SENATE BILL NO. 213

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/5/18
Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

"An Act relating to insurance; relating to credit for reinsurance; insurance standard valuation; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 21.12.020 is repealed and reenacted to read:

(a) Credit for reinsurance transactions shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of (b), (c), (d), (e), (f), or (g) of this section, provided further, that the director may adopt by regulation, under (n)(2) of this section, specific additional requirements relating to, or setting forth, the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described under (n)(2) of this section, and the circumstances under which credit will be reduced or eliminated. Credit shall be allowed under (b), (c), or (d) of this section only with respect to cessions of a kind or class of business that the assuming insurer is licensed or permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under (d) or (e) of this section only if the applicable requirements in (h) of this section have been satisfied.

(b) Credit is allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

(c) Credit is allowed when the reinsurance is ceded to an assuming insurer that is accredited by the director as a reinsurer in this state. An accredited reinsurer is one that

(1) files with the director evidence of submission to this state's jurisdiction;

(2) submits to this state's authority to examine its books and records;

(3) is licensed to transact insurance or reinsurance in at least one state that is accredited by the National Association of Insurance Commissioners, or, in the case of a United States branch of an alien admitted insurer, be entered through and licensed to transact insurance or reinsurance in at least one state that is accredited by the National Association of Insurance Commissioners;

(4) files annually with the director a copy of its annual statement filed with the insurance supervisory official of its state of domicile and a copy of its most recent audited financial statement; and

(5) demonstrates to the satisfaction of the director that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers; an assuming insurer is deemed to meet the requirement at the time of application if the assuming insurer maintains at least $20,000,000 in policyholder surplus and whose accreditation has not been denied by the director within 90 days after application to the director.

(d) Credit is allowed when the reinsurance is ceded to an assuming insurer that is domiciled in a state, or, in the case of a United States branch of an alien assuming insurer, is entered through a state accredited by the National Association of Insurance Commissioners that employs standards regarding credit for reinsurance ceded substantially similar to those applicable under (b) and (c) of this section, the assuming insurer maintains a policyholder surplus of at least $20,000,000, and the assuming insurer submits to the authority of this state to examine its books and records. The surplus requirements in this subsection do not apply to reinsurance ceded and assumed under a pooling arrangement among insurers in the same holding company system.

(e) Credit is allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of the assuming insurer's United States domiciled ceding insurers, and their assigns and successors. The assuming insurer shall report annually to the director information substantially the same as that required to be reported on the National Association of Insurance Commissioners Annual Statement form by licensed insurers. The assuming insurer shall submit to examination of its books and records by the director and bear the expense of the examination. In addition,

(1) credit for reinsurance under this subsection shall be granted only if the following requirements are met:

(A) the trust and each amendment to the trust is established in a form approved by the insurance supervisory official of the state where the trust is domiciled or the insurance supervisory official of another state who, under the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust;

(B) the form of the trust and each trust amendment is filed with the insurance supervisory official of every state in which the beneficiaries of the trust are domiciled;

(C) the trust instrument provides that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States;

(D) the trust vests legal title to its assets in the trustees of the trust for its United States domiciled ceding insurers, their assigns, and successors in interest;

(E) the trust and the assuming insurer are subject to examination as determined by the director;

(F) the trust remains in effect for so long as the assuming insurer has outstanding liabilities due under the reinsurance agreements subject to the trust;

(G) on or before March 1 of each year, the trustees report in writing to the director on the balance of the trust and list the trust's investments at the end of the preceding year, and certify the date of termination of the trust, if so planned, or certify that the trust does not expire before the following December 31;

(2) in the case of a single assuming insurer, the trust shall consist of trust assets not less than the assuming insurer's liabilities attributable to reinsurance ceded by the United States domiciled ceding insurers and, in addition, unless excepted under (4) of this subsection, the assuming insurer shall maintain a trust surplus of not less than $20,000,000 for the benefit of the United States domiciled ceding insurers as additional security for the liabilities covered by the trust; the single assuming insurer shall make available to the director an annual certification of the insurer's solvency by an independent certified public accountant or an accountant holding a substantially equivalent designation as determined by the director;

(3) at any time after the assuming insurer permanently discontinues underwriting new business secured by a trust for not less than three years, the insurance supervisory official with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus if, based on an assessment of the risk, the insurance supervisory official finds that the new required surplus level is adequate for the protection of United States domiciled ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development; the risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and must consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency; the minimum required trusteed surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States domiciled ceding insurers covered by the trust;

(4) in the case of a group, including incorporated and individual

unincorporated insurers, the trust shall consist of

(A) for reinsurance ceded under the reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, a trusteed account in an amount not less than the respective insurers' several liabilities attributable to business ceded by United States domiciled ceding insurers to any insurer of the group;

(B) for reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this section, a trusteed account not less than the respective insurers' several insurance and reinsurance liabilities attributable to business written in the United States; and

(C) in addition to the applicable trust described in (A) or (B) of this paragraph, trust assets representing the group's liabilities attributable to business ceded by United States domiciled ceding insurers and, in addition, shall include a trust with a surplus not less than $100,000,000 held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account as additional security for the group's liabilities covered by the trust;

(5) the incorporated members of the group described in (4) of this subsection may not be engaged in any business other than underwriting as a member of the group and are subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall make available to the director an annual certification of the solvency of each insurer by the group's domiciliary regulator or, if the certification is unavailable, financial statements, prepared by an independent certified public accountant, or an accountant holding a substantially equivalent designation as determined by the director, for each underwriter member of the group;

(6) in the case of a group of incorporated insurers under common administration that has continuously transacted an insurance business outside the United States for at least three years immediately before making application for

accreditation and that has aggregate policyholders' surplus of $10,000,000,000 or more, the trust shall consist of trust assets in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to a member of the group under reinsurance contracts issued in the name of the group, and the group shall maintain a joint trustee surplus, of which $100,000,000 shall be held jointly for the benefit of United States domiciled ceding insurers of a member of the group as additional security for the group's liabilities covered by the trust, and, not later than 90 days after its financial statements are due to be filed with the group's domiciliary regulator, each member of the group shall make available to the director an annual certification of the underwriter member's solvency by the member's domiciliary regulator and financial statement of each underwriter member prepared by its independent certified public accountant, or an accountant holding a substantially equivalent designation as determined by the director.

(f) Credit is allowed when reinsurance is ceded to an assuming insurer that is certified by the director as a reinsurer in this state and secures its obligations in accordance with the following requirements:

(1) to be eligible for certification, an assuming insurer shall

(A) be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction;

(B) maintain minimum capital and surplus, or its equivalent, in an amount set out in regulations adopted by the director;

(C) maintain financial strength ratings from two or more rating agencies deemed acceptable under regulations adopted by the director;

(D) agree to submit to the jurisdiction of this state and agree to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States domiciled ceding insurers if the assuming insurer resists enforcement of a final United States judgment;

(E) agree to meet applicable information filing requirements as determined by the director, both with respect to an initial application for certification and on an ongoing basis; and

(F) satisfy other requirements for certification deemed relevant by the director;

(2) an association, including an incorporated underwriter and an individual unincorporated underwriter, may be a certified reinsurer; to be eligible for certification, in addition to satisfying the requirements under (1) of this subsection, an association shall

(A) satisfy the association's minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and the association's members, which must include a joint central fund that may be applied to any unsatisfied obligation of the association or a member of the association, in an amount determined by the director to provide adequate protection;

(B) not engage in any business other than underwriting as a member of the association and be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

(C) not later than 90 days after the association's financial statements are filed with the association's domiciliary regulator, provide to the director an annual certification by the association's domiciliary regulator of the solvency of each underwriter member, or, if a certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the association;

(3) the director shall create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in a qualifying jurisdiction is eligible to be considered for certification by the director as a certified reinsurer, and subject to the following:

(A) in order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the director shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially, and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States; a qualified jurisdiction shall agree to share information and cooperate with the director with respect to all certified reinsurers domiciled within that jurisdiction; the director shall not recognize a jurisdiction as a qualified jurisdiction if the director determines that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards; the director may consider additional factors when making an eligibility determination under this paragraph;

(B) the director shall consider the list of qualified jurisdictions published through the committee process of the National Association of Insurance Commissioners; if the director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the director shall provide a thoroughly documented justification in accordance with criteria set out in regulations adopted by the director;

(C) the director shall recognize a United States jurisdiction that meets the requirement for accreditation under the National Association of Insurance Commissioners financial standards and accreditation program as a qualified jurisdiction;

(D) the director, in lieu of revocation, may suspend a reinsurer's certification indefinitely if the certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction;

(4) the director shall assign a rating to each certified reinsurer giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable under regulations adopted by the director;

(5) a certified reinsurer shall secure obligations assumed from United States domiciled ceding insurers under this subsection at a level consistent with the reinsurer's rating, as specified under regulations adopted by the director and by the following:

(A) in order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the director and consistent with the provisions in (*l*) of this section, or in a multibeneficiary trust, in accordance with (e) of this section, except as otherwise provided in this subsection;

(B) if a certified reinsurer maintains a trust to fully secure the reinsurer's obligations subject to (e) of this section, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted under this subsection or comparable laws of other United States jurisdictions and for its obligations subject to (e) of this section; a certified reinsurer, as a condition to the grant of certification under (f) of this section shall bind itself, by the language of the trust and agreement with the insurance supervisory official with principal regulatory oversight of each trust account, to fund, upon termination of any trust account, out of the remaining surplus of the trust any deficiency of any other trust account;

(C) the minimum trusteed surplus requirements under (e) of this section are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection, except that the multibeneficiary trust shall maintain a minimum trusteed surplus of $10,000,000;

(D) if the obligations incurred by a certified reinsurer under this subsection are insufficiently secured, the director shall reduce the allowable credit by an amount proportionate to the deficiency and may impose further reductions in allowable credit if the director finds there is a material risk that the certified reinsurer's obligations will not be paid in full when due;

(E) for purposes of this subparagraph, a certified reinsurer whose certification is terminated for any reason shall be treated as a certified reinsurer required to secure 100 percent of the reinsurer's obligations, provided, however, that if the director continues to assign a higher rating as permitted under other provisions of this section, the requirement to secure 100 percent of the reinsurer's obligations shall not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended; in this subparagraph, "terminated" means revocation, suspension, voluntary surrender, or inactive status;

(6) if an applicant for certification is certified as a reinsurer in a jurisdiction accredited by the National Association of Insurance Commissioners, the director may defer to that jurisdiction's certification and to the rating assigned to the applicant by the jurisdiction; the assuming insurer shall be considered to be a certified reinsurer in this state;

(7) a certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business; an inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the director shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(g) Credit is allowed when reinsurance is ceded to an assuming insurer that does not meet the requirements of (b), (c), (d), (e), or (f) of this section, but only to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

(h) If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this state, the credit permitted by (d) and (e) of this section is not allowed unless the assuming insurer agrees in the reinsurance agreements

(1) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of a court of competent jurisdiction in a state of the United States, will comply with all requirements necessary to give the court jurisdiction and will abide by the final decision of the court or of an appellate court in the event of an appeal; and

(2) to designate the director or an attorney resident in the United States as its true and lawful attorney upon whom may be served lawful process in an action, suit, or proceeding instituted by or on behalf of the ceding insurer; nothing in this

subsection shall be construed to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(i) If the assuming insurer does not meet the requirements of (b), (c), or (d) of this section, the credit permitted under (e) or (f) of this section is not allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(1) notwithstanding any other provision in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required under (e)(2) - (5) of this section, or if the grantor of the trust is declared insolvent or is placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of the state or country of domicile, the trustee shall comply with an order of the insurance supervisory official with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the insurance supervisory official with regulatory oversight all of the assets of the trust fund;

(2) the assets shall be distributed by, and all claims shall be filed with and valued by, the insurance supervisory official with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of a domestic insurer;

(3) if the insurance supervisory official regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States domestic ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the insurance supervisory official with regulatory oversight to the trustee for distribution in accordance with the trust agreement;

(4) the grantor shall waive any right otherwise available to it under United States law that is inconsistent with this subsection.

(j) The director, under the following procedures, may suspend or revoke a reinsurer's accreditation or certification if the accredited or certified reinsurer ceases to meet the requirements for accreditation or certification:

(1) the director shall give the reinsurer notice and opportunity for a hearing under AS 21.06.170 - 21.06.230; the suspension or revocation may not take

effect until after the director's order on the hearing unless

(A) the reinsurer waives its right to a hearing;

(B) the director's order is based on a regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under (f)(6) of this section; or

(C) the director finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the director's action;

(2) while a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed by the reinsurer after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with (*l*) of this section; if a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with (f)(5) or (*l*) of this section.

(k) A ceding insurer shall take steps to

(1) manage its reinsurance recoverables proportionate to its own book of business; a domestic ceding insurer shall notify the director not later than 30 days after the reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds 50 percent of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit; the notification must demonstrate that the exposure is safely managed by the domestic ceding insurer; and

(2) diversify its reinsurance program; a domestic ceding insurer shall notify the director not later than 30 days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20 percent of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit; the notification must demonstrate that the

exposure is safely managed by the domestic ceding insurer.

(*l*) An asset or a reduction from liability, for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of (a) - (k) of this section, shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. In addition, the director may adopt by regulation under (n)(2) of this section specific additional requirements relating to the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described in (n)(2) of this section, and the circumstances under which credit will be reduced or eliminated. The reduction shall be equal to the amount of money held by or on behalf of the ceding insurer, including money held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations under it, if the security is held in the United States subject to withdrawal solely by and under the exclusive control of the ceding insurer or, in the case of a trust, held in a qualified United States financial institution. The security must be in the form of

(1) cash;

(2) securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the purposes and procedures manual of the Securities Valuation Office, and that qualify as admitted assets under AS 21.21;

(3) clean, irrevocable, unconditional letters of credit that contain an evergreen clause issued or confirmed by a qualified United States financial institution not later than December 31 in the year for which filing is made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of the ceding insurer's annual statement;

(4) letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever occurs first; or

(5) other security acceptable to and approved in advance by the

director.

(m) In this section, "qualified United States financial institution" means an institution that,

(1) for the purposes of (*l*)(3) of this section,

(A) is organized or, in the case of a United States office of a foreign banking organization, is licensed under the laws of the United States or a state of the United States;

(B) is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(C) has been determined by either the director or the Securities Valuation Office of the National Association of Insurance Commissioners to meet the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit are acceptable to the director;

(2) for the purposes of the provisions of this section, other than (*l*)(3) of this section, an institution that

(A) is organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or a state of the United States, and has been granted authority to operate with fiduciary powers; and

(B) is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies.

(n) The director may adopt regulations

(1) to implement this section; and

(2) relating to reinsurance arrangements as follows:

(A) a regulation adopted under this paragraph may apply only to reinsurance relating to

(i) a life insurance policy with guaranteed nonlevel gross benefits;

(ii) a universal life insurance policy with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guaranteed period;

(iii) a variable annuity with guaranteed death or living benefits;

(iv) a long-term care insurance policy; or

(v) other life insurance, health insurance, and annuity products of which the National Association of Insurance Commissioners adopts model regulatory requirements with respect to credit for reinsurance;

(B) a regulation adopted under (A)(i) or (ii) of this paragraph applies to a treaty containing a policy issued

(i) on or after January 1, 2015; and

(ii) before January 1, 2015, if the risk pertaining to the policy is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015; in this subparagraph, "treaty" means a contract in which a reinsurance company agrees to accept and an insurance company agrees to cede, all of a particular type of risk within a specific class of insurance policies;

(C) the director may adopt a regulation under this paragraph to require a ceding insurer, in calculating the amounts or forms of security required to be held under regulations adopted under the authority of this paragraph, to use the edition of the valuation manual adopted by the National Association of Insurance Commissioners in effect on the date of which the calculation is made, to the extent applicable;

(D) a regulation adopted under this paragraph is not applicable to cessions to an assuming insurer that is certified in this state or meets the following criteria:

(i) maintains at least $250,000,000 in capital and surplus when determined in accordance with the most recent edition of the National Association of Insurance Commissioner's Accounting

Practices and Procedures Manual, including the impact of any permitted or prescribed practices; and

(ii) is licensed in not less than 26 states, or licensed in not less than 10 states and licensed or accredited in a total of not less than 35 states;

(E) nothing in this paragraph limits the director's authority to adopt regulations under (1) of this subsection.

* **Sec. 2.** AS 21.18.110(a) is amended to read:

(a) The director shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies**,** [AND] annuity and pure endowment contracts**, and deposit-type contracts** of every life insurer doing business in this state **issued before the operative date of the valuation manual described in AS 21.18.112** [, AND MAY CERTIFY THE AMOUNT OF THE RESERVES, SPECIFYING THE MORTALITY TABLE OR TABLES, RATE OR RATES OF INTEREST, AND METHODS (NET LEVEL PREMIUM METHOD OR OTHER) USED IN THE CALCULATION OF THE RESERVES]. In calculating the reserves **for policies and contracts issued before the operative date of the valuation manual described in AS 21.18.112**, the director may use group methods and approximate averages for fractions of a year or otherwise. For an alien insurer, the valuation shall be limited to **the alien insurer's** [ITS] insurance transactions in the United States. For the purpose of making the valuation the director may employ a **qualified** [COMPETENT] actuary who shall be paid by the insurer for which the service is rendered. For a foreign or alien insurer, the director may accept, in lieu of the valuation of the reserves required of a foreign or alien insurer, a valuation made, or caused to be made, by the insurance supervisory official of a state or other jurisdiction if the valuation complies with the minimum standard provided in this section**. The provisions in this section provide for the minimum standard for the valuation of reserves for policies and contracts subject to this section and are applicable to a policy and contract issued before the operative date of the valuation manual described in AS 21.18.112** [AND IF THE OFFICIAL OF THE STATE OR JURISDICTION ACCEPTS AS SUFFICIENT AND VALID FOR ALL

LEGAL PURPOSES THE CERTIFICATE OF VALUATION OF THE DIRECTOR WHEN THE CERTIFICATE STATES THE VALUATION WAS MADE IN A SPECIFIED MANNER IN WHICH THE AGGREGATE RESERVES WOULD BE AT LEAST AS LARGE AS IF THEY HAD BEEN COMPUTED IN THE MANNER PRESCRIBED BY THE LAW OF THAT STATE OR JURISDICTION]. An insurer that **<u>has</u>** [AT ANY TIME] adopted a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in this section may, with the approval of the director, adopt a lower standard of valuation, but not lower than the minimum provided in this section.

*** Sec. 3.** AS 21.18.110(b) is amended to read:

(b) This subsection applies to only those policies and contracts issued on or after the operative date of AS 21.45.300 except as [OTHERWISE] provided in **<u>(c) - (k)</u>** [(c)] of this section**<u>,</u>** [AND] (5) **<u>and (6)</u>** of this subsection for group annuity and pure endowment contracts issued before that operative date**<u>, and AS 21.18.112(b)</u>**:

(1) Except as [OTHERWISE] provided in **<u>(c) - (k)</u>** [(c)] of this section**<u>,</u>** [AND] (5) **<u>and (6)</u>** of this subsection, **<u>and AS 21.18.112(b),</u>** the minimum standard for the valuation of all these policies and contracts shall be the commissioner's reserve evaluation methods defined in **<u>(2)(A) and (B)</u>** [(2)], (4)**<u>,</u>** and (7) of this subsection**<u>, and AS 21.18.112(b)</u>**, three and one-half percent interest, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1978, five and one-half percent interest for single premium life insurance policies and four and one-half percent interest for all other policies, and the following tables:

(A) for all ordinary policies of life insurance issued on the standard basis, excluding disability and accidental death benefits in the policies - the Commissioner's 1958 Standard Ordinary Mortality Table, for policies issued before the operative date of AS 21.45.300(w), of the Standard Nonforfeiture Law for Life Insurance as amended, except that for a category of policies issued on female risks, all modified net premiums and present values, referred to in (2) of this subsection may be calculated according to an age not more than six years younger than the actual age of the insured; and for policies issued on or after the operative date of AS 21.45.300(w) of the Standard

Nonforfeiture Law for Life Insurance as amended

(i) the Commissioner's 1980 Standard Ordinary Mortality Table, or

(ii) at the election of the insurer for any one or more specified plans of life insurance, the Commissioner's 1980 Standard Ordinary Mortality Table with 10-year Select Mortality Factors, or

(iii) any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for the policies;

(B) for all industrial life insurance policies issued on the standard basis, excluding disability and accidental death benefits in the policies - the 1941 Standard Industrial Mortality Table for the policies issued before the operative date of AS 21.45.300(*l*), of the Standard Nonforfeiture Law for Life Insurance as amended, and for the policies issued on or after April 7, 1984, the Commissioner's 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies;

(C) for individual annuity and pure endowment contracts, excluding disability and accidental death benefits in the policies - the 1937 Standard Annuity Mortality Table, or, at the option of the insurer, the Annuity Mortality Table for 1949, ultimate, or any modification of either of these tables approved by the director;

(D) for group annuity and pure endowment contracts, excluding disability and accidental death benefits in the policies - the Group Annuity Mortality Table for 1951, any modification of the table approved by the director, or, at the option of the insurer, any of the tables or modification of tables specified for individual annuity and pure endowment contracts;

(E) for total and permanent disability benefits in or supplementary to ordinary policies or contracts - the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit or any table of disablement and termination rates adopted after 1980 by the National Association of Insurance Commissioners that are approved by regulation adopted by the director for use in determining the minimum standard of valuation for the policies; the table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies;

(F) for accidental death benefits in or supplementary to policies - the 1959 Accidental Death Benefits Table or any accidental death benefits table adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation adopted by the director for use in determining the minimum standard of valuation for the policies combined with a mortality table permitted for calculating the reserves for life insurance policies;

(G) for group life insurance, life insurance issued on the substandard basis and other special benefits - tables approved by the director.

(2) Except as otherwise provided in (4) and (7) of this subsection, reserves according to the commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided for by the policies, over the then present value of any future modified net premiums; the modified net premiums for the policy shall be the uniform percentage of the respective contract premiums for the benefits that the present value, at the date of issue of the policy, of all the modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the policy and the excess of (A) over (B), as follows:

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

(B) a net one-year term premium for the benefits provided for in the first policy year; notwithstanding this paragraph, for a life insurance policy issued on or after January 1, 1987 for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess premium and that provides an endowment benefit or a cash surrender value or a combination of these in an amount greater than the excess premium, the reserve according to the commissioner's reserve valuation method as of a policy anniversary occurring on or before the assumed ending date, except as otherwise provided in (4) of this subsection, shall be the greater of the reserve as of the policy anniversary calculated as described in (2)(A) of this subsection and the reserve as of the policy anniversary; the reserve shall be calculated as described in (2)(A) of this subsection, except

(i) the present value shall be reduced by 15 percent of the amount of the excess first year premium,

(ii) all present values of benefits and premiums shall be determined without reference to premiums or benefits provided for by the policy after the assumed ending date,

(iii) the policy shall be assumed to mature on the assumed ending date as an endowment, and

(iv) the cash surrender value provided on the assumed date shall be considered as an endowment benefit; in making the comparison in this subparagraph the mortality and interest bases stated in paragraphs (4) and (6) of this subsection and subsection (c) shall be used; in this subparagraph the assumed ending date is the first policy anniversary on which the sum of the endowment benefit and cash surrender value then available is greater than the excess premium;

(C) reserves according to the commissioner's reserve valuation method for

(i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums,

(ii) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under 26 U.S.C. 408 (Internal Revenue Code), as amended,

(iii) disability and accidental death benefits in all policies and contracts,

(iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of (2) of this subsection, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums;

(3) Reserves for any category of policies, contracts or benefits as established by the director, may be calculated at the option of the insurer according to standards which produce greater aggregate reserves for the category than those calculated according to the minimum standard provided in this section, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, may not be higher than the corresponding rate or rates of interest used in calculating nonforfeiture benefits provided for in the policy or contract.

(4) If in any contract year the gross premium charged by a life insurer on a policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve on the policy or contract but using the minimum valuation standards of mortality and rate of interest, the minimum

reserve required for that policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract, or the reserve calculated by the method actually used for the policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. In this paragraph, the minimum valuation standards of mortality and rate of interest are those standards referred to in (b) and (c) of this section. Notwithstanding this paragraph, for a life insurance policy issued on or after January 1, 1987, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess premium and that provides an endowment benefit or a cash surrender value or a combination of these in an amount greater than the excess premium, the provisions of this paragraph shall be applied as if the method used in calculating the reserve for such a policy were based on a net one-year term premium for the benefits provided for in the first policy year. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated under (2)(B) of this subsection, and the minimum reserve calculated under this paragraph.

(5) Except as provided in **<u>(c) - (k) of this section</u>** [(C) OF THIS PARAGRAPH], the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph as set out in (6) of this subsection and for all annuities and pure endowments purchased on or after that date under group annuity and pure endowment contracts, shall be the commissioner's reserve valuation methods defined in (2) and (7) of this subsection and the following tables and interest rates:

(A) for individual single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts - the 1971 individual annuity mortality table or an individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation adopted by the director for use in determining the minimum standard of valuation for the contracts, or any modification of these tables approved by the director and seven and one-half percent interest;

(B) for individual annuity and pure endowment contracts, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts - the 1971 individual annuity mortality table or an individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation adopted by the director for use in determining the minimum standard of valuation for the contracts, or any modification of these tables approved by the director and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other such individual annuity and pure endowment contracts;

(C) for all annuities and pure endowments purchased under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts - 1971 group annuity mortality table or a group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation adopted by the director for use in determining the minimum standard of valuation for the annuities and pure endowments, or any modification of these tables approved by the director, and seven and one-half percent interest.

(6) After July 1, 1978, an insurer may file with the director a written notice of its election to comply with the provisions of (5) of this subsection after a specified date before January 1, 1979, which shall be the operative date of that requirement for the insurer; however, an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no election, the operative date of (5) of this subsection for the insurer is January 1, 1979.

(7) This paragraph applies to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement

plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement annuities under 26 U.S.C. 408 (Internal Revenue Code), as amended. Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in those contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by those contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable before the end of that respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of those contracts to determine nonforfeiture values.

* **Sec. 4.** AS 21.18.110(f) is amended to read:

(f) The weighting factors referred to in (c) of this section are as follows:

(1) Weighting factors for Life Insurance:

Guarantee Duration: Years	Weighting Factors
10 or less	.50
more than 10, but not more than 20;	.45
more than 20;	.35

for life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guarantee in the policy or under an option to convert to a plan of life insurance with a premium rate or nonforfeiture value or both which are guaranteed in the original policy;

(2) notwithstanding (3) of this subsection the weighting factor for a single premium immediate annuity and for an annuity benefit involving **a** [IN] life

contingency arising from another annuity with a cash settlement option and a guaranteed interest contract with a cash settlement option - .80;

(3) 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

(4) for annuities and guaranteed interest contracts valued on a change in fund basis, the weighting factors shown in (3) of this subsection are increased by .15 for plan type A, .25 for plan type B, and .05 for plan type C;

(5) for annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the weighting factors shown in (3) of this subsection or derived in of this subsection are increased by .05.

* **Sec. 5.** AS 21.18.110(j) is amended to read:

(j) The reference interest rates referred to in **<u>(d) and (e)</u>** [(c)] of this section are as follows:

(1) for life insurance, the lesser of the average interest rate for a period of 36 months and the average interest rate for a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's

Investors Service, Inc.;

(2) for a single premium immediate annuity and for an annuity benefit involving a life contingency arising from another annuity with a cash settlement option and a guaranteed interest contract with a cash settlement option, the average interest rate for a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(3) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as provided in (2) of this subsection, with a guarantee duration in excess of 10 years, the lesser of the average interest rate for a period of 36 months and the average interest rate for a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(4) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as provided in (2) of this subsection, with a guarantee duration of 10 years or less, the average interest rate for a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(5) for other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average interest rate for a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(6) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as provided in (2) of this subsection, the average interest rate for a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.

* **Sec. 6.** AS 21.18.110(q) us amended to read:

(q) A qualified actuary who submits an opinion under (m) of this section

(1) is not liable for damages to a person, other than the **insurer** [INSURANCE COMPANY] and the director, for an act, error, omission, decision, or conduct with respect to the actuary's opinion except in a case of fraud or wilful misconduct;

(2) is subject to disciplinary action by the director; and

(3) shall prepare a memorandum, in form and substance acceptable to the director, to support the actuarial opinion.

* **Sec. 7.** AS 21.18.110(s) is amended to read:

(s) A memorandum in support of an actuarial opinion and other supporting material provided by an insurer to the director is confidential and may not be made public by the director or another person and is not subject to a civil subpoena, except for the purpose of defending an action seeking damages from a person by reason of an action required by this section. The memorandum or other material may be released by the director with the written consent of the insurer or to the American Academy of Actuaries upon a request stating that the memorandum or other material is required for the purpose of a disciplinary proceeding and setting out procedures satisfactory to the director for preserving the confidentiality of the memorandum or other material. Once a portion of the memorandum or other material is cited by the insurer in its marketing, is cited before a governmental agency other than a state insurance department, or is released by the **insurer** [COMPANY] to the news media, the remainder of the confidential memorandum or other material is no longer confidential.

* **Sec. 8.** AS 21.18.110(t) is amended to read:

(t) An insurer's aggregate reserves for

(1) all life insurance policies, excluding disability and accidental death benefits, issued on or after July 1, 1992, may not be less than the aggregate reserves calculated under (b)(2), (4), (7), and (*l*) of this section, and the mortality table and rates of interest used in calculating nonforfeiture benefits for the policies; and

(2) all policies, contracts, and benefits may not be less than the aggregate reserves determined by **an appointed** [A QUALIFIED] actuary to be

necessary to render the opinion required under (m) of this section.

*** Sec. 9.** AS 21.18.110 is amended by adding a new subsection to read:

(v) In this section unless the context requires otherwise, the term "insurer" means an entity that

(1) has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and has at least one of those policies in force or claim; or

(2) has written, issued, or reinsured life insurance contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this state.

*** Sec. 10.** AS 21.18 is amended by adding a new section to read:

Sec. 21.18.112. Standard valuation for policies and contracts issued on or after the operative date of the valuation manual. (a) The director shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every insurer issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien insurer, the director may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this section.

(b) For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard described in the valuation manual is the minimum standard of valuation required under (a) of this section. For accident and health insurance contracts issued before the operative date of the valuation manual, the minimum standard of valuation is the standard required under AS 21.18.080 - 21.18.086.

(c) Every insurer with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in the state and subject to regulation by the director shall annually submit to the director an opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of a policy or contract are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with the applicable laws of the state. The valuation manual must prescribe the specifics of this opinion, including any items deemed to be necessary to its scope, as follows:

(1) the actuarial opinion must

(A) be in form and substance as specified in the valuation manual and acceptable to the director;

(B) be submitted with the annual statement reflecting the valuation of the reserve liabilities on or after the operative date of the valuation manual;

(C) apply to policies and contracts subject to this section, plus other actuarial liabilities specified in the valuation manual;

(D) be based on standards adopted by the Actuarial Standards Board or its successor and on additional standards prescribed in the valuation manual; and

(E) include, unless exempted in the valuation manual, an assessment of whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by an insurer with respect to the reserves and related actuarial items, including investment earnings on the assets and considerations anticipated to be received and retained under policies and contracts, adequately provide for an insurer's obligations under policies or contracts, including the benefits under and expenses associated with the policies or contracts;

(2) in the case of an actuarial opinion submitted by a foreign or alien insurer, the director may accept an opinion filed by the insurer with the insurance supervisory official of another state that is accredited by the National Association of Insurance Commissioners if the director determines that the opinion meets the requirements applicable to an insurer domiciled in the state;

(3) an appointed actuary who submits an opinion under this subsection

(A) is not liable for damages to a person, other than the insurer and the director, for an act, an error, an omission, a decision, or conduct with respect to the appointed actuary's opinion, except in the case of fraud or wilful misconduct;

(B) is subject to disciplinary action by the director against the appointed actuary or the insurer; and

(C) shall prepare a memorandum, in form and substance acceptable to the director, to support the actuarial opinion;

(4) if an insurer fails to provide a supporting memorandum as requested by the director within a period specified in the valuation manual or the director determines that the supporting memorandum fails to meet the standards adopted by the valuation manual or is otherwise unacceptable to the director, the director may engage a qualified actuary, at the expense of the insurer, to review the opinion and the basis for the opinion and to prepare a supporting memorandum as required under (c)(3)(C) of this subsection.

(d) Except as provided under (4) or (6) of this subsection, for policies and contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under (a) of this section, as follows:

(1) the operative date of the valuation manual is January 1 following the effective date of this section;

(2) unless a change in the valuation manual specifies a later effective date, changes to the valuation manual are effective on January 1 following the date when the change to the valuation manual has been adopted by the National Association of Insurance Commissioners by an affirmative vote representing

(A) at least three-fourths of the members of the National Association of Insurance Commissioners voting, but not less than a majority of the total membership; and

(B) members of the National Association of Insurance Commissioners representing jurisdictions totaling greater than 75 percent of the direct premiums written as reported in the following annual statements most recently available before the vote in this paragraph: life, accident and health annual statements, health annual statements, or fraternal annual statements;

(3) the valuation manual must specify all of the following:

(A) minimum valuation standards for and definitions of the policies or contracts subject to (a) of this section; the minimum valuation standards shall be

(i) the commissioner's reserve valuation method for life insurance policies and contracts, other than annuity contracts, subject to (a) of this section;

(ii) the commissioner's annuity reserve valuation method for annuity contracts subject to this section; and

(iii) minimum reserves for all other policies or contracts subject to this section;

(B) which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in (e) of this section and the minimum valuation standards consistent with those requirements;

(C) for policies and contracts subject to a principle-based valuation under (e) of this section:

(i) requirements for the format of reports to the director under (e)(5)(C) of this section that include information necessary to determine whether the valuation is appropriate and in compliance with this section;

(ii) assumptions for risks over which the insurer does not have significant control or influence;

(iii) procedures for corporate governance and oversight of the actuarial function and a process for appropriate waiver or modification of the procedures;

(D) for policies and contracts not subject to a principle-based valuation under (e) of this section, the minimum valuation standard shall

(i) be consistent with the minimum standard of valuation in AS 21.18.110; or

(ii) develop reserves, if there is no applicable minimum standard in AS 21.18.110, that quantify the benefits, guarantees, and funding associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring;

(E) other requirements, including those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of insurer experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules and internal controls; and

(F) the data and form of the data required under (f) of this section, directions for submitting the data, and other requirements, including data analyses and reporting of analyses;

(4) in the absence of a specific valuation requirement or if the director determines that a specific valuation requirement in the valuation manual is not in compliance with this section, the insurer shall, with respect to those requirements, comply with minimum valuation standards in AS 21.18.110;

(5) the director may engage a qualified actuary, at the expense of the insurer, to perform an actuarial examination of the insurer, to determine the appropriateness of a reserve assumption or method used by the insurer, or to review and determine an insurer's compliance with a requirement of this section; the director may rely on the opinion of a qualified actuary engaged by the director of another state, district, or territory of the United States regarding provisions contained in this section; in this paragraph, "engage" includes employ and contract;

(6) the director may require an insurer to change an assumption or method if the director determines the change is necessary to comply with the requirements of the valuation manual or this section, and the insurer shall adjust the reserves as required by the director.

(e) An insurer shall establish reserves using a principle based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:

(1) quantify the benefits, guarantees, and funding associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts and for policies or contracts with significant tail risk, that reflect conditions appropriately adverse to quantify the tail risk;

(2) incorporate assumptions, risk analysis methods, and financial models and management techniques that are consistent with, but not necessarily identical to, those used in the insurer's overall risk assessment process while recognizing potential differences in financial reporting structures and prescribed assumptions or methods;

(3) incorporate assumptions that are derived in one of the following manners:

(A) the assumptions are prescribed in the valuation manual;

(B) for assumptions that are not prescribed, the assumptions shall be established using the insurer's available experience, to the extent it is relevant and statistically credible; to the extent that data is not available, relevant, or statistically credible, the assumptions shall be established using other relevant or statistically credible experience;

(4) provide margins for uncertainty, including adverse deviation and estimation error, so that the greater the uncertainty the larger the margin and resulting reserve;

(5) for an insurer using a principle-based valuation for one or more policies or contracts subject to this subsection as specified in the valuation manual,

(A) establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual;

(B) provide to the director and the board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation; the controls shall be designed to ensure that all material risks inherent in the liabilities and associated assets subject to the valuation are included in the valuation and that valuations are made in accordance with the valuation manual; the certification shall be based on the controls in place as of the end of the preceding calendar year;

(C) develop and file with the director upon request a principle-based valuation report that complies with standards prescribed in the valuation manual;

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

(f) An insurer shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

(g) In this section,

(1) except as provided in this subsection, an insurer's confidential information is not a public record under AS 40.25.100 - 40.25.295, except that, the director may use the confidential information in any regulatory or legal action brought against the insurer as a part of the director's official duties;

(2) the director or another person who received confidential information while acting under the authority of the director is not permitted or required to testify in any private civil action concerning the confidential information;

(3) in order to assist in the performance of the director's duties, the director may share confidential information

(A) with other state, federal, and international regulatory agencies and with the National Association of Insurance Commissioners and its affiliates and subsidiaries; and

(B) in the case of confidential information specified in (i)(1)(A) and (4) of this section, with the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials;

(C) under (A) and (B) of this paragraph only if the recipient agrees and has the legal authority to agree to maintain the confidentiality and privileged status of the documents, materials, data, and other information in the same manner and to the same extent required for the director;

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

(5) the director may enter into agreements governing the sharing and use of information consistent with this section;

(6) a disclosure to the director under this section or sharing confidential information as authorized in (3) of this subsection does not constitute a waiver of a claim of confidentiality.

(h) Notwithstanding (g) of this section, confidential information specified in (i)(1)(A) and (D) of this section

(1) may be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under (c) of this section or principle-based valuation report developed under (e)(5)(C) of this section because of an action required by this section or by regulations adopted under this section;

(2) may otherwise be released by the director with the written consent of the insurer; and

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

(i) In this section,

(1) "confidential information" means

(A) a memorandum in support of an opinion submitted under (c) of this section and documents, materials, and other information, including working papers and copies of them, created, produced, or obtained by or disclosed to the director or another person in connection with the memorandum;

(B) documents, materials, and other information, including working papers and copies of them, created, produced, or obtained by or disclosed to the director or another person in the course of an examination made under (d)(5) of this section; however, if an examination report or other material prepared in connection with an examination made under AS 21.06.120 - 21.06.150 is not held as private and confidential information under AS 21.06.120 - 21.06.150, an examination report or other material prepared in connection with an examination made under (d)(5) of this section is not confidential information to the same extent as if the examination report or other material had been prepared under AS 21.06.120 - 21.06.150;

(C) reports, documents, materials, and other information developed by an insurer in support of or in connection with an annual certification by the insurer under (e)(5)(B) of this section evaluating the effectiveness of the insurer's internal controls with respect to a principle-based valuation and other documents, materials, and other information, including working papers and copies of them, created, produced, or obtained by or disclosed to the director or another person in connection with the reports, documents, materials, and other information;

(D) a principle-based valuation report developed under (e)(5)(C) of this section and other documents, materials, and other information, including working papers and copies of them, created, produced, or obtained by or disclosed to the director or another person in connection with the report; and

(E) documents, materials, data, and other information submitted by an insurer under (f) of this section, known as experience data and experience material, other documents, materials, data, and other information, including working papers and copies of them, created or produced in connection with the experience data, or documents, materials, data, or other information that includes any potentially insurer-identifying or personally identifiable information that is provided to or obtained by the director together with experience data, experience materials, and other documents, materials, data, and other information, including working papers and copies of them, created, produced, or obtained by or disclosed to the director or another person in connection with the experience materials;

(2) "National Association of Insurance Commissioners," "law enforcement agency," and "regulatory agency," include an employee, agent, consultant, contractor of the regulatory agency, law enforcement agency, or National Association of Insurance Commissioners.

*** Sec. 11.** AS 21.18.900 is amended by adding new paragraphs to read:

(8) "accident and health insurance" means a contract that incorporates morbidity risk and provides protection against economic loss resulting from accident, sickness, or a medical condition or a contract as may be specified in the valuation manual;

(9) "appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in AS 21.18.112;

(10) "deposit-type contract" means a contract that does not incorporate mortality or morbidity risks or a contract specified in the valuation manual;

(11) "insurer" means an entity that has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in

(A) this state and has at least one of those policies in force or on claim; or

(B) another state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit type contracts in this state;

(12) "life insurance" means contracts that incorporate mortality risk, including an annuity and pure endowment contract, or a contract specified in the valuation manual;

(13) "policyholder behavior" means an action of a policyholder, contract holder, or another person with the right to elect options;

(14) "principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer under AS 21.18.112(e), as specified in the valuation manual;

(15) "qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the qualification standards of the American Academy of Actuaries and who meets the requirements specified in the valuation manual;

(16) "tail risk" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or when there are observed events of very significant size or magnitude;

(17) "valuation manual" means the manual of valuation instructions adopted by the National Association of Insurance Commissioners as specified in AS 21.18.112(d)(1)(A).

* **Sec. 12.** AS 21.45.300(a) is amended to read:

(a) This section shall be known as the standard nonforfeiture law for life insurance. **<u>For purposes of this section, "operative date of the valuation manual" means January 1 of the first calendar year that the valuation manual as defined in AS 21.18.112 is effective.</u>**

* **Sec. 13.** AS 21.45.300(t) is amended to read:

(t) The adjusted premiums and present values for a policy of ordinary insurance referred to in this section shall be calculated on the basis of the Commissioner's 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors. The adjusted premiums and present values for a policy of industrial insurance shall be calculated on the basis of the Commissioner's 1961 Standard Industrial Mortality

Table. The adjusted premiums and present values for a policy issued in a particular calendar year shall be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection for policies issued in that calendar year. **However,** [PROVIDED, HOWEVER, THAT]

(1) at the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year;

(2) under a paid-up nonforfeiture benefit, including a paid-up dividend addition, a cash surrender value available, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of the paid-up nonforfeiture benefit and paid-up dividend additions, if any;

(3) an insurer may calculate the amount of a guaranteed paid-up nonforfeiture benefit including any paid-up addition under the policy on the basis of an interest rate **not** [NO] less than that specified in the policy for calculating cash surrender values;

(4) in calculating the present value of paid-up term insurance with accompanying pure endowment, if any, offered as nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioner's Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioner's 1961 Industrial Extended Term Insurance Table for policies of industrial insurance;

(5) for insurance issued on a substandard basis, the calculations of adjusted premiums and present values may be based on appropriate modifications mentioned above;

(6) **for policies issued before the operative date of the valuation manual, a Commissioner's Standard Ordinary Mortality Table** [AN ORDINARY MORTALITY TABLE], adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation adopted by the director for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year

Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table; **for policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioner's Standard Ordinary Mortality Table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without the Ten-Year Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table; if the director approves by regulation a Commissioner's Standard Ordinary Mortality Table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, that minimum nonforfeiture standard supersedes the minimum nonforfeiture provided by the valuation manual;**

(7) **for policies issued prior to the operative date of the valuation manual, a Commissioner's Standard Industrial Mortality Table** [AN INDUSTRIAL MORTALITY TABLE], adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation adopted by the director for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's 1961 Industrial Extended Term Insurance Table**; for policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioner's Standard Ordinary Mortality Table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's 1961 Extended Term Insurance Table; if the director approves by regulation a Commissioner's Standard Industrial Mortality Table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, that minimum nonforfeiture standard supersedes the minimum nonforfeiture provided by the valuation manual; this** [. THIS] subsection applies to all policies issued after the operative date of (w) of this section.

* **Sec. 14.** AS 21.45.300(u) is amended to read:

(u) The nonforfeiture interest rate **for policies issued before the operative date of the valuation manual, the nonforfeiture interest rate** a year for a policy issued in a particular calendar year shall be equal to 125 percent of the calendar year statutory valuation interest rate for the policy as defined in the Standard Valuation Law, rounded to the nearer one quarter of one percent**, if the nonforfeiture interest rate is not less than four percent; for policies issued on or after the operative date of the valuation manual, the nonforfeiture interest rate a year for a policy issued in a particular calendar year is provided by the valuation manual**. This subsection applies to all policies issued after the operative date of (w) of this section.

* **Sec. 15.** AS 21.45.300 is amended by adding a new subsection to read:

(dd) In this section, "operative date of the valuation manual" means the January 1 of the first calendar year that the valuation manual described in AS 21.18.112 is effective.

* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The director of the division of insurance may adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

* **Sec. 17.** This Act takes effect immediately under AS 01.10.070(c).