

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 26, 1981

An executive meeting was called to order at 10 a.m. in room 404 of the Capitol Building on Thursday, March 26 by Chairman Hazelbaker. All members were present.

CONSIDERATION OF HOUSE BILL NO. 780:

The committee discussed the merits of the bill and the possibilities for amendment. It was felt that too much work needed to be done on it and that it was too late to give it the thoroughness it would need.

SENATOR DOVER moved to table. The motion carried with the vote unanimous.

CONSIDERATION OF HOUSE BILL NO. 448:

GREG PETESCH the staff attorney presented the proposed amendments to the committee. He explained what they would do.

He also presented the information he had gathered as requested by the members of the committee.

Almost all states allow a domestic insurer to invest in real estate for the purposes of income production. However, the percentage of an insurer's admitted assets that may be invested in real estate for purposes of income production varies from state to state. He gave a run-down of the states, copy attached is Exhibit A.

SENATOR REGAN: Are you allowing the so-called junk assets, and Greg said that almost all states require a deposit of some sort. There are two states that have permissible deposits, Colorado and Arkansas.

MR. PETESCH stated that he had copies of information that he had received from Ed Sheehy, who had helped him get it together.

The first information he presented was the MODEL ASSET VALUATION LAW as follows:

Section 1. Valuation of Bonds.

(1) All bonds or other evidences of debt having a fixed term and rate of interest held by an insurer may, if amply secured and not in default as to principal or interest, be

valued as follows:

- (a) If purchased at par, at the par value.
- (b) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such method, according to such accepted method of valuation as is approved by the department.
- (c) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.

(2) The department shall have full discretion in determining the method of calculating values according to the rules set forth in this section, but no such method or valuation shall be inconsistent with any applicable valuation or method used by insurers in general, or any such method then currently formulated or approved by the National Association of Insurance Commissioners or its successor organization.

Section 2. Valuation of Other Securities.

(1) Securities, other than those referred to in Section 1, held by an insurer shall be valued, in the discretion of the department, at their market value, or at their appraised value, or at prices determined by it as representing their fair market value.

(2) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the department and in accordance with such method of valuation as it may approve.

(3) Stock of a subsidiary corporation of an insurer shall not be valued at an amount in excess of the net value thereof as based upon those assets only of the subsidiary which would be eligible under - investment restrictions and eligible investments - for investment of the funds of the insurer direct.

(4) No valuations under this section shall be inconsistent with any applicable valuation or method then currently formulated or approved by the National Association of Insurance Commissioners or its successor organization.

Attached is a copy of the state positions relative to MODEL ASSET VALUATION LAW. Exhibit B

MR. PETESCH presented copies of the STANDARD VALUATION LAW to the committee and went through it and explained its contents. Exhibit C attached.

SENATOR GOODOVER: Does it still remain at 5%.

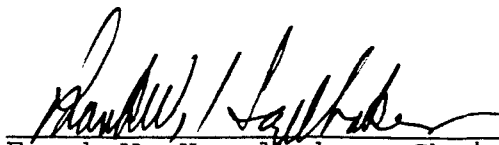
MR. PETESCH: Yes, for real estate. Then followed discussion about how much other states allow. Greg said that the only state he found that allows investment in agriculture, oil and minerals is Delaware, and that is allowed only to a 5% limitation. California is the only state that allows wrap-around mortgages and even this is restricted in some areas.

The committee expressed thanks to Mr. Sheehy and Mr. Petesch for getting the information together. It was a good job and very well done.

SENATOR KOLSTAD moved the amendments. The motion carried with the vote unanimous. Senator Boylan commented that he could carry it.

SENATOR KOLSTAD moved as amended, be concurred in. The motion carried with a vote of 7 to 1, with Senator Regan voting no.

The meeting adjourned at 11:55 a.m.



Frank W. Hazelbaker, Chairman

Mary Ellen Connelly, Secretary

ROLL CALL

BUSINESS and INDUSTRY COMMITTEE

47th LEGISLATIVE SESSION -- 1981

Date 3/26

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat - Vice Chairman	✓		
Hazelbaker, Frank - Chairman	✓		
Blaylock, Chet	✓		
Boylan, Paul	✓		
Dover, Harold	✓		
Kolstad, Allen	✓		
Lee, Gary	✓		
Regan, Pat	✓		

Each day attach to minutes.

Amendment to HB 448

1. Title, line 5.

Following: line 4

Strike: "ASSET, LIABILITY, RESERVE, INTEREST,"

Following: "DEPOSIT"

Strike: ", AND INVESTMENT"

2. Title, line 7.

Following: line 6

Strike: "SECTIONS ~~33-2-501~~, 33-2-502, 33-2-523,"

Insert: "SECTION"

Following: "33-2-531,"

Strike: "33-2-532"

3. Title, lines 8 and 9.

Following: line 7

Strike: all of line 8 through "33-20-206," on line 9

4. Page 5, line 6 through line 1 on page 10.

Strike: sections 1 and 2 in their entirety.

Re-number: subsequent sections

5. Page 11, line 17 through line 20 on page 26.

Strike: sections 4 through 12 in their entirety.

Re-number: subsequent sections

STANDING COMMITTEE REPORT

March 26,

19 81

MR. **PRESIDENT:**

BUSINESS AND INDUSTRY

We, your committee on

HOUSE

Bill No. **448**

having had under consideration

Nordtvedt (Senator Boylan)

HOUSE

Bill No. **448,**

Respectfully report as follows: That

third reading copy, be amended as follows:

1. Title, line 5.

Following: line 4

Strike: "ASSET, LIABILITY, RESERVE, INTEREST,"

Following: "DEPOSIT"

Strike: ", AND INVESTMENT"

2. Title, line 7.

Following: line 6

Strike: "SECTIONS 33-2-501, 33-2-502, 33-2-523,"

Insert: "SECTION"

Following: "33-2-531,"

Strike: "33-2-532"

JL
~~XXXXXX~~

(Continued)

Business and Industry
Page 2

HOUSE BILL NO. 448

3. Title, lines 8 and 9.

Following: line 7

Strike: all of line 8 through "23-20-205, " on line 9

4. Page 5, line 6 through line 1 on page 10.

Strike: Sections 1 and 2 in their entirety.

Renumber: subsequent sections

5. Page 11, line 17 through line 20 on page 26.

Strike: sections 4 through 12 in their entirety.

Renumber: subsequent sections

And, as so amended,

BE CONCURRED IN

He.

PERMISSABLE INVESTMENT IN REAL ESTATE

Almost all states allow a domestic insurer to invest in real estate for the purposes of income production.

However, the percentage of an insurer's admitted assets that may be invested in real estate for purposes of income production varies from state to state. The state laws surveyed are as follows:

ALABAMA

In Alabama, a domestic insurer may acquire, invest in, own, maintain, alter, furnish and improve real estate acquired to be improved or developed as an investment for production of income. Such investment would consist of the costs of the aggregate amount of real estate, including costs of improvement and development, less depreciation and such costs shall not exceed ten percent (10%) of the insurer's admitted assets. Section 27-3-9, Alabama Codes.

ARIZONA

A domestic insurer in Arizona may not at any time invest in real estate in excess of ten percent (10%) of its assets. This percentage limitation also includes real estate that the insurer acquires for the purposes of conducting its business of selling insurance. Section 20-55-6(6), Arizona Statutes.

CALIFORNIA

In California an insurer, without limitation, may invest in the following types of real estate: real estate used for its buildings and land for its principal office; real estate requisite for the transaction of its business; real estate acquired to secure the payment of loans; real estate purchased at foreclosure upon such loans; real estate conveyed in satisfaction of debts owed to the insurance company; real estate acquired by gift or devise; real estate in part payment for real estate sold by insurer as long as there is no increase in the investments in real property; and, with the approval of the commissioner, an insurer may invest in real estate requisite or desirable to protect value of real estate already held by the insurer. California Insurance Code, Article 7, Section 1150.

Beyond the above described real estate, which is real estate not held for the purposes of producing income, only those domestic insurers with assets aggregating in value over twenty-five million dollars may invest in real estate for purposes of income production and such investments are limited to no more than ten percent (10%) of the insurer's admitted assets. California Insurance Code, Article 7 Section 1194.8.

COLORADO

In Colorado, a domestic insurer may invest in real estate for purposes of the production of income. Such investments are limited to no more than ten percent (10%) of the admitted

assets of the insurance company and the insurance company cannot invest more than five percent (5%) in one parcel at one time. All real estate investments in Colorado are valued at the cost of purchase plus the cost of any capitalized additions and improvements less depreciations. Sections 10-3-220(1) and 10-3-231, Colorado statutes.

CONNECTICUT

A domestic insurer in Connecticut has the authority to improve real estate lawfully acquired by it and such real estate is limited to real estate acquired in satisfaction of a debt owed to the real estate company. Sections 38-132 and 38-133, Connecticut statutes. The law in Connecticut goes on to provide that a domestic insurer in Connecticut can invest up to but not in excess of eight percent (8%) of its admitted assets in investments not authorized by law, which, under Connecticut law, would include investments in real estate for purposes of income production. Section 38-145, Connecticut statutes.

IDAHO

In Idaho, a domestic insurer may invest in real estate for the production of income. Such investments are limited to five percent (5%) of the insurer assets. Section 41-728(1)(f) and 41-728(2)(b), Idaho code. A domestic insurer in Idaho may also own property for its home offices and real estate for purposes of transacting business with, such investments limited to ten percent (10%) of the insurer's assets. Sections 41-728(1)(a) and 41-728(2)(a). The section of Idaho law goes on to provide that a domestic insurance company in Idaho may hold real estate in the same manner as provided for under the California statutes described above. The domestic insurer in Idaho may then hold real estate requisite for transaction of business; real estate acquired to secure payment of loans; real estate purchased at foreclosure sales upon such loans or conveyed in satisfaction of debts; real estate investments for income production; and, real estate acquired by gift or devise. For all purposes described above and for all categories of permissible real estate investments, a domestic insurer's investments for these purposes may not exceed twenty percent (20%) of its assets. Section 41-728(2)(c).

ILLINOIS

In Illinois, a domestic insurer may invest in real estate for the production of income with the prior approval of the insurance commissioner. The commissioner is to approve of such investments upon a showing by the companies that: (1) the company has adequate assets available for long term investments and the interest of its policy holders will not be jeopardized by such investments; (2) this investment will not exceed the reasonable value of the property or the interest the insurance company will acquire therein; and (3) there is a reasonable probability of occupancy of the property to make the investment profitable. With the approval of the commissioner, the company

is limited to the lesser of 10% of its admitted assets or the excess of its capital and surplus over the minimum requirements of a new stock or mutual company to qualify for a certificate of authority to write the kind of insurance which the company seeking approval is authorized to write. Section 737.19a(e), Illinois Code.

INDIANA

In Indiana, a domestic insurer may invest in unencumbered real estate for the purpose of income production as long as such investment shall not at any time exceed an amount equal to 8% of the life insurance company's assets. Section 27-1-12-2 (8)(1), Indiana statutes.

IOWA

In Iowa, a domestic insurer may invest in real estate for the purposes of income production but such investments shall not exceed 10% of the company's legal reserves. Section 511.8 (14), Iowa Code.

KANSAS

In Kansas, a domestic insurer can invest no more than 10% of its admitted assets in income producing real estate. Section 40-2(b)10, Kansas statutes.

MINNESOTA

In Minnesota, a domestic life insurance company may acquire real property as an investment for the production of income and hold, approve or otherwise develop, and lease, sell and convey the same, subject to the following conditions and limitations: (1) the cost of each parcel of real property acquired, including the estimated cost to the company for the improvement or development thereof, plus the book value of all other real property then held by the insurance company shall not exceed 5% of its admitted assets and, (2) the cost of each parcel of real property acquired, including the estimated costs to the company for improvement or development thereof, shall not exceed 1% of its admitted assets. Section 61A.31(3), Minnesota statutes.

NEBRASKA

In Nebraska, a domestic insurance company with policy holders' surplus or unassigned funds of more than one million dollars may individually or in conjunction with another investor or not more than 4 other investors acquire, own, hold, develop and improve real estate as long as the aggregate value of all such investments shall not exceed 15% of the company's admitted assets. Section 44-311.02, Nebraska statutes.

NEW JERSEY

In New Jersey, a domestic insurer and its subsidiary companies may invest no more than 10% of the insurer's admitted assets in real estate. The insurance commissioner can impose

additional restrictions on such investments if he so chooses. Sections 17B:20-1(b) and 17B:20-6, New Jersey statutes.

NEW YORK

In New York, a domestic insurer may invest no more than 10% of its admitted assets in real estate for purposes of production of income. Additionally, an insurer may not invest more than 1% of its admitted assets in any single parcel of real estate. The New York law also authorizes the same types of real estate investments as are allowed in California as described above. New York Insurance Code, Section 81(7).

NORTH DAKOTA

In North Dakota, a domestic insurer can invest no more than 10% of its admitted assets in real estate for the production of income. The insurer is limited to 2% of its admitted assets in a single parcel at any time. Section 26-08-13(13), North Dakota statutes.

OKLAHOMA

No insurer in Oklahoma either foreign, alien, or domestic may acquire real property except real property that other corporations in Oklahoma may hold for the production of income and not in excess of the insurance company's capital or surplus or 10% of its admitted assets, whichever is less. Additionally, Oklahoma law requires that a domestic insurer must invest in obligations of the United States; state and Canadian obligations; county and municipal obligations of Oklahoma; or, deposits in banks and savings and loans until it has assets in excess of one million dollars. This provision of Oklahoma law was enacted on October 1, 1980. Title 36, Section 1624(6) and Section 1606, Oklahoma statutes.

SOUTH DAKOTA

An insurer in South Dakota may invest in real estate acquired for the production of income, or acquired to improve or develop for such investment purposes pursuant to an existing program therefore, but an insurer shall not have, at any one time, invested in real estate of this type in an amount exceeding 10% of its admitted assets, nor in any single parcel of real estate in an amount in excess of 2% of its admitted assets. Section 58-27-50(6), South Dakota statutes.

TEXAS

A domestic insurer in Texas is limited to investing 10% of its admitted assets in any type of real estate except real estate for its offices; acquired as security for loans; conveyed in satisfaction of debts; or, purchased at foreclosure sale on security. Section 3.40, Texas Insurance Code.

UTAH

A domestic insurer in Utah may invest in unimproved real estate and in mortgages or deeds of trust on unimproved real

estate but not to exceed twenty percent (20%) of the insurer's surplus. Section 31-17(8), Utah statutes.

WASHINGTON

In Washington, a domestic life insurer with assets of at least twenty five million dollars and at least ten million dollars in capital and surplus may invest in real property for income production. The cost of the property so invested plus the estimated cost of improving it plus the value of like property already held together with the admitted value of stock then held by the insurance company shall not exceed twenty percent (20%) of admitted assets or fifty percent (50%) of its surplus over its minimum required surplus, whichever is greater. The cost of each parcel including the estimated cost of improvement or development can not exceed 4% of admitted assets. Section 48.13.160(4), Revised Codes of Washington.

WISCONSIN

In Wisconsin, domestic insurers are allowed to invest in real estate for income production but are limited in such investments to twenty percent (20%) of their admitted assets. Additionally, Wisconsin law authorizes investments by insurance companies in property and facilities for the development and production of solar or geothermal energy, fossil or synthetic fuel or gasahol, up to, but not in excess of five percent (5%) of the portion of the insurer's admitted assets in excess of two billion dollars. Thus to make these types of investments an insurer would have to have at least two billion dollars in assets. Sections 6020.22(5)(c) and (7), Wisconsin statutes.

WYOMING

An insurer in Wyoming may invest in improved real estate, acquired for the production of income or acquired to be developed for such purposes, but not in excess of 15% of the insurer's assets and not more than 4% of such assets in one parcel. Section 26-7-122, Wyoming statutes.

NOTES:

1. None of the states surveyed above authorize the investment by insurers in any type of real estate that is used for agricultural purposes, horticultural purposes, mining purposes, ranching purposes, or recreational purposes.

2. None of the states surveyed above allowed an insurer to claim the good will of the insurer's company or its subsidiary company as an admitted asset.

3. Of the states surveyed above, the only state authorizing investments in wraparound mortgages was California. The law in California is extremely restrictive in that a domestic insurer can only invest 1% of its admitted assets or 10% of the aggregate of its capital paid up or unassigned surplus. Additionally, California law requires several conditions to be met before an investment in a wraparound mortgage would be permitted. One of those conditions is that there must be some guarantee that the insurance company

purchasing a wraparound mortgage would have a first lien upon the property. Section 1176.1, California Insurance Code (enacted in 1980).

EXHIBIT
"B"STATE POSITIONS RELATIVE
TO MODEL ASSET VALUATION LAW

Only two states have adopted the NAIC Model Asset Valuation Law verbatim.

Twenty states have accepted the basic concept of the model but have modified it in some way.

Many of the "adopting" states have added a provision that states that no security subject to call may be valued above the call price.

Other states that have followed the general NAIC model pattern have not adopted Section 2 (3) of the model asset valuation law relating to revaluation of stock of a subsidiary corporation or have not adopted Section 2(4) which states that no valuation method may be inconsistent with the valuation method formulated or adopted by the NAIC.

Eleven states have taken no action on asset valuation and twenty jurisdictions have adopted a law which deviates substantially from the NAIC Model.

A summary of state positions follows. Those marked with an asterisk have not yet confirmed the accuracy of the NIARS/NAIC research.

<u>State</u>	<u>Position Relative To NAIC Model</u>	<u>Citation</u>
Alabama	Adopted with call price provision and omission of Section 2(3)	Alabama Insurance Code, Chapter 33, Sections 749 and 750.
Alaska	Adopted with call price provision and omission of Sections 2(3) and 2(4)	Alaska Insurance Code, Chapter 18, Section 21.18.120
Arizona	Adopted with call price provision and omission of Sections 2(3) and 2(4)	Arizona Insurance Code, Chapter 3, Sections 20.511 and 20.512.
Arkansas	Adopted with call price provision and omission of Section 2(3)	Title 66, Chapter 25, Sections 66.2512 and 66.2513.
California	Deviates substantially.	California Insurance Code, Article 7, Sections 1250 through 1254.
Colorado	Deviates substantially.	Colorado Insurance Code, Article 3, Part 2, Section 10.3.231.
Connecticut	Deviates substantially.	Connecticut Insurance Code, Chapter 676, Section 38-26.
Delaware	Adopted with call price provision and omission of Sections 2(3) and 2(4)	Delaware Insurance Code, Chapter 11, Subchapter IV, Sections 1115 and 1116.
D. C.	Deviates substantially.	District of Columbia Insurance Code, Chapter 4, Section 35-422.
Florida	Adopted verbatim	Florida Insurance Code, Chapter 625, Part I, Sections 625.141 and 625.142.
Georgia	Adopted with call price provision and omission of Sections 2(3) and 2(4)	Georgia Insurance Code, Chapter 56-9 Sections 56.913 and 56.914.
Hawaii	Adopted with call price provision and omission of Section 2(4)	Hawaii Insurance Code, Chapter 431, Sections 431.271 and 431.272.
Idaho	Adopted with call price provision	Idaho Insurance Code, Chapter 6, Sections 41.613 and 41.614.

<u>State</u>	<u>Position Relative To NAIC Model</u>	<u>Citation</u>
Illinois	Adopted with call price provision and omission of Sections 2(3) and 2(4)	Illinois Insurance Code, Article VIII, Section 736.6.
Indiana	None	
Iowa	Deviates substantially	Iowa Insurance Code, Chapter 511.8 (17)
Kansas	Deviates substantially	Kansas Insurance Code, Article 2, Section 40.229
Kentucky	Deviates substantially	Kentucky Insurance Code, Sub-title 7, Section 304.7-350
Louisiana	None	
Maine	Adopted with call price provision and omission of Section 2(4)	Maine Insurance Code, Chapter 11, Subchapter IV, Sections 981 and 982,
Maryland	Adopted with call price provision	Maryland Insurance Code, Subtitle 5, Sections 84 and 85.
Massachusetts	Deviates substantially	Massachusetts General Laws, Chapter 175, Section 11
Michigan	Deviates substantially	Michigan Insurance Code, Chapter 9, Sections 500.901(b) (iv), 500.922 and 500.924
Minnesota	Deviates substantially	Minnesota Insurance Code, Chapter 60A, Section 60A.12, Subdivision 3
Mississippi	None	
Missouri	None	
Montana	Adopted with call price provision and omission of Sections 2(3) and 2(4)	Montana Insurance Code, Chapter 30, Sections 40.3013 and 40.3014
Nebraska	Deviates substantially	Nebraska Insurance Code, Article 3, Section 44.313,
Nevada	Adopted with call price provision and omission of Section 2(4)	Nevada Insurance Code, Chapter 681B, Sections 160 and 170, 1971
New Hampshire	None	
New Jersey	Deviates substantially	New Jersey Insurance Code, Chapter 24, Section 17:24-4
New Mexico	Deviates substantially	New Mexico Insurance Code, Article 7 Section 58-7-9
New York	Deviates substantially	New York Insurance Code, Chapter 28 Article V, Section 91
North Carolina	Deviates substantially	North Carolina Insurance Code, Chapter 58, Section 58-80
North Dakota	Adopted with call price provision and omission of Sections 2(3) and 2(4)	North Dakota Insurance Code, Chapter 26-07, Section 26-07-04
Ohio	None	
Oklahoma	Adopted with call price provision and omission of Section 2(3)	Oklahoma Insurance Code, Article 15, Section 1511 and 1512
Oregon	Adopted with call price provision	Oregon Insurance Code, Chapter 733-160
Pennsylvania	Deviates substantially	Pennsylvania Insurance Code, Pennsylvania Law 969, Number 312, Title 40, Section 405a.

<u>State</u>	<u>Position Relative To NAIC Model</u>	<u>Citation</u>
Rhode Island	Deviates substantially	Rhode Island Insurance Code, Chapter 4, Section 27-4-19
South Carolina	Deviates substantially	South Carolina Insurance Code, Article 6, Sections 37-190 and 37-190.1
South Dakota	Adopted with call price provision and omission of Sections 2(3) and 2(4)	South Dakota Insurance Code Chapter 58.26, Sections 58-26-2, 58-26-3 and 58-26-4
Tennessee	Deviates substantially	Tennessee Insurance Code, Chapter 1, Section 56.119
Texas	None	
Utah	Adopted verbatim	Utah Insurance Code, Chapter 13, 31-13-27
Vermont	None	
Virginia	None	
Washington	Adopted with modification of Section 1(1)(b)	Washington Insurance Code, Chapter 48.12.170 and 48.12.180
West Virginia	Adopted with omission of Sections 2(3) and 2(4)	West Virginia Insurance Code, Article 7, Section 33-7-10 and 33-7-11
Wisconsin	Deviates substantially	Wisconsin Insurance Code, Chapter 620, Section 620.31
Wyoming	Adopted with call price provision and omission of Section 2(4)	Wyoming Insurance Code Chapter 6, Sections 26.1-105 and 26.1-106
Puerto Rico*	None	
Virgin Islands*	None	

Exhibit

"C"

STANDARD VALUATION LAW

Table of Contents

Section 1.	Title
Section 2.	Reserve Valuation
Section 3.	Computation of Minimum Standard
Section 4.	Life Insurance and Endowment Benefits
Section 5.	Minimum Reserves
Section 6.	Optional Reserve Calculation
Section 7.	Deficiency Reserves
Section 8.	Effective Date

Section 1. Title.

This Act shall be known as the Standard Valuation Law.

Section 2. Reserve Valuation.

The commissioner 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 of every life insurance company doing business in this state, and may certify the amount of such 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 such reserves. In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to 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.

Section 3. Computation of Minimum Standard.

Except as otherwise provided in Section three-a, the minimum standard for the valuation of all such policies and contracts issued prior to the effective date of this Act shall be that provided by the laws in effect immediately prior to such date. Except as otherwise provided in Section three-a, the minimum standard for the valuation of all such policies and contracts issued on or after the effective date of this Act shall be the Commissioners reserve valuation methods defined in Sections four, four-a and seven, three and one-half percent (3½%) interest, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after (insert effective date of 1972 NAIC Amendments to the Standard Valuation Law), four percent (4%) interest for such policies issued prior to the effective date of this amendatory Act of (insert year), five and one-half percent (5½%) interest for single premium life insurance policies and four and one-half percent (4½%) interest for all other such policies issued on or after the effective date of this amendatory Act of (insert year), and the following tables.

**[Amended by 1977 NAIC Proceedings I.]*

- (a) For all Ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies -- the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of Section five-a of the Standard Nonforfeiture Law as amended, and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date, provided that for any category of such policies issued on female risks, all modified net premiums and present values referred to in this Act may be calculated according to an age not more than six* years younger than the actual age of the insured.

**[Amended by 1977 NAIC Proceedings I. Formerly three years.]*

- (b) For all Industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies -- the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of Section five-b of the Standard Nonforfeiture Law as amended, and the Commissioners 1961 Standard Industrial Mortality Table for such policies issued on or after such operative date.
- (c) For Individual Annuity and Pure Endowment contracts, excluding any disability and accidental death benefits in such policies -- the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949. Ultimate, or any modification of either of these tables approved by the commissioner.
- (d) For Group Annuity and Pure Endowment contracts, excluding any disability and accidental death benefits in such policies -- the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the company, of any of the tables or modifications 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 -- for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such 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 -- for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be 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 -- such tables as may be approved by the commissioner.

Section 3. Individual Annuities and Pure Endowment.

The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this Section three-a, as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the Commissioners reserve valuation methods defined in Sections four and four-a and the following tables and interest rates:

- (a) For individual annuity and pure endowment contracts issued prior to the effective date of this amendatory act of (insert year), excluding any disability and accidental death benefit in such contracts, -- the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the Commissioner, and six percent (6%) interest for single premium immediate annuity contracts, and four percent (4%) interest for all other individual annuity and pure endowment contracts.

**[Amended by 1977 NAIC Proceedings I.]*

- *(b) For individual single premium immediate annuity contracts issued on or after the effective date of this amendatory act of 197 , excluding any disability and accidental death benefits in such contracts, -- the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the Commissioners, and seven and one-half (7½%) interest.

**[Amended (new subsection) by 1977 NAIC Proceedings I.]*

- *(c) For individual annuity and pure endowment contracts issued on or after the effective date of this Amendatory Act of (insert year), other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, -- the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the Commissioner, and five and one-half percent (5½%) interest for single premium deferred annuity and pure endowment contracts and four and one-half percent (4½%) interest for all other such individual annuity and pure endowment contracts.

**[New subsection is added and remaining subsections relettered accordingly by 1977 NAIC Proceedings I.]*

- *(d) For all annuities and pure endowments purchased prior to the effective date of this amendatory Act of (insert year), under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, -- the 1971 Group Annuity Mortality Table, or any modification of this table approved by the Commissioner and six percent (6%) interest.

**[Amended by 1977 NAIC Proceedings I.]*

- *(e) For all annuities and pure endowments purchased on or after the effective date of this amendatory act of (insert year) under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, -- the 1971 Group Annuity Mortality Table, or any modification of this table approved by the Commissioner, and seven and one-half percent (7½%) interest.

After (insert effective date of 1972 NAIC Amendments to the Standard Valuation Law), any company may file with the Commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, nineteen hundred and seventy-nine, which shall be the operative date of this section for such company, provided, a company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no such election, the operative date of this section for such company shall be January 1, nineteen hundred and seventy-nine.

**[Amended by 1977 NAIC Proceedings I and II.]*

Section 4. Life Insurance and Endowment Benefits.

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

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

Reserves according to the commissioners reserve valuation method for: (1) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums; (2) 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 Section 408 of the Internal Revenue Code, as now or hereafter amended; (3) disability and accidental death benefits in all policies and contracts; and (4) 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 the preceding paragraph.

**[Amended by 1977 NAIC Proceedings I.]*

Section 4a. Life Insurance and Endowment Reserves.

This section shall apply 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 accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended.

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

Section 5. Minimum Reserves.

In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the effective date of this Act, be less than the aggregate reserves calculated in accordance with the methods set forth in Sections four, four-a and seven and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

Section 6. Optional Reserve Calculation.

Reserves for all policies and contracts issued prior to the effective date of this Act may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

Reserves for any category of policies, contracts or benefits as established by the commissioner, issued on or after the effective date of this Act, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.*

**[This paragraph amended by 1977 NAIC Proceedings I.]*

At such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

Section 7. Deficiency Reserves.

If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum 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.

**[Amended by 1977 NAIC Proceedings I and II.]*

Section 8. Effective Date.

All acts and parts of acts inconsistent with the provisions of this Act are hereby repealed as of the effective date of this Act. This Act shall be effective January first, nineteen hundred and forty-four.

Legislative History (all references are to the Proceedings of the NAIC).

1942 Proc. Supp. 157-162
1942 Proc. Supp. 266-270
1947 Proc. 252-254
1959 Proc. I 197-202
1960 Proc. II 536-537
1962 Proc. I 145-146
1973 Proc. I 284
1973 II 546-549
1974 Proc. II 461-466
1977 Proc. I 487-491 (amended)

STATE POSITIONS RELATIVE TO THE STANDARD VALUATION LAW

45 States and the District of Columbia have adopted the NAIC Standard Valuation Law without major variations. Five states have laws in this area which are somewhat modified or largely independent.

Thus far, to our knowledge, 33 states have adopted the December, 1976 (1977 NAIC Proceedings I) amendments to Section 3 of the model act, which changed the valuation methods for individual annuities and pure endowment contracts. A tabulation of state positions, including notation for those states with the amendments appears below.

State	State Valuation Position			Citation/effective date
	NAIC Model	1977 Amendments	Modified or Independent	
Alabama	X	X		Title 27, Section 27-36-7, effective January 1, 1972
Alaska	X	X		Title 21, Chapter 18, Section 21.18.110, effective 1966
Arizona	X	No		Title 20, Chapter 3, Article 1, Section 20-510, effective 1961
Arkansas	X	X		Arkansas Statutes Annotated, Section 66-2511, effective 1956, amended 1977
California	X	X		Insurance Code, Division 2, Part 2, Chapter 5, Article 3a, Sections 10489.1-10489.7
Colorado	X	X		Title 10, Article 7, Sections 10-7-309 through 10-7-316, effective 1963, amended 1977
Connecticut		X	X	Title 38, Chapter 680, Section 38-130, effective 1949, amended 1973 and 1978
Delaware	X	No		Title 18, Chapter 11, Sections 1111-1114, effective 1953
D.C.	X	X		Title 35, Chapter 7, Section 35-701, effective 1934, amended 1978
Florida	X	X		Insurance Code, Section 625.121, and Section 627.476, revised November 1, 1979
Georgia	X	X		Title 56, Section 56-912, effective 1960, and Section 56-2602A, effective July 1, 1980
Hawaii	X	X		Title 24, Chapter 431, Section 431-269, effective 1955, and Act 32, effective June 1, 1979
Idaho	X	X		Title 41, Chapter 6, Section 41-612, effective 1961, amended July 1, 1977
Indiana	X			Title 27, Article 1, Chapter 12, Section 27-1-12-10, effective 1935/1973
Iowa	X	X		Title XX, Chapter 508, Section 508.36, effective 1963, amended January 1, 1980
Illinois			X	Insurance Code Section 223
Kansas	X	X		KSA 40-409(c), effective 1947, amended July 1, 1978
Kentucky			X	Chapter 304, Subtitle 6, Sections 304.6-120 through 304.6-180, effective 1944

State	State Valuation Position			Citation/effective date
	NAIC Model	1977 Amendments	Modified or Independent	
Louisiana	X	No		Title 22, Part V, Sections 161-162, effective 1960
Maine	X	No		Title 24-A, Chapter 11, Sections 951 through 957, effective January 1, 1970
Maryland	X	No		Article 48A, Subtitle 5, Section 83, effective 1966/1973
Massachusetts		X	X	General Laws, Chapter 175, Section 9, effective 1958/1979
Michigan	X	No		MCLA 500-834, effective January 1, 1957
Minnesota	X	X		Chapter 61A, Section 61A. 25, effective 1967/amended 1978
Mississippi	X	X		Title 83, Chapter 7, Section 83-7-23, effective 1948/1979
Missouri	X	No		Title XXIV, Chapter 376, Section 736.380, effective 1979
Montana	X	X		MCA 33-2-521 through 33-2-526, effective 1959/1973/1979
Nebraska	X	X		Chapter 44, Article 7, Section 44-707 through 44-707.04, effective 1951
Nevada	X	No		Title 57, Chapter 681 B, Sections 681B.110 through 681B.150, effective 1971
New Hampshire	X	No		Chapter 410, Sections 410:1-410:9, effective 1943
New Jersey	X	X		Title 17B, Chapter 19, Section 17B: 19-8, effective 1971/1979
New Mexico	X	X		Chapter 59, Article 9, Section 59-9-4, revised 1977
New York	X	X		Insurance Law, Section 205, effective 1940/1979
North Carolina	X	X		Chapter 58, Section 58-201.1, effective 1945/1979
North Dakota	X	No		Chapter 249, 1977 Session Laws, (Senate Bill 2543), effective 1977
Ohio	X	X		Chapter 3903, Section 3903.36, revised 1979
Oklahoma			X	Title 36, Chapter 1, Article 15, Section 1510, effective 1957
Oregon	X	X		Insurance Code, Sections 733.110 through 733.136, effective 1948/1977
Pennsylvania	X	No		Section 301, of the Insurance Department Act 1921 (40 P.S. Section 71), effective 1973
Rhode Island			X	Title 27, Chapter 4, Sections 27-4-1 through 27-4-25.6, effective 1931
South Carolina	X	No		Title 38, Chapter 5, Article 5, Section 38-5-770(4), effective 1952
South Dakota	X	No		Title 38, Chapter 58-26, Sections 58-26-21 through 58-26-26, effective 1966

State	State Valuation Position			Citation/effective date
	NAIC Model	1977 Amendments	Modified or Independent	
Tennessee	X	No		Title 56, Chapter 1, Sections 1144 through 1156, effective 1945
Texas	X	X		Article 3.28, effective 1959/1977
Utah	X	X		Title 31, Chapter 22, Section 31-22-14, effective 1963, amended 1980
Vermont	X	No		Title 8, Chapter 103, Sections 3782 through 3788
Virginia	X	X		Title 38.1, Chapter 9, Sections 38.1-452 through 38.1-458, effective 1952
Washington	X	X		Title 48, Chapter 48.12, Section 48.12.150, effective 1947
West Virginia	X	X		Chapter 33, Article 7, Section 33-7-9, effective 1957/1977
Wisconsin	X	X		Wisconsin Statutes, Section 623.06
Wyoming	X	X		Title 26.1, Chapter 6, Section 26-6-101 et. seq.