

AMENDED IN ASSEMBLY JULY 16, 2015

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~~ *action, if obtained from the commissioner*. 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,

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

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

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

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

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

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

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

20 (1) It equals the sum of:

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

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

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

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

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

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

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

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

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

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

38 (6) (A) For policies issued prior to the operative date of the
39 valuation manual, any Commissioners Standard Ordinary mortality
40 tables, adopted after 1980 by the National Association of Insurance

1 Commissioners, or its successor, that are approved by regulation
2 promulgated or bulletin issued by the commissioner for use in
3 determining the minimum nonforfeiture standard may be
4 substituted for the Commissioners 1980 Standard Ordinary
5 Mortality Table with or without Ten-Year Select Mortality Factors
6 or for the Commissioners 1980 Extended Term Insurance Table.

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

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

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

1 minimum nonforfeiture standard supersedes the minimum
2 nonforfeiture standard provided by the valuation manual.

3 (i) The nonforfeiture interest rate.

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

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

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

21 (k) After the effective date of this section, any company may
22 file with the commissioner a written notice of its election to comply
23 with the provision of this section after a specified date before
24 January 1, 1989, which shall be the operative date of this section
25 for such company. If a company makes no such election, the
26 operative date of this section for such company shall be January
27 1, 1989.

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

29 SEC. 4. Section 10489.1 is added to the Insurance Code, to
30 read:

31 10489.1. (a) This article shall be known as the Standard
32 Valuation Law.

33 (b) For the purposes of this article, the following definitions
34 shall apply:

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

39 (2) "Company" means an entity, which (A) has written, issued,
40 or reinsured life insurance contracts, accident and health insurance

1 contracts, or deposit-type contracts in this state and has at least
2 one policy in force or on claim or (B) has written, issued, or
3 reinsured life insurance contracts, accident and health insurance
4 contracts, or deposit-type contracts in any state and is required to
5 hold a certificate of authority to write life insurance, accident and
6 health insurance, or deposit-type contracts in this state.

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

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

13 (5) “NAIC” means the National Association of Insurance
14 Commissioners.

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

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

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

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

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

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

1 (4) “Tail risk” means a risk that occurs either when the
2 frequency of low probability events is higher than expected under
3 a normal probability distribution or when there are observed events
4 of very significant size or magnitude.

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

11 SEC. 5. Section 10489.12 is added to the Insurance Code, to
12 read:

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

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

28 (2) Sections 10489.2, 10489.3, 10489.4, 10489.5, 10489.6,
29 10489.7, 10489.8, 10489.9, 10489.93, and 10489.95 shall apply
30 to all appropriate policies and contracts subject to this article and
31 issued prior to the operative date of the valuation manual. Sections
32 10489.96 and 10489.97 shall not apply to any of those policies
33 and contracts.

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

37 (1) The commissioner shall annually value, or cause to be
38 valued, the reserves for all outstanding life insurance contracts,
39 annuity and pure endowment contracts, accident and health
40 contracts, and deposit-type contracts of every company issued on

1 or after the operative date of the valuation manual. In lieu of the
2 valuation of the reserves required of a foreign or alien company,
3 the commissioner may accept a valuation made, or caused to be
4 made, by the insurance supervisory official of any state or other
5 jurisdiction when the valuation complies with the minimum
6 standard provided in this article.

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

10 SEC. 6. Section 10489.15 of the Insurance Code is amended
11 to read:

12 10489.15. (a) Each of the following shall apply prior to the
13 operative date of the valuation manual:

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

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

38 (B) The commissioner may provide by regulation for a transition
39 period for establishing any higher reserves that the qualified actuary

1 may deem necessary in order to render the opinion required by
2 this section.

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

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

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

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

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

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

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

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

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

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

1 (G) Disciplinary action by the commissioner against the
2 company or the qualified actuary may be defined in regulations
3 by the commissioner.

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

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

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

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

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

1 under the laws of the jurisdiction that is the source of the document,
2 material, or information.

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

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

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

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

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

28 (b) Each of the following shall apply after the operative date of
29 the valuation manual:

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

1 (2) For an actuarial analysis of reserves and assets supporting
2 reserves, every company with outstanding life insurance contracts,
3 accident and health insurance contracts, or deposit-type contracts
4 in this state and subject to regulation by the commissioner, except
5 as exempted in the valuation manual, shall also annually include
6 in the opinion required by paragraph (1) an opinion of the same
7 appointed actuary as to whether the reserves and related actuarial
8 items held in support of the policies and contracts specified in the
9 valuation manual, when considered in light of the assets held by
10 the company with respect to the reserves and related actuarial
11 items, including, but not limited to, the investment earnings on the
12 assets and the considerations anticipated to be received and retained
13 under the policies and contracts, adequately provide for the
14 company's obligations under the policies and contracts, including,
15 but not limited to, the benefits under and expenses associated with
16 the policies and contracts.

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

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

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

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

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

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

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

4 (D) The opinion shall be based on standards adopted from time
5 to time by the Actuarial Standards Board or its successor, and on
6 such additional standards as may be prescribed in the valuation
7 manual.

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

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

16 (G) Disciplinary action by the commissioner against the
17 company or the appointed actuary may be defined in regulations
18 by the commissioner.

19 SEC. 7. Section 10489.2 of the Insurance Code is amended to
20 read:

21 10489.2. For a computation of minimum standard, except as
22 provided in Sections 10489.3, 10489.4, and 10489.95, the minimum
23 standard for the valuation of policies and contracts issued prior to
24 the effective date of the amendments to this section shall be that
25 provided by the laws in effect immediately prior to that date.
26 Except as otherwise provided in Sections 10489.3, 10489.4, and
27 10489.95, the minimum standard for the valuation of those policies
28 and contracts shall be the commissioner's reserve valuation methods
29 defined in Sections 10489.5, 10489.6, 10489.9, and 10489.95, 3½
30 percent per annum interest, or in the case of life insurance policies
31 and contracts, other than certain annuity and pure endowment
32 contracts, issued on or after January 1, 1970, 4 percent per annum
33 interest for policies issued prior to January 1, 1980, 5½ percent
34 per annum interest may be used for single premium life insurance
35 policies and 4½ percent per annum interest for all other policies
36 issued on or after January 1, 1980, and the following tables:

37 (a) For ordinary policies of life insurance issued on the standard
38 basis, excluding any disability and accidental death benefits in
39 those policies—the Commissioners 1941 Standard Ordinary
40 Mortality Table for policies issued prior to the operative date of

1 subdivision (a) of Section 10163.1, and the Commissioners 1958
2 Standard Ordinary Mortality Table for policies issued on or after
3 the operative date of subdivision (a) of Section 10163.1, as
4 amended by Chapter 940 of the Statutes of 1982, and prior to the
5 operative date of Section 10163.2, as amended by Chapter 28 of
6 the Statutes of 1997, provided that for any category of policies
7 issued on female risks, all modified net premiums and present
8 values referred to in this article may be calculated according to an
9 age not more than six years younger than the actual age of the
10 insured. For policies issued on or after the original operative date
11 of Section 10163.2, as amended by Chapter 28 of the Statutes of
12 1997, the following shall apply:

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

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

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

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

33 (c) For individual annuity and pure endowment contracts issued
34 prior to the compliance date of Section 10489.3, excluding any
35 disability and accidental death benefits in the policies: 1937
36 Standard Annuity Mortality Table or, at the option of the company,
37 the Annuity Mortality Table for 1949, Ultimate, or any
38 modification of these tables approved by the commissioner.
39 However, the minimum standard for such contracts issued from
40 January 1, 1968, through December 31, 1968, with commencement

1 of benefits deferred not more than one year from date of issue,
2 may be, at the option of the company, 4 percent per annum interest,
3 and for contracts issued from January 1, 1969, to the compliance
4 date of Section 10489.3, with commencement of benefits deferred
5 not more than 10 years from date of issue and with premiums
6 payable in one sum may be, at the option of the company, 5 percent
7 per annum interest.

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

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

1 (f) For accidental death benefits in or supplementary to policies
2 issued on or after January 1, 1966: the 1959 Accidental Death
3 Benefits Table or any accidental death benefits table, adopted after
4 1980 by the NAIC that is approved by regulation promulgated or
5 bulletin issued by the commissioner for use in determining the
6 minimum standard of valuation for those policies, for policies
7 issued on or after January 1, 1961, and prior to January 1, 1966,
8 either that table or, at the option of the company, the
9 Inter-Company Double Indemnity Mortality Table; and for policies
10 issued prior to January 1, 1961, the Inter-Company Double
11 Indemnity Mortality Table. Either table shall be combined with a
12 mortality table for calculating the reserves for life insurance
13 policies.

14 (g) For group life insurance, life insurance issued on the
15 substandard basis and other special benefits: tables approved by
16 the commissioner.

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

19 SEC. 8. Section 10489.3 of the Insurance Code is amended to
20 read:

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

29 (1) For individual annuity and pure endowment contracts issued
30 prior to January 1, 1980, excluding any disability and accidental
31 death benefits in those contracts: the 1971 Individual Annuity
32 Mortality Table, or any modification of this table approved by the
33 commissioner, and 6 percent per annum interest rate for all
34 contracts with commencement of benefits deferred not more than
35 10 years from the date of issue and with premiums payable in one
36 sum and 4 percent per annum interest for all other individual
37 annuity and pure endowment contracts.

38 (2) For individual single premium immediate annuity contracts
39 issued on or after January 1, 1980, excluding any disability and
40 accidental death benefits in those contracts: the 1971 Individual

1 Annuity Mortality Table or any individual annuity mortality table
2 adopted after 1980 by the NAIC that is approved by regulation
3 promulgated or bulletin issued by the commissioner for use in
4 determining the minimum standard of valuation for these contracts,
5 or any modification of these tables approved by the commissioner,
6 and 7½ percent per annum interest.

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

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

25 (5) For annuities and pure endowments purchased on or after
26 January 1, 1980, under group annuity and pure endowment
27 contracts, excluding any disability and accidental death benefits
28 purchased under those contracts: the 1971 Group Annuity Mortality
29 Table, or any group annuity mortality table adopted after 1980 by
30 the NAIC that is approved by regulation promulgated or bulletin
31 issued by the commissioner for use in determining the minimum
32 standard of valuation for annuities and pure endowments, or any
33 modification of these tables approved by the commissioner, and
34 7½ percent interest.

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

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

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

4 SEC. 10. Section 10489.4 is added to the Insurance Code, to
5 read:

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

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

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

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

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

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

25 (A) For life insurance:

26
27
$$I = .03 + W(R_1 - .03) + \frac{1}{2}(R_2 - .09)$$

28
29 Where
30 R_1 is the lesser of R and $.09$,
31 R_2 is the greater of R and $.09$,
32 R is the reference interest rate defined in this section,
33 W is the weighting factor defined in this section.

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

39
40
$$I = .03 + W(R - .03)$$

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Where
R is the reference interest rate defined in this section,
W is the weighting factor defined in this section.

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

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

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

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

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

(1) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less50
More than 10, but not more than 2045
More than 2035

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

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

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

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

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

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

	Plan Type		
	A	B	C
	.15	.25	.05

(C) For annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, that do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and

1 guaranteed interest contracts valued on a change in fund basis that
 2 do not guarantee interest rates on considerations received more
 3 than 12 months beyond the valuation date, the factors shown in
 4 subparagraph (A) or derived in subparagraph (B) increased by:

5

6		Plan Type	
7	A	B	C
8	.05	.05	.05

9

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

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

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

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

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

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

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

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

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

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

1 (4) For other annuities with cash settlement options and
2 guaranteed interest contracts with cash settlement options, valued
3 on a year of issue basis, except as stated in subparagraph (B) of
4 paragraph (1) of subdivision (c), with guarantee duration of 10
5 years or less, the average over a period of 12 months, ending on
6 June 30 of the calendar year of issue or purchase, of the monthly
7 average of the composite yield on seasoned corporate bonds, as
8 published by Moody's Investors Service, Inc.

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

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

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

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

34 SEC. 11. Section 10489.5 of the Insurance Code is amended
35 to read:

36 10489.5. (a) Except as otherwise provided in Sections 10489.6,
37 10489.9, and 10489.95, reserves according to the commissioners
38 reserve valuation method, for the life insurance and endowment
39 benefits of policies providing for a uniform amount of insurance
40 and requiring the payment of uniform premiums shall be the excess,

1 if any, of the present value, at the date of valuation, of the future
2 guaranteed benefits provided for by those policies, over the then
3 present value of any future modified net premiums therefor. The
4 modified net premiums for a policy shall be the uniform percentage
5 of the respective contract premiums for the benefits such that the
6 present value, at the date of issue of the policy, of all modified net
7 premiums shall be equal to the sum of the then present value of
8 the benefits provided for by the policy and the excess of paragraph
9 (1) over paragraph (2), as follows:

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

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

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

1 as an endowment, and (4) the cash surrender value provided on
2 that date being considered as an endowment benefit. In making
3 the above comparison the mortality and interest bases stated in
4 Sections 10489.2 and 10489.4 shall be used.

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

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

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

20 (3) Disability and accidental death benefits in all policies and
21 contracts.

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

25 SEC. 12. Section 10489.6 of the Insurance Code is amended
26 to read:

27 10489.6. (a) This section shall apply to all annuity and pure
28 endowment contracts other than group annuity and pure endowment
29 contracts purchased under a retirement plan or plan of deferred
30 compensation, established or maintained by an employer (including
31 a partnership or sole proprietorship) or by an employee
32 organization, or by both, other than a plan providing individual
33 retirement accounts or individual retirement annuities under Section
34 408 of the Internal Revenue Code, as now or hereafter amended.

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

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

11 SEC. 13. Section 10489.7 of the Insurance Code is amended
12 to read:

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

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

24 SEC. 14. Section 10489.8 of the Insurance Code is amended
25 to read:

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

35 (b) A company, which adopts at any time a standard of valuation
36 producing greater aggregate reserves than those calculated
37 according to the minimum standard provided under this article,
38 may adopt a lower standard of valuation with the approval of the
39 commissioner, but not lower than the minimum provided in this
40 article. However, for the purposes of this section, the holding of

1 additional reserves previously determined by a qualified actuary
2 to be necessary to render the opinion required by Section 10489.15
3 shall not be deemed to be the adoption of a higher standard of
4 valuation.

5 SEC. 15. Section 10489.9 of the Insurance Code is amended
6 to read:

7 10489.9. (a) If in any contract year the gross premium charged
8 by any life insurer on any policy or contract is less than the
9 valuation net premium for the policy or contract calculated by the
10 method used in calculating the reserve thereon but using the
11 minimum valuation standards of mortality and rate of interest, the
12 minimum reserve required for such policy or contract shall be the
13 greater of either the reserve calculated according to the mortality
14 table, rate of interest, and method actually used for such policy or
15 contract, or the reserve calculated by the method actually used for
16 such policy or contract but using the minimum valuation standards
17 of mortality and rate of interest and replacing the valuation net
18 premium by the actual gross premium in each contract year for
19 which the valuation net premium exceeds the actual gross premium.
20 The minimum valuation standards of mortality and rate of interest
21 referred to in this section are those standards stated in Sections
22 10489.2, 10489.3, and 10489.4.

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

37 SEC. 16. Section 10489.93 of the Insurance Code is amended
38 to read:

39 10489.93. In the case of a plan of life insurance that provides
40 for future premium determination, the amounts of which are to be

1 determined by the insurance company based on then estimates of
2 future experience, or in the case of a plan of life insurance or
3 annuity that is of a nature that the minimum reserves cannot be
4 determined by the methods described in Sections 10489.5, 10489.6,
5 and 10489.9, the reserves that are held under the plan shall:

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

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

11 SEC. 17. Section 10489.94 of the Insurance Code is amended
12 to read:

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

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

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

29 SEC. 19. Section 10489.95 is added to the Insurance Code, to
30 read:

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

39 SEC. 20. Section 10489.96 is added to the Insurance Code, to
40 read:

1 10489.96. (a) For policies issued on or after the operative date
2 of the valuation manual, the standard prescribed in the valuation
3 manual is the minimum standard of valuation required under
4 subdivision (b) of Section 10489.12, except as provided under
5 subdivision (e) or (g).

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

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

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

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

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

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

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

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

38 (2) The commissioner has issued an order adopting the valuation
39 manual with the changes. The commissioner shall issue the order

1 only if he or she finds that the conditions set forth in paragraph
2 (1) have been satisfied.

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

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

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

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

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

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

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

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

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

26 (C) Procedures for corporate governance and oversight of the
27 actuarial function, and a process for appropriate waiver or
28 modification of those procedures.

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

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

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

38 (5) Other requirements, including, but not limited to, those
39 relating to reserve methods, models for measuring risk, generation
40 of economic scenarios, assumptions, margins, use of company

1 experience, risk measurement, disclosure, certifications, reports,
2 actuarial opinions and memorandums, transition rules, and internal
3 controls.

4 (6) The data and form of the data required under Section
5 10489.98, with whom the data is required to be submitted, and
6 may specify other requirements including data analyses and
7 reporting of analyses.

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

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

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

32 SEC. 21. Section 10489.97 is added to the Insurance Code, to
33 read:

34 10489.97. (a) A company shall establish reserves using a
35 principle-based valuation that meets the following conditions for
36 policies or contracts as specified in the valuation manual:

37 (1) Quantify the benefits, guarantees, and the funding associated
38 with the contracts and their risks at a level of conservatism that
39 reflects conditions that include unfavorable events that have a
40 reasonable probability of occurring during the lifetime of the

1 contracts. For policies or contracts with significant tail risk, reflects
2 conditions appropriately adverse to quantify the tail risk.

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

9 (3) Incorporate assumptions that are derived in one of the
10 following manners:

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

12 (B) For assumptions that are not prescribed, the assumptions
13 shall:

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

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

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

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

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

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

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

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

3 SEC. 22. Section 10489.98 is added to the Insurance Code, to
4 read:

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

8 SEC. 23. Section 10489.99 is added to the Insurance Code, to
9 read:

10 10489.99. (a) For purposes of this section, “confidential
11 information” shall mean:

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

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

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

1 (4) Any principle-based valuation report developed under
2 paragraph (3) of subdivision (b) of Section 10489.97 and any other
3 documents, materials, and other information, including, but not
4 limited to, all working papers, and copies thereof, created,
5 produced, or obtained by or disclosed to the commissioner or any
6 other person in connection with the report.

7 (5) All of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 reason of an action required by this article or by regulations
2 promulgated pursuant to this article.

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

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

13 SEC. 24. Section 10489.992 is added to the Insurance Code,
14 to read:

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

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

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

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

1 (3) At least 90 days before finalizing the annual aggregate
 2 assessment amount and assessment amount for the tiers listed in
 3 paragraph (4), the commissioner shall provide notice of the
 4 commissioner’s preliminary determination of those amounts. The
 5 notice shall explain how the commissioner derived the amounts
 6 and provide no less than 45 days for interested parties to provide
 7 comments.

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

22

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

31

32 (5) All examinations and analyses of reserves and
 33 principle-based valuation methodologies performed under Section
 34 730 may be at the expense of the company, organization, or person
 35 examined, pursuant to Section 736.

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

1 (1) The actuary shall not disclose to another party, other than
2 the department, and shall protect from unauthorized use, any
3 confidential information, as defined in Section 10489.99, obtained
4 in the course of his or her work for the commissioner, unless
5 authorized to do so by the commissioner or required by law.

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

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

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

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

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

21 (C) All present, or known prospective, clients or employers of
22 the actuary or consultant have expressly agreed to the performance
23 of the services by the actuary or consultant.

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

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

32 (e) The commissioner may develop and amend regulations to
33 implement or modify subdivisions (c) and (d). The initial adoption
34 of the regulations shall be deemed to be an emergency and
35 necessary in order to address a situation calling for immediate
36 action to avoid serious harm to the public peace, health, safety, or
37 general welfare. Any emergency regulation adopted or amended
38 by the commissioner pursuant to this section shall be adopted or
39 amended in accordance with Chapter 3.5 (commencing with

1 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
2 Code and shall remain in effect for 180 days.

3 SEC. 25. The Legislature finds and declares that this act, which
4 amends Section 10489.15 of the Insurance Code, imposes a
5 limitation on the public's right of access to the meetings of public
6 bodies or the writings of public officials and agencies within the
7 meaning of Section 3 of Article I of the California Constitution.
8 Pursuant to that constitutional provision, the Legislature makes
9 the following findings to demonstrate the interest protected by this
10 limitation and the need for protecting that interest:

11 In order to protect proprietary information, it is necessary to
12 enact legislation to ensure that information provided pursuant to
13 the Standard Valuation Law provided pursuant to this act is kept
14 confidential.

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

O