academy of Actuaries
34 who meets the requirements set forth in the regulation.

35 (F) The qualified actuary shall be liable for his or her negligence
36 or other tortious conduct.

37 (G) Disciplinary action by the commissioner against the
38 company or the qualified actuary may be defined in regulations
39 by the commissioner.

1 (H) Except as provided in subparagraphs (L), (M), and (N),
2 documents, materials, or other information in the possession or
3 control of the Department of Insurance that are a memorandum in
4 support of the opinion, and any other material provided by the
5 company to the commissioner in connection with the memorandum,
6 shall be confidential by law and privileged, shall not be subject to
7 the California Public Records Act, shall not be subject to subpoena,
8 and shall not be subject to discovery or admissible in evidence in
9 any private civil action. However, the commissioner may use the
10 documents, materials, or other information in the furtherance of
11 any regulatory or legal action brought as a part of the
12 commissioner's official duties.

13 (I) Neither the commissioner nor any person who received
14 documents, materials, or other information while acting under the
15 authority of the commissioner shall be permitted or required to
16 testify in any private civil action concerning any confidential
17 documents, materials, or information subject to subparagraph (H).

18 (J) In order to assist in the performance of the commissioner's
19 duties, the commissioner may do any of the following:

20 (i) Share documents, materials, or other information, including
21 the confidential and privileged documents, materials, or
22 information subject to subparagraph (H), with other state, federal,
23 and international regulatory agencies, with the National Association
24 of Insurance Commissioners and its affiliates and subsidiaries, and
25 with state, federal, and international law enforcement authorities,
26 provided that the recipient agrees to maintain the confidentiality
27 and privileged status of the document, material, or other
28 information.

29 (ii) Receive documents, materials, or information, including
30 otherwise confidential and privileged documents, materials, or
31 information, from the National Association of Insurance
32 Commissioners and its affiliates and subsidiaries, and from
33 regulatory and law enforcement officials of other foreign or
34 domestic jurisdictions, and shall maintain as confidential or
35 privileged any document, material, or information received with
36 notice or the understanding that it is confidential or privileged
37 under the laws of the jurisdiction that is the source of the document,
38 material, or information.

39 (iii) Enter into agreements governing sharing and use of
40 information consistent with subparagraphs (H) to (J), inclusive.

1 (K) No waiver of any applicable privilege or claim of
2 confidentiality in the documents, materials, or information shall
3 occur as a result of disclosure to the commissioner under this
4 section or as a result of sharing as authorized in subparagraph (J).

5 (L) A memorandum in support of the opinion, and any other
6 material provided by the company to the commissioner in
7 connection with the memorandum, may be subject to subpoena
8 for the purpose of defending an action seeking damages from the
9 actuary submitting the memorandum by reason of an action
10 required by this section or by regulations promulgated pursuant
11 to this section.

12 (M) The memorandum or the other material may otherwise be
13 released by the commissioner with the written consent of the
14 company or to the American Academy of Actuaries upon request
15 stating that the memorandum or other material is required for the
16 purpose of professional disciplinary proceedings and setting forth
17 procedures satisfactory to the commissioner for preserving the
18 confidentiality of the memorandum or the other material.

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

24 (b) Each of the following shall apply after the operative date of
25 the valuation manual:

26 (1) For an actuarial opinion, every company with outstanding
27 life insurance contracts, accident and health insurance contracts,
28 or deposit-type contracts in this state and subject to regulation by
29 the commissioner shall annually submit the opinion of the
30 appointed actuary as to whether the reserves and related actuarial
31 items held in support of the policies and contracts are computed
32 appropriately, are based on assumptions that satisfy contractual
33 provisions, are consistent with prior reported amounts, and comply
34 with applicable laws of this state. The valuation manual shall
35 prescribe the specifics of this opinion including any items deemed
36 to be necessary to its scope.

37 (2) For an actuarial analysis of reserves and assets supporting
38 reserves, every company with outstanding life insurance contracts,
39 accident and health insurance contracts, or deposit-type contracts
40 in this state and subject to regulation by the commissioner, except

1 as exempted in the valuation manual, shall also annually include
2 in the opinion required by paragraph (1) an opinion of the same
3 appointed actuary as to whether the reserves and related actuarial
4 items held in support of the policies and contracts specified in the
5 valuation manual, when considered in light of the assets held by
6 the company with respect to the reserves and related actuarial
7 items, including, but not limited to, the investment earnings on the
8 assets and the considerations anticipated to be received and retained
9 under the policies and contracts, adequately provide for the
10 company's obligations under the policies and contracts, including,
11 but not limited to, the benefits under and expenses associated with
12 the policies and contracts.

13 (3) Every opinion required by this subdivision shall be governed
14 by both of the following provisions:

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

18 (B) If the insurance company fails to provide a supporting
19 memorandum at the request of the commissioner within a period
20 specified in the valuation manual, or the commissioner determines
21 that the supporting memorandum provided by the insurance
22 company fails to meet the standards prescribed by the valuation
23 manual or is otherwise unacceptable to the commissioner, the
24 commissioner may engage a qualified actuary at the expense of
25 the company to review the opinion and the basis for the opinion
26 and prepare the supporting memorandum required by the
27 commissioner.

28 (4) Every opinion subject to this subdivision shall be governed
29 by the following provisions:

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

32 (B) The opinion shall be submitted with the annual statement
33 reflecting the valuation of the reserve liabilities for each year
34 ending on or after the operative date of the valuation manual.

35 (C) The opinion shall apply to all policies and contracts subject
36 to paragraph (2), plus other actuarial liabilities as may be specified
37 in the valuation manual.

38 (D) The opinion shall be based on standards adopted from time
39 to time by the Actuarial Standards Board or its successor, and on

1 such additional standards as may be prescribed in the valuation
2 manual.

3 (E) If an opinion is required to be submitted by a foreign or
4 alien company, the commissioner may accept the opinion filed by
5 that company with the insurance supervisory official of another
6 state if the commissioner determines that the opinion reasonably
7 meets the requirements applicable to a company domiciled in this
8 state.

9 (F) The qualified actuary shall be liable for his or her negligence
10 or other tortious conduct.

11 (G) Disciplinary action by the commissioner against the
12 company or the appointed actuary may be defined in regulations
13 by the commissioner.

14 SEC. 7. Section 10489.2 of the Insurance Code is amended to
15 read:

16 10489.2. For a computation of minimum standard, except as
17 provided in Sections 10489.3, 10489.4, and 10489.95, the minimum
18 standard for the valuation of policies and contracts issued prior to
19 the effective date of the amendments to this section shall be that
20 provided by the laws in effect immediately prior to that date.
21 Except as otherwise provided in Sections 10489.3, 10489.4, and
22 10489.95, the minimum standard for the valuation of those policies
23 and contracts shall be the commissioners reserve valuation methods
24 defined in Sections 10489.5, 10489.6, 10489.9, and 10489.95, 3 ½
25 percent per annum interest, or in the case of life insurance policies
26 and contracts, other than certain annuity and pure endowment
27 contracts, issued on or after January 1, 1970, 4 percent per annum
28 interest for policies issued prior to January 1, 1980, 5 ½ percent
29 per annum interest may be used for single premium life insurance
30 policies and 4 ½ percent per annum interest for all other policies
31 issued on or after January 1, 1980, and the following tables:

32 (a) For ordinary policies of life insurance issued on the standard
33 basis, excluding any disability and accidental death benefits in
34 those policies—the Commissioners 1941 Standard Ordinary
35 Mortality Table for policies issued prior to the operative date of
36 subdivision (a) of Section 10163.1, and the Commissioners 1958
37 Standard Ordinary Mortality Table for policies issued on or after
38 the operative date of subdivision (a) of Section 10163.1, as
39 amended by Chapter 940 of the Statutes of 1982, and prior to the
40 operative date of Section 10163.2, as amended by Chapter 28 of

1 the Statutes of 1997, provided that for any category of policies
2 issued on female risks, all modified net premiums and present
3 values referred to in this article may be calculated according to an
4 age not more than six years younger than the actual age of the
5 insured. For policies issued on or after the original operative date
6 of Section 10163.2, as amended by Chapter 28 of the Statutes of
7 1997, the following shall apply:

8 (1) The Commissioners 1980 Standard Ordinary Mortality Table.

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

12 (3) Any ordinary mortality table, adopted after 1980 by the
13 National Association of Insurance Commissioners (NAIC), or its
14 successor, that is approved by regulation promulgated or bulletin
15 issued by the commissioner for use in determining the minimum
16 standard of valuation for such policies.

17 (b) For industrial life insurance policies issued on the standard
18 basis, excluding any disability and accidental death benefits in the
19 policies, the 1941 Standard Industrial Mortality Table for policies
20 issued prior to the operative date of subdivision (b) of Section
21 10163.1, of the Standard Nonforfeiture Law for Life Insurance as
22 amended, and for policies issued on or after the operative date the
23 Commissioners 1961 Standard Industrial Mortality Table or any
24 industrial mortality table adopted after 1980 by the NAIC that is
25 approved by regulation promulgated or bulletin issued by the
26 commissioner for use in determining the minimum standard of
27 valuation for the policies.

28 (c) For individual annuity and pure endowment contracts issued
29 prior to the compliance date of Section 10489.3, excluding any
30 disability and accidental death benefits in the policies: 1937
31 Standard Annuity Mortality Table or, at the option of the company,
32 the Annuity Mortality Table for 1949, Ultimate, or any
33 modification of these tables approved by the commissioner.
34 However, the minimum standard for such contracts issued from
35 January 1, 1968, through December 31, 1968, with commencement
36 of benefits deferred not more than one year from date of issue,
37 may be, at the option of the company, 4 percent per annum interest,
38 and for contracts issued from January 1, 1969, to the compliance
39 date of Section 10489.3, with commencement of benefits deferred
40 not more than 10 years from date of issue and with premiums

1 payable in one sum may be, at the option of the company, 5 percent
2 per annum interest.

3 (d) For group annuity and pure endowment contracts, excluding
4 any disability and accidental death benefits in the policies: the
5 Group Annuity Mortality Table for 1951, a modification of the
6 table approved by the commissioner, or, at the option of the
7 company, any of the tables or modifications of the tables specified
8 for individual annuity and pure endowment contracts. However,
9 the minimum standard for annuities and pure endowments
10 purchased or to be purchased prior to the compliance date of
11 Section 10489.3, under group annuity and pure endowment
12 contracts with considerations received on or after January 1, 1968,
13 through December 31, 1968, may be, at the option of the company,
14 4 percent per annum interest, and for annuities and pure
15 endowments purchased or to be purchased prior to the compliance
16 date of Section 10489.3, under group annuity and pure endowment
17 contracts with considerations received from January 1, 1969, to
18 the compliance date of Section 10489.3, may be at the option of
19 the company, 5 percent per annum interest.

20 (e) For total and permanent disability benefits in or
21 supplementary to ordinary policies or contracts: for policies or
22 contracts issued on or after January 1, 1966, the tables of Period
23 2 disablement rates and the 1930 to 1950 termination rates of the
24 1952 Disability Study of the Society of Actuaries, with due regard
25 to the type of benefit or any tables of disablement rates and
26 termination rates, adopted after 1980 by the NAIC that are
27 approved by regulation promulgated or bulletin issued by the
28 commissioner for use in determining the minimum standard of
29 valuation for those policies; for policies or contracts issued on or
30 after January 1, 1961, and prior to January 1, 1966, either those
31 tables or, at the option of the company, the Class (3) Disability
32 Table (1926); and for policies issued prior to January 1, 1961, the
33 Class (3) Disability Table (1926). Any such table shall, for active
34 lives, be combined with a mortality table permitted for calculating
35 the reserves for life insurance policies.

36 (f) For accidental death benefits in or supplementary to policies
37 issued on or after January 1, 1966: the 1959 Accidental Death
38 Benefits Table or any accidental death benefits table, adopted after
39 1980 by the NAIC that is approved by regulation promulgated or
40 bulletin issued by the commissioner for use in determining the

1 minimum standard of valuation for those policies, for policies
2 issued on or after January 1, 1961, and prior to January 1, 1966,
3 either that table or, at the option of the company, the
4 Inter-Company Double Indemnity Mortality Table; and for policies
5 issued prior to January 1, 1961, the Inter-Company Double
6 Indemnity Mortality Table. Either table shall be combined with a
7 mortality table for calculating the reserves for life insurance
8 policies.

9 (g) For group life insurance, life insurance issued on the
10 substandard basis and other special benefits: tables approved by
11 the commissioner.

12 (h) The commissioner may by bulletin withdraw approval to
13 use tables replaced by newly adopted tables.

14 SEC. 8. Section 10489.3 of the Insurance Code is amended to
15 read:

16 10489.3. (a) Except as provided in Section 10489.4, the
17 minimum standard of valuation for individual annuity and pure
18 endowment contracts issued on or after the operative date of this
19 section and for annuities and pure endowments purchased on or
20 after that operative date under group annuity and pure endowment
21 contracts, shall be the commissioner's reserve valuation methods
22 defined in Sections 10489.5 and 10489.6 and the following tables
23 and interest rates:

24 (1) For individual annuity and pure endowment contracts issued
25 prior to January 1, 1980, excluding any disability and accidental
26 death benefits in those contracts: the 1971 Individual Annuity
27 Mortality Table, or any modification of this table approved by the
28 commissioner, and 6 percent per annum interest rate for all
29 contracts with commencement of benefits deferred not more than
30 10 years from the date of issue and with premiums payable in one
31 sum and 4 percent per annum interest for all other individual
32 annuity and pure endowment contracts.

33 (2) For individual single premium immediate annuity contracts
34 issued on or after January 1, 1980, excluding any disability and
35 accidental death benefits in those contracts: the 1971 Individual
36 Annuity Mortality Table or any individual annuity mortality table
37 adopted after 1980 by the NAIC that is approved by regulation
38 promulgated or bulletin issued by the commissioner for use in
39 determining the minimum standard of valuation for these contracts,

1 or any modification of these tables approved by the commissioner,
2 and 7½ percent per annum interest.

3 (3) For individual annuity and pure endowment contracts issued
4 on or after January 1, 1980, other than single premium immediate
5 annuity contracts, excluding any disability and accidental death
6 benefits in those contracts, the 1971 Individual Annuity Mortality
7 Table or any individual annuity mortality table, adopted after 1980
8 by the NAIC that is approved by regulation promulgated or bulletin
9 issued by the commissioner for use in determining the minimum
10 standard of valuation for those contracts, or any modification of
11 these tables approved by the commissioner, and 5½ percent per
12 annum interest for single premium deferred annuity and pure
13 endowment contracts and 4½ percent per annum interest for all
14 other individual annuity and pure endowment contracts.

15 (4) For annuities and pure endowments purchased prior to
16 January 1, 1980, under group annuity and pure endowment
17 contracts, excluding any disability and accidental death benefits
18 purchased under those contracts: the 1971 Group Annuity Mortality
19 Table or any modification of this table approved by the
20 commissioner, and 6 percent per annum interest.

21 (5) For annuities and pure endowments purchased on or after
22 January 1, 1980, under group annuity and pure endowment
23 contracts, excluding any disability and accidental death benefits
24 purchased under those contracts: the 1971 Group Annuity Mortality
25 Table, or any group annuity mortality table adopted after 1980 by
26 the NAIC that is approved by regulation promulgated or bulletin
27 issued by the commissioner for use in determining the minimum
28 standard of valuation for annuities and pure endowments, or any
29 modification of these tables approved by the commissioner, and
30 7½ percent interest.

31 (6) All individual annuity and pure endowment contracts entered
32 into prior to January 1, 1980, and all annuities and pure
33 endowments purchased prior to January 1, 1980, under group
34 annuity and pure endowment contracts shall remain subject to the
35 provisions of Article 3A (commencing with Section 10489.1) as
36 it existed prior to January 1, 1980.

37 (b) The commissioner may, by bulletin, withdraw approval to
38 use tables replaced by newly adopted tables.

39 SEC. 9. Section 10489.4 of the Insurance Code is repealed.

1 SEC. 10. Section 10489.4 is added to the Insurance Code, to
2 read:

3 10489.4. (a) The interest rates used in determining the
4 minimum standard for the valuation of the following shall be the
5 calendar year statutory valuation interest rates as defined in this
6 section:

7 (1) Life insurance policies issued in a particular calendar year,
8 on or after the operative date of Section 10163.2 as amended by
9 Section 28 of the Statutes of 1997.

10 (2) Individual annuity and pure endowment contracts issued in
11 a particular calendar year on or after January 1, 1982.

12 (3) Annuities and pure endowments purchased in a particular
13 calendar year on or after January 1, 1982, under group annuity and
14 pure endowment contracts.

15 (4) The net increase, if any, in a particular calendar year after
16 January 1, 1982, in amounts held under guaranteed interest
17 contracts.

18 (b) (1) The calendar year statutory valuation interest rates,
19 expressed in the following formulas as “I,” shall be determined as
20 follows and the results rounded to the nearest one-fourth of 1
21 percent:

22 (A) For life insurance:

23
24
$$I = .03 + W(R_1 - .03) + \frac{1}{2}(R_2 - .09)$$

25
26 Where
27 R_1 is the lesser of R and .09,
28 R_2 is the greater of R and .09,
29 R is the reference interest rate defined in this section,
30 W is the weighting factor defined in this section.

31
32 (B) For single premium immediate annuities and for annuity
33 benefits involving life contingencies arising from other annuities
34 with cash settlement options and from guaranteed interest contracts
35 with cash settlement options:

36
37
$$I = .03 + W(R - .03)$$

38
39 Where
40 R is the reference interest rate defined in this section,

1 W is the weighting factor defined in this section.

2

3 (C) For other annuities with cash settlement options and
4 guaranteed interest contracts with cash settlement options, valued
5 on an issue year basis, except as stated in subparagraph (B), the
6 formula for life insurance stated in subparagraph (A) shall apply
7 to annuities and guaranteed interest contracts with guarantee
8 durations in excess of 10 years and the formula for single premium
9 immediate annuities stated in subparagraph (B) shall apply to
10 annuities and guaranteed interest contracts with guarantee duration
11 of 10 years or less.

12 (D) For other annuities with no cash settlement options and for
13 guaranteed interest contracts with no cash settlement options, the
14 formula for single premium immediate annuities stated in
15 subparagraph (B) shall apply.

16 (E) For other annuities with cash settlement options and
17 guaranteed interest contracts with cash settlement options, valued
18 on a change in fund basis, the formula for single premium
19 immediate annuities stated in subparagraph (B) shall apply.

20 (2) However, if the calendar year statutory valuation interest
21 rate for a life insurance policy issued in any calendar year
22 determined without reference to this sentence differs from the
23 corresponding actual rate for similar policies issued in the
24 immediately preceding calendar year by less than one-half of 1
25 percent, the calendar year statutory valuation interest rate for the
26 life insurance policies shall be equal to the corresponding actual
27 rate for the immediately preceding calendar year. For purposes of
28 applying the immediately preceding sentence, the calendar year
29 statutory valuation interest rate for life insurance policies issued
30 in a calendar year shall be determined for 1980 (using the reference
31 interest rate defined in 1979) and shall be determined for each
32 subsequent calendar year regardless of when Section 10163.2, as
33 amended, becomes operative.

34 (c) The weighting factors referred to in the formulas stated above
35 are given in the following tables:

36 (1) Weighting Factors for Life Insurance:

37

38 Guarantee Duration (Years)	Weighting Factors
39 10 or less50
40 More than 10, but not more than 2045

1 More than 2035

2

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

8 (2) Weighting factors for single premium immediate annuities
9 and for annuity benefits involving life contingencies arising from
10 other annuities with cash settlement options and guaranteed interest
11 contracts with cash settlement options shall be .80.

12 (3) Weighting factors for other annuities and for guaranteed
13 interest contracts, except as stated in paragraph (2), shall be as
14 specified in subparagraphs (A), (B), and (C), according to the rules
15 and definitions in subparagraphs (D), (E), and (F):

16 (A) For annuities and guaranteed interest contracts valued on
17 an issue year basis:

18

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

25

26 (B) For annuities and guaranteed interest contracts valued on a
27 change in fund basis, the factors shown in subparagraph (A)
28 increased by:

29

	Plan Type		
	A	B	C
	.15	.25	.05

33

34 (C) For annuities and guaranteed interest contracts valued on
35 an issue year basis, other than those with no cash settlement
36 options, that do not guarantee interest on considerations received
37 more than one year after issue or purchase and for annuities and
38 guaranteed interest contracts valued on a change in fund basis that
39 do not guarantee interest rates on considerations received more

1 than 12 months beyond the valuation date, the factors shown in
2 subparagraph (A) or derived in subparagraph (B) increased by:

	Plan Type		
	A	B	C
	.05	.05	.05

3
4
5
6
7
8 (D) For other annuities with cash settlement options and
9 guaranteed interest contracts with cash settlement options, the
10 guarantee duration is the number of years for which the contract
11 guarantees interest rates in excess of the calendar year statutory
12 valuation interest rate for life insurance policies with guarantee
13 duration in excess of 20 years. For other annuities with no cash
14 settlement options and for guaranteed interest contracts with no
15 cash settlement options, the guaranteed duration is the number of
16 years from the date of issue or date of purchase to the date annuity
17 benefits are scheduled to commence.

18 (E) Plan type as used in the above tables is defined as follows:

19 (i) For Plan Type A: At any time a policyholder may withdraw
20 funds only (I) with an adjustment to reflect changes in interest
21 rates or asset values since receipt of the funds by the insurance
22 company, (II) without an adjustment but installments over five
23 years or more, (III) as an immediate life annuity, or (IV) no
24 withdrawal permitted.

25 (ii) For Plan Type B: Before expiration of the interest rate
26 guarantee, a policyholder may withdraw funds only (I) with an
27 adjustment to reflect changes in interest rates or asset values since
28 receipt of the funds by the insurance company, (II) without an
29 adjustment but in installments over five years or more, or (III) no
30 withdrawal permitted. At the end of the interest rate guarantee,
31 funds may be withdrawn without an adjustment in a single sum or
32 installments over less than five years.

33 (iii) For Plan Type C: Policyholder may withdraw funds before
34 expiration of interest rate guarantee in a single sum or installments
35 over less than five years either (I) without adjustment to reflect
36 changes in interest rates or asset values since receipt of the funds
37 by the insurance company, or (II) subject only to a fixed surrender
38 charge stipulated in the contract as a percentage of the fund.

39 (F) A company may elect to value guaranteed interest contracts
40 with cash settlement options and annuities with cash settlement

1 options on either an issue year basis or on a change in fund basis.
2 Guaranteed interest contracts with no cash settlement options and
3 other annuities with no cash settlement options shall be valued on
4 an issue year basis. As used in this section, an issue year basis of
5 valuation refers to a valuation basis under which the interest rate
6 used to determine the minimum valuation standard for the entire
7 duration of the annuity or guaranteed interest contract is the
8 calendar year valuation interest rate for the year of issue or year
9 of purchase of the annuity or guaranteed interest contract, and the
10 change in fund basis of valuation refers to a valuation basis under
11 which the interest rate used to determine the minimum valuation
12 standard applicable to each change in the fund held under the
13 annuity or guaranteed interest contract is the calendar year
14 valuation interest rate for the year of the change in the fund.

15 (d) The reference interest rate referred to in subdivision (b) shall
16 be defined as follows:

17 (1) For life insurance, the lesser of the average over a period of
18 36 months and the average over a period of 12 months, ending on
19 June 30 of the calendar year preceding the year of issue, of the
20 monthly average of the composite yield on seasoned corporate
21 bonds, as published by Moody's Investors Service, Inc.

22 (2) For single premium immediate annuities and for annuity
23 benefits involving life contingencies arising from other annuities
24 with cash settlement options and guaranteed interest contracts with
25 cash settlement options, the average over a period of 12 months,
26 ending on June 30 of the calendar year of issue or year of purchase,
27 of the monthly average of the composite yield on seasoned
28 corporate bonds, as published by Moody's Investors Service, Inc.

29 (3) For other annuities with cash settlement options and
30 guaranteed interest contracts with cash settlement options, valued
31 on a year of issue basis, except as stated in subdivision (b), with
32 guarantee duration in excess of 10 years, the lesser of the average
33 over a period of 36 months and the average over a period of 12
34 months, ending on June 30 of the calendar year of issue or
35 purchase, of the monthly average of the composite yield on
36 seasoned corporate bonds, as published by Moody's Investors
37 Service, Inc.

38 (4) For other annuities with cash settlement options and
39 guaranteed interest contracts with cash settlement options, valued
40 on a year of issue basis, except as stated in subparagraph (B) of

1 paragraph (1) of subdivision (c), with guarantee duration of 10
2 years or less, the average over a period of 12 months, ending on
3 June 30 of the calendar year of issue or purchase, of the monthly
4 average of the composite yield on seasoned corporate bonds, as
5 published by Moody's Investors Service, Inc.

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

12 (6) For other annuities with cash settlement options and
13 guaranteed interest contracts with cash settlement options, valued
14 on a change in fund basis, except as stated in subparagraph (B) of
15 paragraph (1) of subdivision (c), the average over a period of 12
16 months, ending on June 30 of the calendar year of the change in
17 the fund, of the monthly average of the composite yield on
18 seasoned corporate bonds, as published by Moody's Investors
19 Service, Inc.

20 (e) If the monthly average of the composite yield on seasoned
21 corporate bonds is no longer published by Moody's Investors
22 Service, Inc., or in the event that the NAIC determines that the
23 monthly average of the composite yield on seasoned corporate
24 bonds as published by Moody's Investors Service, Inc., is no longer
25 appropriate for the determination of the reference interest rate,
26 then an alternative method for determination of the reference
27 interest rate adopted by the NAIC and approved by regulation
28 promulgated by the commissioner may be substituted.

29 (f) This section shall apply to all certificates and contracts issued
30 by a fraternal benefit society.

31 SEC. 11. Section 10489.5 of the Insurance Code is amended
32 to read:

33 10489.5. (a) Except as otherwise provided in Sections 10489.6,
34 10489.9, and 10489.95, reserves according to the commissioners
35 reserve valuation method, for the life insurance and endowment
36 benefits of policies providing for a uniform amount of insurance
37 and requiring the payment of uniform premiums shall be the excess,
38 if any, of the present value, at the date of valuation, of the future
39 guaranteed benefits provided for by those policies, over the then
40 present value of any future modified net premiums therefor. The

1 modified net premiums for a policy shall be the uniform percentage
2 of the respective contract premiums for the benefits such that the
3 present value, at the date of issue of the policy, of all modified net
4 premiums shall be equal to the sum of the then present value of
5 the benefits provided for by the policy and the excess of paragraph
6 (1) over paragraph (2), as follows:

7 (1) A net level annual premium equal to the present value, at
8 the date of issue of the benefits provided for after the first policy
9 year, divided by the present value, at the date of issue, of an annuity
10 of one per annum payable on the first and each subsequent
11 anniversary of the policy on which a premium falls due. However,
12 the net level annual premium shall not exceed the net level annual
13 premium on the 19-year premium whole life plan for insurance of
14 the same amount at an age one year higher than the age at issue
15 of the policy.

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

18 (b) For a life insurance policy issued on or after January 1, 1986,
19 for which the contract premium in the first policy year exceeds
20 that of the second year and for which no comparable additional
21 benefit is provided in the first year for the excess and which
22 provides an endowment benefit or a cash surrender value or a
23 combination in an amount greater than the excess premium, the
24 reserve according to the commissioners reserve valuation method
25 as of any policy anniversary occurring on or before the assumed
26 ending date defined herein as the first policy anniversary on which
27 the sum of any endowment benefit and any cash surrender value
28 then available is greater than the excess premium shall, except as
29 otherwise provided in Section 10489.9, be the greater of the reserve
30 as of the policy anniversary calculated as described in subdivision
31 (a) and the reserve as of the policy anniversary calculated as
32 described in subdivision (a), but with (1) the value defined in
33 paragraph (1) of subdivision (a) being reduced by 15 percent of
34 the amount of the excess first year premium, (2) all present values
35 of benefits and premiums being determined without reference to
36 premiums or benefits provided for by the policy after the assumed
37 ending date, (3) the policy being assumed to mature on that date
38 as an endowment, and (4) the cash surrender value provided on
39 that date being considered as an endowment benefit. In making

1 the above comparison the mortality and interest bases stated in
2 Sections 10489.2 and 10489.4 shall be used.

3 (c) Reserves according to the commissioners reserve valuation
4 method shall be calculated by a method consistent with
5 subdivisions (a) and (b) for paragraphs (1) to (4), inclusive.
6 However, any extra premiums charged because of impairments or
7 special hazards shall be disregarded in the determination of
8 modified net premiums.

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

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

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

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

23 SEC. 12. Section 10489.6 of the Insurance Code is amended
24 to read:

25 10489.6. (a) This section shall apply to all annuity and pure
26 endowment contracts other than group annuity and pure endowment
27 contracts purchased under a retirement plan or plan of deferred
28 compensation, established or maintained by an employer (including
29 a partnership or sole proprietorship) or by an employee
30 organization, or by both, other than a plan providing individual
31 retirement accounts or individual retirement annuities under Section
32 408 of the Internal Revenue Code, as now or hereafter amended.

33 (b) Reserves according to the commissioners annuity reserve
34 method for benefits under annuity or pure endowment contracts,
35 excluding any disability and accidental death benefits in the
36 contracts, shall be the greatest of the respective excesses of the
37 present values, at the date of valuation, of the future guaranteed
38 benefits, including guaranteed nonforfeiture benefits, provided for
39 by the contracts at the end of each respective contract year, over
40 the present value, at the date of valuation, of any future valuation

1 considerations derived from future gross considerations, required
2 by the terms of the contract, that become payable prior to the end
3 of the respective contract year. The future guaranteed benefits shall
4 be determined by using the mortality table, if any, and the interest
5 rate, or rates, specified in the contracts for determining guaranteed
6 benefits. The valuation considerations are the portions of the
7 respective gross considerations applied under the terms of the
8 contracts to determine nonforfeiture values.

9 SEC. 13. Section 10489.7 of the Insurance Code is amended
10 to read:

11 10489.7. (a) A company's aggregate reserves for all life
12 insurance policies, excluding disability and accidental death
13 benefits, shall not be less than the aggregate reserves calculated
14 in accordance with the methods set forth in Sections 10489.5,
15 10489.6, 10489.9, and 10489.93 and the mortality table or tables
16 and rate or rates of interest used in calculating nonforfeiture
17 benefits for the policies.

18 (b) The aggregate reserves for all policies, contracts, and benefits
19 shall not be less than the aggregate reserves determined by the
20 appointed actuary to be necessary to render the opinion required
21 by Section 10489.15.

22 SEC. 14. Section 10489.8 of the Insurance Code is amended
23 to read:

24 10489.8. (a) Reserves for any category of policies, contracts,
25 or benefits established by the commissioner may be calculated, at
26 the option of the company, according to any standards that produce
27 greater aggregate reserves for the category than those calculated
28 according to the minimum standard provided in this article, but
29 the rate or rates of interest used for policies and contracts, other
30 than annuity and pure endowment contracts, shall not be greater
31 than the corresponding rate or rates of interest used in calculating
32 any nonforfeiture benefits provided in the policies or contracts.

33 (b) A company, which adopts at any time a standard of valuation
34 producing greater aggregate reserves than those calculated
35 according to the minimum standard provided under this article,
36 may adopt a lower standard of valuation with the approval of the
37 commissioner, but not lower than the minimum provided in this
38 article. However, for the purposes of this section, the holding of
39 additional reserves previously determined by a qualified actuary
40 to be necessary to render the opinion required by Section 10489.15

1 shall not be deemed to be the adoption of a higher standard of
2 valuation.

3 SEC. 15. Section 10489.9 of the Insurance Code is amended
4 to read:

5 10489.9. (a) If in any contract year the gross premium charged
6 by any life insurer on any policy or contract is less than the
7 valuation net premium for the policy or contract calculated by the
8 method used in calculating the reserve thereon but using the
9 minimum valuation standards of mortality and rate of interest, the
10 minimum reserve required for such policy or contract shall be the
11 greater of either the reserve calculated according to the mortality
12 table, rate of interest, and method actually used for such policy or
13 contract, or the reserve calculated by the method actually used for
14 such policy or contract but using the minimum valuation standards
15 of mortality and rate of interest and replacing the valuation net
16 premium by the actual gross premium in each contract year for
17 which the valuation net premium exceeds the actual gross premium.
18 The minimum valuation standards of mortality and rate of interest
19 referred to in this section are those standards stated in Sections
20 10489.2, 10489.3, and 10489.4.

21 (b) For a life insurance policy issued on or after January 1, 1986,
22 for which the gross premium in the first policy year exceeds that
23 of the second year and for which no comparable additional benefit
24 is provided in the first year for such excess and which provides an
25 endowment benefit or a cash surrender value or a combination
26 thereof in an amount greater than such excess premium, the
27 foregoing provisions of this section shall be applied as if the
28 method actually used in calculating the reserve for such policy
29 were the method described in Section 10489.5, ignoring the second
30 paragraph of Section 10489.5. The minimum reserve at each policy
31 anniversary of such a policy shall be the greater of the minimum
32 reserve calculated in accordance with Section 10489.5, including
33 the second paragraph of that section, and the minimum reserve
34 calculated in accordance with this section.

35 SEC. 16. Section 10489.93 of the Insurance Code is amended
36 to read:

37 10489.93. In the case of a plan of life insurance that provides
38 for future premium determination, the amounts of which are to be
39 determined by the insurance company based on then estimates of
40 future experience, or in the case of a plan of life insurance or

1 annuity that is of a nature that the minimum reserves cannot be
2 determined by the methods described in Sections 10489.5, 10489.6,
3 and 10489.9, the reserves that are held under the plan shall:

4 (a) Be appropriate in relation to the benefits and the pattern of
5 premiums for that plan; and

6 (b) Be computed by a method that is consistent with the
7 principles of this Standard Valuation Law, as determined by
8 regulations promulgated by the commissioner.

9 SEC. 17. Section 10489.94 of the Insurance Code is amended
10 to read:

11 10489.94. (a) The commissioner may issue a bulletin to
12 provide tables of select mortality factors and rules for their use,
13 rules concerning a minimum standard for the valuation of plans
14 with nonlevel premiums of benefits, and rules concerning a
15 minimum standard for the valuation of plans with secondary
16 guarantees. The bulletin authorized by this subdivision shall have
17 the same force and effect, and may be enforced by the
18 commissioner to the same extent and degree, as regulations issued
19 by the commissioner. The commissioner may also adopt regulations
20 to implement this section.

21 (b) It is the intent of the Legislature that the bulletin described
22 in subdivision (a) and the superseding regulations shall contain
23 the provisions of the National Association of Insurance
24 Commissioners Valuation of Life Insurance Policies Model
25 Regulation Number 830.

26 SEC. 18. Section 10489.95 of the Insurance Code is repealed.

27 SEC. 19. Section 10489.95 is added to the Insurance Code, to
28 read:

29 10489.95. For accident and health insurance contracts issued
30 on or after the operative date of the valuation manual, the standard
31 prescribed in the valuation manual is the minimum standard of
32 valuation required under subdivision (b) of Section 10489.12. For
33 disability and accident and health insurance contracts issued prior
34 to the operative date of the valuation manual, the minimum
35 standard of valuation is the standard adopted by the commissioner
36 by regulation.

37 SEC. 20. Section 10489.96 is added to the Insurance Code, to
38 read:

39 10489.96. (a) For policies issued on or after the operative date
40 of the valuation manual, the standard prescribed in the valuation

1 manual is the minimum standard of valuation required under
2 subdivision (b) of Section 10489.12, except as provided under
3 subdivision (e) or (g).

4 (b) The operative date of the valuation manual is January 1 of
5 the first calendar year following the first July 1 as of which all the
6 following have occurred:

7 (1) The valuation manual has been adopted by the NAIC by an
8 affirmative vote of at least 42 members, or three-fourths of the
9 members voting, whichever is greater.

10 (2) The Standard Valuation Law, as amended by the NAIC in
11 2009, or legislation including substantially similar terms and
12 provisions, has been enacted by states representing greater than
13 75 percent of the direct premiums written as reported in the
14 following annual statements submitted for 2008: life, accident,
15 and health annual statements, health annual statements, or fraternal
16 annual statements.

17 (3) The Standard Valuation Law, as amended by the NAIC in
18 2009, or legislation including substantially similar terms and
19 provisions, has been enacted by at least 42 of the following 55
20 jurisdictions: The 50 states of the United States, American Samoa,
21 the United States Virgin Islands, the District of Columbia, Guam,
22 and Puerto Rico.

23 (c) Unless a change in the valuation manual specifies a later
24 effective date, changes to the valuation manual shall be effective
25 on January 1 following the date when all of the following have
26 occurred:

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

29 (A) At least three-fourths of the members of the NAIC voting,
30 but not less than a majority of the total membership.

31 (B) Members of the NAIC representing jurisdictions totaling
32 greater than 75 percent of the direct premiums written as reported
33 in the following annual statements most recently available prior
34 to the vote in subparagraph (A): life, accident, and health annual
35 statement, health annual statements, or fraternal annual statements.

36 (2) The commissioner has issued an order adopting the valuation
37 manual with the changes. The commissioner shall issue the order
38 only if he or she finds that the conditions set forth in paragraph
39 (1) have been satisfied.

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

1 (1) Minimum valuation standards for and definitions of the
2 policies or contracts subject to subdivision (b) of Section 10489.12.
3 Those minimum valuation standards shall be:

4 (A) The commissioners reserve valuation method for life
5 insurance contracts, other than annuity contracts, subject to
6 subdivision (b) of Section 10489.12.

7 (B) The commissioners annuity reserve valuation method for
8 annuity contracts subject to subdivision (b) of Section 10489.12.

9 (C) Minimum reserves for all other policies or contracts subject
10 to subdivision (b) of Section 10489.12.

11 (2) Which policies or contracts or types of policies or contracts
12 are subject to the requirements of a principle-based valuation in
13 subdivision (a) of Section 10489.97 and the minimum valuation
14 standards consistent with those requirements.

15 (3) For policies and contracts subject to a principle-based
16 valuation under Section 10489.97:

17 (A) Requirements for the format of reports to the commissioner
18 under paragraph (3) of subdivision (b) of Section 10489.97, which
19 shall include information necessary to determine if the valuation
20 is appropriate and in compliance with this article.

21 (B) Assumptions for risks over which the company does not
22 have significant control or influence.

23 (C) Procedures for corporate governance and oversight of the
24 actuarial function, and a process for appropriate waiver or
25 modification of those procedures.

26 (4) For policies not subject to a principle-based valuation under
27 Section 10489.97, the minimum valuation standard, which shall
28 either:

29 (A) Be consistent with the minimum standard of valuation prior
30 to the operative date of the valuation manual.

31 (B) Develop reserves that quantify the benefits and guarantees,
32 and the funding, associated with the contracts and their risks at a
33 level of conservatism that reflects conditions that include
34 unfavorable events that have a reasonable probability of occurring.

35 (5) Other requirements, including, but not limited to, those
36 relating to reserve methods, models for measuring risk, generation
37 of economic scenarios, assumptions, margins, use of company
38 experience, risk measurement, disclosure, certifications, reports,
39 actuarial opinions and memorandums, transition rules, and internal
40 controls.

1 (6) The data and form of the data required under Section
2 10489.98, with whom the data is required to be submitted, and
3 may specify other requirements including data analyses and
4 reporting of analyses.

5 (e) In the absence of a specific valuation requirement or if a
6 specific valuation requirement in the valuation manual is not, in
7 the opinion of the commissioner, in compliance with, or conflicts
8 with, this code, then the company shall, with respect to those
9 requirements, comply with the minimum valuation standards
10 prescribed by the code or by the commissioner by regulation or
11 bulletin.

12 (f) The commissioner may engage a qualified actuary, at the
13 expense of the company, to perform an actuarial examination of
14 the company and opine on the appropriateness of any reserve
15 assumption or method used by the company, or to review and opine
16 on a company's compliance with any requirement set forth in this
17 article. The commissioner may rely upon the opinion, regarding
18 the provisions contained within this article, of a qualified actuary
19 engaged by the commissioner of another state, district, or territory
20 of the United States. As used in this subdivision, the term "engage"
21 includes employment and contracting.

22 (g) The commissioner may require a company to change any
23 assumption or method that in the opinion of the commissioner is
24 necessary in order to comply with the requirements of the valuation
25 manual or this article, and the company shall adjust the reserves
26 as required by the commissioner. The commissioner may take
27 other disciplinary action as permitted pursuant to all other
28 applicable law.

29 SEC. 21. Section 10489.97 is added to the Insurance Code, to
30 read:

31 10489.97. (a) A company shall establish reserves using a
32 principle-based valuation that meets the following conditions for
33 policies or contracts as specified in the valuation manual:

34 (1) Quantify the benefits, guarantees, and the funding associated
35 with the contracts and their risks at a level of conservatism that
36 reflects conditions that include unfavorable events that have a
37 reasonable probability of occurring during the lifetime of the
38 contracts. For policies or contracts with significant tail risk, reflects
39 conditions appropriately adverse to quantify the tail risk.

1 (2) Incorporate assumptions, risk analysis methods, and financial
2 models and management techniques that are consistent with, but
3 not necessarily identical to, those utilized within the company's
4 overall risk assessment process, while recognizing potential
5 differences in financial reporting structures and any prescribed
6 assumptions or methods.

7 (3) Incorporate assumptions that are derived in one of the
8 following manners:

9 (A) The assumption is prescribed in the valuation manual.

10 (B) For assumptions that are not prescribed, the assumptions
11 shall:

12 (i) Be established utilizing the company's available experience,
13 to the extent it is relevant and statistically credible.

14 (ii) To the extent that company data is not available, relevant,
15 or statistically credible, be established utilizing other relevant,
16 statistically credible experience.

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

20 (b) A company using a principle-based valuation for one or
21 more policies or contracts subject to this section as specified in
22 the valuation manual shall do the following:

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

26 (2) Provide to the commissioner and the board of directors of
27 the company an annual certification of the effectiveness of the
28 internal controls with respect to the principle-based valuation. The
29 controls shall be designed to ensure that all material risks inherent
30 in the liabilities and associated assets subject to such valuation are
31 included in the valuation, and that valuations are made in
32 accordance with the valuation manual. The certification shall be
33 based on the controls in place as of the end of the preceding
34 calendar year.

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

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

1 SEC. 22. Section 10489.98 is added to the Insurance Code, to
2 read:

3 10489.98. A company shall submit mortality, morbidity,
4 policyholder behavior, or expense experience and other data as
5 prescribed in the valuation manual.

6 SEC. 23. Section 10489.99 is added to the Insurance Code, to
7 read:

8 10489.99. (a) For purposes of this section, “confidential
9 information” shall mean:

10 (1) A memorandum in support of an opinion submitted under
11 Section 10489.15 and any other documents, materials, and other
12 information, including, but not limited to, all working papers, and
13 copies thereof, created, produced, or obtained by or disclosed to
14 the commissioner or any other person in connection with the
15 memorandum.

16 (2) All documents, materials, and other information, including,
17 but not limited to, all working papers, and copies thereof, created,
18 produced, or obtained by or disclosed to the commissioner or any
19 other person in the course of an examination made under
20 subdivision (f) of Section 10489.96. However, if an examination
21 report or other material prepared in connection with an examination
22 made under Article 4 (commencing with Section 729) of Chapter
23 1 of Part 2 of Division 1 is not held as private and confidential
24 information under that article, an examination report or other
25 material prepared in connection with an examination made under
26 subdivision (f) of Section 10489.96 shall not be “confidential
27 information” to the same extent as if the examination report or
28 other material had been prepared under Article 4.

29 (3) Any reports, documents, materials, and other information
30 developed by a company in support of, or in connection with, an
31 annual certification by the company under paragraph (2) of
32 subdivision (b) of Section 10489.97 evaluating the effectiveness
33 of the company’s internal controls with respect to a principle-based
34 valuation and any other documents, materials, and other
35 information, including, but not limited to, all working papers, and
36 copies thereof, created, produced, or obtained by or disclosed to
37 the commissioner or any other person in connection with those
38 reports, documents, materials, and other information.

39 (4) Any principle-based valuation report developed under
40 paragraph (3) of subdivision (b) of Section 10489.97 and any other

1 documents, materials, and other information, including, but not
2 limited to, all working papers, and copies thereof, created,
3 produced, or obtained by or disclosed to the commissioner or any
4 other person in connection with the report.

5 (5) All of the following:

6 (A) Any documents, materials, data, and other information
7 submitted by a company under Section 10489.98, to be known
8 collectively, as “experience data.”

9 (B) Experience data plus any other documents, materials, data,
10 and other information, including, but not limited to, all working
11 papers, and copies thereof, created or produced in connection with
12 the experience data, in each case that includes any potentially
13 company-identifying or personally identifiable information, that
14 is provided to or obtained by the commissioner, to be known,
15 collectively, as “experience materials.”

16 (C) Any other documents, materials, data, and other information,
17 including, but not limited to, all working papers, and copies thereof,
18 created, produced, or obtained by or disclosed to the commissioner
19 or any other person in connection with the experience materials.

20 (b) (1) Except as provided in this section, a company’s
21 confidential information is confidential by law and privileged, it
22 shall not be subject to the California Public Records Act, and shall
23 not be subject to subpoena or discovery or admissible in evidence
24 in any private civil action. However, the commissioner is
25 authorized to use the confidential information in a regulatory or
26 legal action brought against the company as a part of the
27 commissioner’s official duties.

28 (2) The commissioner, and any person who received confidential
29 information while acting under the authority of the commissioner,
30 shall not be permitted or required to testify in a private civil action
31 concerning any confidential information.

32 (3) In order to assist in the performance of the commissioner’s
33 duties, the commissioner may share confidential information with
34 the following recipients, provided that the recipient agrees, and
35 has the legal authority to agree, to maintain the confidentiality and
36 privileged status of the documents, materials, data, and other
37 information in the same manner and to the same extent as required
38 for the commissioner:

39 (A) Other state, federal, and international regulatory agencies
40 and with the NAIC and its affiliates and subsidiaries.

1 (B) In the case of confidential information specified in
2 paragraphs (1) and (4) of subdivision (a) of Section 10489.99 only,
3 with the Actuarial Board for Counseling and Discipline or its
4 successor upon request stating that the confidential information is
5 required for the purpose of professional disciplinary proceedings
6 and with state, federal, and international law enforcement officials.

7 (4) The commissioner may receive documents, materials, data,
8 and other information, including otherwise confidential and
9 privileged documents, materials, data, or information, from the
10 NAIC and its affiliates and subsidiaries, from regulatory or law
11 enforcement officials of other foreign or domestic jurisdictions,
12 and from the Actuarial Board for Counseling and Discipline or its
13 successor and shall maintain as confidential or privileged any
14 document, material, data, or other information received with notice
15 or the understanding that it is confidential or privileged under the
16 laws of the jurisdiction that is the source of the document, material,
17 or other information.

18 (5) The commissioner may enter into agreements governing
19 sharing and use of information consistent with this subdivision.

20 (6) A waiver of any applicable privilege or claim of
21 confidentiality in the information shall not occur as a result of
22 disclosure to the commissioner under this section or as a result of
23 sharing as authorized in paragraph (3).

24 (7) A privilege established under the law of any state or
25 jurisdiction that is substantially similar to the privilege established
26 under subdivision (b) shall be available and enforced in any
27 proceeding in, and in any court of, this state.

28 (8) For purposes of this section, “regulatory agency,” “law
29 enforcement agency,” and the “NAIC” include, but are not limited
30 to, their employees, agents, consultants, and contractors.

31 (c) Notwithstanding subdivision (b), any confidential
32 information specified in paragraphs (1) and (4) of subdivision (a):

33 (1) May be subject to subpoena for the purpose of defending
34 an action seeking damages from the appointed actuary submitting
35 the related memorandum in support of an opinion submitted under
36 Section 10489.15 or principle-based valuation report developed
37 under paragraph (3) of subdivision (b) of Section 10489.97 by
38 reason of an action required by this article or by regulations
39 promulgated pursuant to this article.

1 (2) May otherwise be released by the commissioner with the
2 written consent of the company.

3 (3) Once any portion of a memorandum in support of an opinion
4 submitted under Section 10489.15 or a principle-based valuation
5 report developed under paragraph (3) of subdivision (b) of Section
6 10489.97 is cited by the company in its marketing or is publicly
7 volunteered to or before a governmental agency other than a state
8 insurance department or is released by the company to the news
9 media, all portions of the memorandum or report shall no longer
10 be confidential.

11 SEC. 24. Section 10489.992 is added to the Insurance Code,
12 to read:

13 10489.992. (a) (1) The commissioner may hire and assign
14 department staff, and retain nondepartment actuaries and other
15 consultants, to assist the commissioner with preparing to implement
16 and implementing, directly or indirectly, principle-based valuation.

17 (2) The commissioner may appoint a person to serve as an expert
18 in preparing to implement and implementing, directly or indirectly,
19 principle-based valuation. That person may be an employee of the
20 department exempt from the state civil service system within the
21 meaning of Section 4 of Article VII of the California Constitution.
22 The person's salary or compensation shall be fixed by the
23 commissioner and effective and payable without approval of the
24 Department of Human Resources, pursuant to Section 19825 of
25 the Government Code.

26 (b) (1) Notwithstanding any other law, the commissioner may
27 annually assess all companies that are subject to this article to
28 defray costs the department incurs preparing to implement and
29 implementing, directly or indirectly, principle-based valuation,
30 including, but not limited to, department salaries and overhead,
31 and actuary and consultant fees and expenses.

32 (2) The commissioner shall annually set an "aggregate
33 assessment amount" and an assessment amount for each tier listed
34 in paragraph (4). The aggregate assessment amount shall be the
35 amount necessary to provide sufficient moneys to carry out the
36 projected workload to implement, directly or indirectly,
37 principle-based valuation. The annual aggregate assessment amount
38 shall be no less than one million dollars (\$1,000,000).

39 (3) At least 90 days before finalizing the annual aggregate
40 assessment amount and assessment amount for the tiers listed in

1 paragraph (4), the commissioner shall provide notice of the
 2 commissioner’s preliminary determination of those amounts. The
 3 notice shall explain how the commissioner derived the amounts
 4 and provide no less than 45 days for interested parties to provide
 5 comments.

6 (4) Not less than 45 days after the due date for comments
 7 specified in paragraph (3), the commissioner shall by bulletin
 8 establish the annual aggregate assessment amount according to
 9 the company’s annual premium based on the below tiers. For
 10 purposes of this section, “annual premium” shall mean the gross
 11 annual life insurance premium written by a company in California
 12 during the immediately preceding year as reported in its annual
 13 statutory financial statement. The commissioner may adjust the
 14 initial assessment amount for each tier to ensure a sufficient annual
 15 aggregate assessment amount as defined in paragraph (2) if he or
 16 she adopts a change to the valuation manual pursuant to paragraph
 17 (2) of subdivision (c) of Section 10489.96 that warrants the
 18 adjustment, and provides an accounting explaining the need for
 19 the adjustment.

Annual Premium	Initial Annual Assessment Per Company
\$500,000,001 +	\$75,000
\$400,000,001 - \$500,000,000	\$50,000
\$300,000,001 - \$400,000,000	\$40,000
\$200,000,001 - \$300,000,000	\$30,000
\$150,000,001 - \$200,000,000	\$20,000
\$100,000,001 - \$150,000,000	\$10,000
\$50,000,001 - \$100,000,000	\$5,000

30 (5) All examinations and analyses of reserves and
 31 principle-based valuation methodologies performed under Section
 32 730 may be at the expense of the company, organization, or person
 33 examined, pursuant to Section 736.

34 (c) Before retaining an independent actuary or consultant under
 35 paragraph (1) of subdivision (a), the commissioner shall require a
 36 written declaration by the actuary or consultant that:

37 (1) The actuary shall not disclose to another party, other than
 38 the department, and shall protect from unauthorized use, any
 39 confidential information, as defined in Section 10489.99, obtained

1 in the course of his or her work for the commissioner, unless
2 authorized to do so by the commissioner or required by law.

3 (2) The actuary or consultant shall not disclose to another party
4 and shall protect from unauthorized use, all confidential
5 information obtained from the department in the course of his or
6 her work for the commissioner.

7 (d) Before retaining an independent actuary or consultant under
8 paragraph (1) of subdivision (a), the commissioner shall require a
9 written declaration by the actuary or consultant that:

10 (1) The actuary or consultant will not perform professional
11 services involving an actual or potential conflict of interest unless
12 all of the following are satisfied:

13 (A) The actuary's or consultant's ability to perform the services
14 fairly is unimpaired.

15 (B) There has been disclosure of the conflict to all present, or
16 known prospective, clients or employers of the actuary or
17 consultant whose interests would be affected by the conflict.

18 (C) All present, or known prospective, clients or employers of
19 the actuary or consultant have expressly agreed to the performance
20 of the services by the actuary or consultant.

21 (2) The actuary or actuarial firm with which the actuary is
22 affiliated was not involved in developing the reserves or
23 principle-based valuation methodology under consideration by the
24 actuary.

25 (3) The actuary or consultant has disclosed any financial interest
26 in the companies whose reserves or principle-based valuation
27 methodologies may be affected by the actuary's or consultant's
28 services.

29 (e) The commissioner may develop and amend regulations to
30 implement or modify subdivisions (c) and (d). The initial adoption
31 of the regulations shall be deemed to be an emergency and
32 necessary in order to address a situation calling for immediate
33 action to avoid serious harm to the public peace, health, safety, or
34 general welfare. Any emergency regulation adopted or amended
35 by the commissioner pursuant to this section shall be adopted or
36 amended in accordance with Chapter 3.5 (commencing with
37 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
38 Code and shall remain in effect for 180 days.

39 SEC. 25. The Legislature finds and declares that ~~Section 6 of~~
40 this act, which amends Section 10489.15 of the Insurance Code,

1 imposes a limitation on the public's right of access to the meetings
2 of public bodies or the writings of public officials and agencies
3 within the meaning of Section 3 of Article I of the California
4 Constitution. Pursuant to that constitutional provision, the
5 Legislature makes the following findings to demonstrate the interest
6 protected by this limitation and the need for protecting that interest:

7 In order to protect proprietary information, it is necessary to
8 enact legislation to ensure that information provided pursuant to
9 the Standard Valuation Law provided pursuant to this act is kept
10 confidential.

11 *SEC. 26. This act shall become operative on the date that the*
12 *Insurance Commissioner certifies that adequate funding has been*
13 *appropriated by the Legislature, and that all other necessary*
14 *resources, including, but not limited to, adequate staff, are*
15 *available and sufficient to enable the commissioner to carry out*
16 *the duties required pursuant to Section 10489.992, and all other*
17 *duties imposed on the commissioner pursuant to the act. The*
18 *commissioner shall make that certification by submitting a letter*
19 *to the Chairs of the Assembly Committee on Insurance and the*
20 *Senate Committee on Insurance stating that the funding and other*
21 *necessary resources are available and sufficient to carry out those*
22 *duties. The commissioner shall post a notice on the department's*
23 *Internet Web site immediately after submitting that certification*
24 *letter stating that the certification letter has been submitted and*
25 *that the provisions of the act are in effect.*