



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A ... segment I

LRB BILL HISTORY RESEARCH APPENDIX

The drafting file for 2015 LRB-2912/P3 (For: LRB)

has been transferred to the drafting file for

2015 LRB-2365 (For: Senator Lasee)

Are These “Companion Bills” ?? ... No



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 09/03/2015 (Per: PJK)

The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the digital drafting file.

2015 DRAFTING REQUEST

Bill

Received: 8/12/2015 Received By: pkahler
For: Legislative Reference Bureau Same as LRB:
May Contact: By/Representing: PJ K
Subject: Insurance - miscellaneous Drafter: pkahler
Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Pam.Kahler@legis.wisconsin.gov
Carbon copy (CC) to: JP.Wieske@wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Mark-up of changes to s. 623.06

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 8/13/2015	kmochal 8/17/2015	_____			
/P1	pkahler 8/25/2015		_____	lparisi 8/17/2015		
/P2	pkahler 9/2/2015	kmochal 8/27/2015	_____	sbasford 8/27/2015		
/P3		kmochal	_____	mbarman		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u> 9/3/2015	<u>Proofed</u> _____	<u>Submitted</u> 9/3/2015	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

<END>

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2912/3dn P1
PJK: *blm*

- DATE -

*that was not included in LRB-2365
(whether treated or not)*

stricken or

This draft shows s. 623.06 with all of the provisions of current law and the proposed new provisions. If a current law provision is changed in this draft, the changes are underscored. The new, created provisions from LRB-2365 are not underscored, but they are prefaced by an action phrase (such as, 623.06 (1r) of the statutes is created to read). All of the provisions that were included in LRB-2365 (whether created, amended, repealed and recreated, etc.) are shown with the action phrase from that draft. Some provisions of current law that were not included in LRB-2365 have proposed changes that are *stricken or* underscored, but I have not added an action phrase.

All (except one) of the provisions take effect immediately. Those that are not effective until the operative date of the valuation manual have that in-text phrase. Thus, they become law now but will not be implemented until the operative date of the valuation manual. The one provision that has a delayed effective date is the second treatment of the definition of "operative date of the valuation manual." I have double-drafted this definition. The first treatment takes effect immediately. It is then repealed and recreated, with a delayed effective date of the operative date of the valuation manual. That way, the actual date that is the operative date of the valuation manual can be inserted into the definition (by the revisor when you provide the notice to the LRB of that date), so that wherever that phrase appears in s. 623.06, the actual date is incorporated through the definition. (See the nonstatutory provision that requires you to provide to the LRB a notice of the date, which is then published in the Wisconsin Administrative Register.) *I am* (I'm hoping that you will be able to give me the actual dates for the other references in current law to "effective date" and "operative date" so that I can amend them in and make the statute much more user-friendly and drafter-friendly.

I have assumed that the valuation manual will supersede all of the subsections in current law that were not treated in LRB-2365 (subs. (2) to (7)); however, that may not be the case. I have added "but before the operative date of the valuation manual" where appropriate, but that may not be enough to capture all of the provisions. For that reason a different treatment may be better. There are two alternative options. One option is to create a single provision that provides something to the effect that subs. (2) to (7) do not apply to policies or contracts issued on or after the operative date of the valuation manual (if that is true). The other option is to "notwithstanding" the

subsections that will be superseded. For example, it might be appropriate to add "Notwithstanding subs. (2) to (7)," at the beginning of newly created sub. (9) (a).

Finally, you will notice that I removed any reference to effective dates in sub. (8), which is renumbered to sub. (13). That is because all of current law is in effect now and the new provisions will be in effect on the day after publication, so there is no need to have an effective date in the text of the statutes.

Please let me know if you have any questions. When s. 623.06 is finalized, the changes you approve will be incorporated into LRB-2365, so this draft is just for working purposes.

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

1 AN ACT ^{Gen. Cat.} relating to: standard valuation law.

Analysis by the Legislative Reference Bureau

This draft shows how s. 623.06 would look after the changes in LRB-2365.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 623.06 (1c) of the statutes is repealed and recreated to read:

3 (3) plain 623.06 Standard valuation law. (1c) In this section:

4 (a) "Accident and health insurance contract" means a contract that
5 incorporates morbidity risk and provides protection against economic loss resulting
6 from accident, sickness, or medical conditions and as may be specified in the
7 valuation manual.

8 (b) "Appointed actuary" means a qualified actuary who is appointed in
9 accordance with the valuation manual to prepare the actuarial opinion required in
10 sub. (1r).

1 (c) "Deposit-type contract" means a contract that does not incorporate
2 mortality or morbidity risks and as may be specified in the valuation manual.

3 (d) "Law enforcement agency," "National Association of Insurance
4 Commissioners," or "regulatory agency" includes the employees, agents,
5 consultants, and contractors of each such entity.

6 (e) "Life insurance," "life insurance contract," "life insurance policy," or "plan
7 of life insurance" means a contract that incorporates mortality risk, including
8 annuity and pure endowment contracts, and as may be specified in the valuation
9 manual.

10 (f) "Operative date of the valuation manual" means the date determined under
11 sub. (9)(b).

12 (g) "Principle-based valuation" means a reserve valuation that uses one or
13 more methods, or one or more assumptions, determined by the insurer and that is
14 required to comply with sub. (10) as specified in the valuation manual.

15 (h) "Qualified actuary" means an individual who is qualified to sign the
16 applicable statement of actuarial opinion in accordance with the American academy
17 of actuaries qualification standards for actuaries signing such statements and who
18 meets the requirements specified in the valuation manual, if the valuation manual
19 is in effect, and any other requirements that the commissioner may by rule specify.

20 (i) "Tail risk" means a risk that occurs either when the frequency of low
21 probability events is higher than expected under a normal probability distribution
22 or when there are observed events of very significant size or magnitude.

23 (j) "Valuation manual" means the manual of valuation instructions as adopted
24 by the National Association of Insurance Commissioners under sub. (9) or as
25 subsequently amended.

1 **SECTION 2.** 623.06 (1c) (f) of the statutes, as affected by 2015 Wisconsin Act ...
2 (this act), is repealed and recreated to read:

3 623.06 (1c) (f) "Operative date of the valuation manual" means the effective
4 date of this paragraph ... [LRB inserts date], as determined under sub. (9)(b).

INSERT
A

 ***NOTE: The definition of "operative date of the valuation manual" gets repealed
and recreated on the operative date of the valuation manual so that the revisor can insert
that actual date into the definition.

5 **SECTION 3.** 623.06 (1f) of the statutes is renumbered 623.06 (1f) (a) and
6 amended to read:

7 623.06 (1f) (a) The For policies and contracts issued before the operative date
8 of the valuation manual, the commissioner shall annually value, or cause to be
9 valued, the reserve liabilities (hereinafter called reserves) for all outstanding life
10 insurance policies and annuity and pure endowment contracts of every life insurance
11 company doing business in this state, ~~except that in the case of an alien company,~~
12 ~~such valuation shall be limited to its United States business,~~ and may certify the
13 amount of any such reserves, specifying the mortality table or tables, rate or rates
14 of interest and methods (net level premium method or other) used in the calculation
15 of such reserves. In calculating such reserves, the commissioner may use group
16 methods and approximate averages for fractions of a year or otherwise. In lieu of the
17 valuation of the reserves herein required of any foreign or alien company, the
18 commissioner may accept any valuation made, or caused to be made, by the
19 insurance supervisory official of any state or other jurisdiction ~~when~~ if such
20 valuation complies with the minimum standard herein provided and if the official
21 of such state or jurisdiction accepts as sufficient and valid for all legal purposes the
22 certificate of valuation of the commissioner when such certificate states the
23 valuation to have been made in a specified manner according to which the aggregate

1 reserves would be at least as large as if they had been computed in the manner
2 prescribed by the law of that state or jurisdiction.

3 **SECTION 4.** 623.06 (1f) (b) of the statutes is created to read:

4 623.06 (1f) (b) For policies and contracts issued on or after the operative date
5 of the valuation manual, the commissioner shall annually value, or cause to be
6 valued, the reserve liabilities (hereinafter called reserves) for all outstanding life
7 insurance contracts, annuity and pure endowment contracts, accident and health
8 insurance contracts, and deposit-type contracts of every insurer doing business in
9 this state. In lieu of the valuation of the reserves required of a foreign or alien
10 company, the commissioner may accept a valuation made, or caused to be made, by
11 the insurance supervisory official of any state or other jurisdiction if the valuation
12 complies with the minimum standard provided in this section. Subsections (9) and
13 (10) apply to all policies and contracts issued on or after the operative date of the
14 valuation manual.

15 **SECTION 5.** 623.06 (1m) (intro.) of the statutes is created to read:

16 623.06 (1m) (intro.) Before the operative date of the valuation manual, all of
17 the following apply:

18 (a) 1. For each year ending on or after December 31, 1996, every life insurance
19 company doing business in this state shall submit to the commissioner, with its
20 annual statement due by March 1 of the following year, an opinion by a qualified
21 actuary as to whether the reserves and related actuarial items held in support of the
22 policies and contracts specified by the commissioner by rule satisfy all of the
23 following:

24 a. They are computed appropriately.

25 b. They are based on assumptions that satisfy contractual provisions.

1 c. They are consistent with prior reported amounts.

2 d. They comply with the applicable laws of this state.

3 2. The commissioner shall by rule specify in detail the nature of the information
4 required in the opinion under subd. 1. and may by rule require any additional
5 information that the commissioner determines is necessary to the scope of the
6 opinion.

7 (b) 1. Every life insurance company not exempted by rule shall include with
8 the opinion required under par. (a) the opinion of the qualified actuary as to whether
9 the reserves and related actuarial items held in support of the policies and contracts
10 specified by the commissioner by rule, when considered in light of the assets held by
11 the company with respect to the reserves and related actuarial items, including but
12 not limited to the investment earnings on the assets and the considerations
13 anticipated to be received and retained under the policies and contracts, make
14 adequate provision for the company's obligations under the policies and contracts,
15 including but not limited to the benefits under and expenses associated with the
16 policies and contracts. The commissioner may by rule provide for a transition period
17 for an insurance company to establish any higher reserves that the qualified actuary
18 determines are necessary to make adequate provision for the company's obligations
19 under the policies and contracts.

20 2. An insurance company that is required to submit an opinion under subd. 1.
21 shall have prepared by the qualified actuary who renders the opinion a
22 memorandum in support of the opinion under subd. 1. The commissioner shall
23 specify by rule the form and content of the memorandum. The insurance company
24 shall provide the memorandum to the commissioner, at the commissioner's request,
25 for his or her examination. After examination, the commissioner shall return the

1 memorandum to the insurance company. The memorandum shall not be considered
2 a record of the commissioner's office.

3 3. If an insurance company fails to provide a supporting memorandum to the
4 commissioner upon request within the period specified by rule, or if the
5 commissioner determines that the supporting memorandum provided by an
6 insurance company fails to meet the standards prescribed by rule or is otherwise
7 unacceptable, the commissioner may retain a qualified actuary at the expense of the
8 insurance company to review the opinion required under subd. 1. and the basis for
9 the opinion and to prepare such supporting memorandum as the commissioner
10 requires.

11 (c) The following provisions apply to an opinion required under par. (a) or (b):

12 1. The opinion shall apply to all business in force, including individual and
13 group health insurance plans, in form and substance acceptable to the commissioner
14 as specified by rule.

15 2. The opinion shall be based on standards adopted from time to time by the
16 actuarial standards board established by the American academy of actuaries and on
17 such additional standards as the commissioner may by rule prescribe.

18 3. In the case of an opinion required to be submitted by a foreign or alien
19 company, the commissioner may accept the opinion filed by that company with the
20 insurance supervisory official of another state if the commissioner determines that
21 the opinion reasonably meets the requirements applicable to a company domiciled
22 in this state.

23 (d) Except for fraud or willful misconduct, a qualified actuary may not be held
24 liable for damages to any person other than the insurance company or the

1 commissioner for any act, error, omission, decision or conduct with respect to an
2 opinion required under this subsection.

3 (e) The commissioner shall specify by rule any disciplinary action that the
4 commissioner may take against an insurance company or a qualified actuary related
5 to any of the requirements under this subsection.

6 (f) 1. The commissioner shall keep confidential any memorandum in support
7 of, and any other material provided by an insurance company to the commissioner
8 in connection with, an opinion required under this subsection. Any such
9 memorandum or other material may not be made public and may not be subject to
10 subpoena except for the purpose of defending an action seeking damages from any
11 person on account of an act required under this subsection or required by a rule
12 authorized or required under this subsection.

13 2. The commissioner may release any such memorandum or other material
14 with the written consent of the insurance company, or to the American academy of
15 actuaries upon its request if the memorandum or other material is required for
16 professional disciplinary proceedings and if the request sets forth procedures that
17 are satisfactory to the commissioner for preserving the confidentiality of the
18 memorandum or other material.

19 3. A memorandum loses its confidentiality if the insurance company cites any
20 portion of the memorandum for marketing purposes or before any governmental
21 agency other than a state insurance department or if the insurance company releases
22 any portion of the memorandum to the news media.

23 **SECTION 6.** 623.06 (1r) of the statutes is created to read:

24 623.06 (1r) Beginning on the operative date of the valuation manual, all of the
25 following apply:

1 (a) Every insurance company that has outstanding life insurance contracts,
2 accident and health insurance contracts, or deposit-type contracts in this state and
3 that is subject to regulation by the commissioner shall submit to the commissioner,
4 as prescribed in par. (c), the opinion of the appointed actuary as to whether the
5 reserves and related actuarial items held in support of those outstanding contracts
6 are computed appropriately, are based on assumptions that satisfy contractual
7 provisions, are consistent with prior reported amounts, and comply with applicable
8 laws of this state. The valuation manual shall prescribe the specifics of this opinion,
9 including any items that are necessary to its scope.

10 (b) Every insurance company that has outstanding life insurance contracts,
11 accident and health insurance contracts, or deposit-type contracts in this state and
12 that is subject to regulation by the commissioner, except as exempted in the
13 valuation manual, shall also annually include in the opinion required under par. (a)
14 an opinion of the same appointed actuary as to whether the reserves and related
15 actuarial items held in support of the policies and contracts specified in the valuation
16 manual, when considered in light of the assets held by the company with respect to
17 the reserves and related actuarial items, including the investment earnings on the
18 assets and the considerations anticipated to be received and retained under the
19 policies and contracts, make adequate provision for the company's obligations under
20 the policies and contracts, including the benefits under and expenses associated with
21 the policies and contracts. The opinion required under this paragraph shall be
22 governed by the following:

23 1. A memorandum, in form and substance as specified in the valuation manual
24 and acceptable to the commissioner, shall be prepared to support each actuarial
25 opinion.

1 2. If the insurance company fails to provide a supporting memorandum at the
2 request of the commissioner within a period specified in the valuation manual, or the
3 commissioner determines that the supporting memorandum provided by the
4 insurance company fails to meet the standards prescribed by the valuation manual
5 or is otherwise unacceptable to the commissioner, the commissioner may engage a
6 qualified actuary at the expense of the company to review the opinion and the basis
7 for the opinion and prepare the supporting memorandum required by the
8 commissioner.

9 (c) All opinions required under this subsection shall be governed by the
10 following:

11 1. The opinion shall be in form and substance as specified in the valuation
12 manual and acceptable to the commissioner.

13 2. The opinion shall be submitted with the annual statement reflecting the
14 valuation of such reserve liabilities for each year ending after the operative date of
15 the valuation manual.

16 3. The opinion shall apply to all policies and contracts described in pars. (a) and
17 (b), plus other actuarial liabilities as may be specified in the valuation manual.

18 4. The opinion shall be based on standards adopted from time to time by the
19 actuarial standards board or its successor and on any additional standards
20 prescribed in the valuation manual.

21 5. With respect to an opinion required to be submitted by a foreign or alien
22 company, the commissioner may accept the opinion filed by that company with the
23 insurance supervisory official of another state if the commissioner determines that
24 the opinion reasonably meets the requirements applicable to a company domiciled
25 in this state.

1 6. Except in cases of fraud or willful misconduct, the appointed actuary shall
2 not be liable for damages to any person, other than the insurance company and the
3 commissioner, for any act, error, omission, decision, or conduct with respect to the
4 appointed actuary's opinion.

Section 6.632.43(5) (Intro.) of the statutes is amended to read:

5 (2) Except as provided in subs. (2a) and (2m), the minimum standard for the
6 valuation of all such policies and contracts specified by the commissioner under sub.
7 (1m) (a) 1. issued prior to the effective date of this section [see sub. (8) and s. 632.43
8 (9)] shall be that provided by the laws in effect immediately prior to such date. Except
9 as provided in subs. (2a) and (2m), the minimum standard for the valuation of all
10 such policies and contracts issued on or after the effective date of this section but
11 before the operative date of the valuation manual shall be the commissioners reserve
12 valuation methods defined in subs. (3) to (4m) and (7), with 3.5 percent interest, or
13 in the case of policies and contracts, other than annuity and pure endowment
14 contracts, issued on or after June 19, 1974, and prior to November 8, 1977, 4 percent
15 interest, and for policies issued on or after November 8, 1977, but before the operative
16 date of the valuation manual, 4.5 percent interest and the following tables:

****NOTE: Where it says "the effective date of this section" or makes a reference to the effective date of s. 632.43, could an actual date be substituted? Does this change on the operative date of the valuation manual so that all of the references to policies and contracts issued on or after a particular date need to be limited by "but before the operative date of the valuation manual," as I have done? If so, the limitation I have added should apply to all of the paragraphs below.

17 (a) For all ordinary policies of life insurance issued on the standard basis,
18 excluding any disability and accidental death benefits in those policies, the
19 commissioners 1941 standard ordinary mortality table for those policies issued
20 before the operative date of s. 632.43 (6) (b), and the commissioners 1958 standard
21 ordinary mortality table for those policies issued on or after the operative date of s.
22 632.43 (6) (b) and before the operative date of s. 632.43 (6m). For any category of

1 those policies issued on female risks all modified net premiums and present values
2 referred to in this section may be calculated according to an age not more than 6 years
3 younger than the actual age of the insured.

****NOTE: Can the actual dates be substituted for the references to the operative
dates of s. 632.43 (6) (b) and (6m)?

4 (am) For policies under par. (a) issued on or after the operative date of s. 632.43
5 (6m):

****NOTE: Can the actual date be substituted for the reference to the operative date
of s. 632.43 (6m)?

- 6 1. The commissioners 1980 standard ordinary mortality table;
- 7 2. At the election of the company for any one or more specified plans of life
8 insurance, the commissioners 1980 standard ordinary mortality table with 10-year
9 select mortality factors; or
- 10 3. Any ordinary mortality table adopted after 1980 by the National Association
11 of Insurance Commissioners, that is approved by rule adopted by the commissioner
12 for use in determining the minimum standard of valuation for those policies.

13 (b) For all industrial life insurance policies issued on the standard basis,
14 excluding any disability and accidental death benefits in those policies, the 1941
15 standard industrial mortality table for those policies issued before the operative date
16 of s. 632.43 (6) (c), and for those policies issued on or after the operative date of s.
17 632.43 (6) (c) the commissioners 1961 standard industrial mortality table or any
18 industrial mortality table adopted after 1980 by the National Association of
19 Insurance Commissioners, that is approved by rule adopted by the commissioner for
20 use in determining the minimum standard of valuation for those policies.

****NOTE: Can the actual date be substituted for the reference to the operative date
of s. 632.43 (6) (c)?

1 (c) For individual annuity and pure endowment contracts, excluding any
2 disability and accidental death benefits in such policies — the 1937 standard annuity
3 mortality table or, at the option of the company, the annuity mortality table for 1949,
4 ultimate, or any modification of either of these tables approved by the commissioner.

5 (d) For group annuity and pure endowment contracts, excluding any disability
6 and accidental death benefits in such policies — the group annuity mortality table
7 for 1951, any modification of such table approved by the commissioner, or, at the
8 option of the company, any of the tables or modifications of tables specified for
9 individual annuity and pure endowment contracts.

10 (e) For total and permanent disability benefits in or supplementary to ordinary
11 policies or contracts issued on or after January 1, 1966, the tables of Period 2
12 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study
13 of the society of actuaries, with regard to the type of benefit, or any tables of
14 disablement rates and termination rates adopted after 1980 by the National
15 Association of Insurance Commissioners, that are approved by rule adopted by the
16 commissioner for use in determining the minimum standard of valuation for those
17 policies; for policies or contracts issued on or after January 1, 1961 and before
18 January 1, 1966, either those tables or, at the option of the company, the Class (3)
19 disability table (1926); and for policies issued before January 1, 1961, the Class (3)
20 disability table (1926). Any such table shall, for active lives, be combined with a
21 mortality table permitted for calculating the reserves for life insurance policies.

22 (f) For accidental death benefits in or supplementary to policies issued on or
23 after January 1, 1966, the 1959 accidental death benefits table or any accidental
24 death benefits table adopted after 1980 by the National Association of Insurance
25 Commissioners, that is approved by rule adopted by the commissioner for use in

1 determining the minimum standard of valuation for those policies; for policies issued
2 on or after January 1, 1961 and before January 1, 1966, either that table or, at the
3 option of the company, the intercompany double indemnity mortality table; and for
4 policies issued before January 1, 1961, the intercompany double indemnity mortality
5 table. Either table shall be combined with a mortality table permitted for calculating
6 the reserves for life insurance policies.

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

9 (2a) Except as provided in sub. (2m), the minimum standard for the valuation
10 of all individual annuity and pure endowment contracts issued on or after the
11 operative date of this subsection, as defined in sub. (2b), but before the operative date
12 of the valuation manual, and for all annuities and pure endowments purchased on
13 or after that operative date but before the operative date of the valuation manual
14 under group annuity and pure endowment contracts, shall be the commissioners
15 reserve valuation methods defined in subs. (3) to (4m) and the following tables and
16 interest rates:

****NOTE: Does this change on the operative date of the valuation manual so that
the references to annuities and pure endowments issued or purchased on or after a
particular date need to be limited by "but before the operative date of the valuation
manual," as I have done? If so, the limitation I have added should apply to all of the
paragraphs below.

17 (a) For individual annuity and pure endowment contracts issued prior to
18 November 8, 1977, excluding any disability and accidental death benefits in such
19 contracts — the 1971 individual annuity mortality table, or any modification of this
20 table approved by the commissioner, and 6 percent interest for single premium
21 immediate annuity contracts, and 4 percent interest for all other individual annuity
22 and pure endowment contracts.

1 (b) For individual single premium immediate annuity contracts issued on or
2 after November 8, 1977, excluding any disability and accidental death benefits in
3 those contracts, the 1971 individual annuity mortality table or any individual
4 annuity mortality table adopted after 1980 by the National Association of Insurance
5 Commissioners, that is approved by rule adopted by the commissioner for use in
6 determining the minimum standard of valuation for those contracts or any
7 modification of either table approved by the commissioner, and 7.5 percent interest.
8 For other individual annuity and pure endowment contracts issued on or after
9 November 8, 1977, excluding any disability and accidental death benefits in those
10 contracts, the 1971 individual annuity mortality table or any individual annuity
11 mortality table adopted after 1980 by the National Association of Insurance
12 Commissioners, that is approved by rule adopted by the commissioner for use in
13 determining the minimum standard of valuation for those contracts, or any
14 modification of either table approved by the commissioner, and 5.5 percent interest
15 for single premium deferred annuity and pure endowment contracts and 4.5 percent
16 interest for all other individual annuity and pure endowment contracts.

17 (c) For all annuities and pure endowments purchased prior to November 8,
18 1977, under group annuity and pure endowment contracts, excluding any disability
19 and accidental death benefits purchased under such contracts — the 1971 group
20 annuity mortality table, or any modification of this table approved by the
21 commissioner, and 6 percent interest.

22 (d) For all annuities and pure endowments purchased on or after November 8,
23 1977, under group annuity and pure endowment contracts, excluding any disability
24 and accidental death benefits in those contracts, the 1971 group annuity mortality
25 table or any group annuity mortality table adopted after 1980 by the National

1 c. For annuities and guaranteed interest contracts without cash settlement
2 options, the number of years from the date of issue or date of purchase to the date
3 annuity or guaranteed interest benefits are scheduled to begin.

4 3. “I” means the applicable calendar year valuation interest rate determined
5 under par. (c), rounded to the nearest 0.25 percent.

6 4. “Issue year basis” means a valuation basis under which the interest rate used
7 to determine the minimum valuation standard for the full duration of the annuity
8 or guaranteed interest contract is the calendar year valuation interest rate for the
9 year of issue or year of purchase of the annuity or guaranteed interest contract.

10 5. “Moody’s monthly average” means the corporate bond yield monthly average,
11 as published by Moody’s Investors Service, Inc.

12 6. “Plan type A” means a policyholder may:

13 a. Withdraw funds with an adjustment to reflect changes in interest rates or
14 asset values since receipt of the funds by the insurance company;

15 b. Withdraw funds without adjustment in installments over 5 years or more;

16 c. Withdraw funds as an immediate life annuity; or

17 d. Not withdraw funds.

18 7. “Plan type B” means that a policyholder is subject to any of subd. 6. a., b. or
19 d. At the end of the interest rate guarantee, funds may be withdrawn without the
20 adjustment under subd. 6. a. in a single sum or installments over less than 5 years.

21 8. “Plan type C” means a policyholder may withdraw funds before the end of
22 the interest rate guarantee in a single sum or installments over less than 5 years
23 without the adjustment under subd. 6. a. or subject to a fixed surrender charge
24 stipulated in the contract as a percentage of the fund.

25 9. “R” means the applicable reference interest rate determined under par. (f).

1 3. Except as provided under subd. 2., for annuities with cash settlement options
2 and guaranteed interest contracts with cash settlement options, valued on an issue
3 year basis and having guarantee durations greater than 10 years, $I = 0.03 + W (R1$
4 $- 0.03) W/2 (R2 - 0.09)$.

5 4. Except as provided under subd. 2., for annuities with cash settlement options
6 and guaranteed interest contracts with cash settlement options, valued on an issue
7 year basis and having guarantee durations not exceeding 10 years, $I = 0.03 + W (R$
8 $- 0.03)$.

9 5. For annuities with no cash settlement options and for guaranteed interest
10 contracts with no cash settlement options, $I = 0.03 + W (R - 0.03)$.

11 6. For annuities with cash settlement options and guaranteed interest
12 contracts with cash settlement options, valued on a change in fund basis, $I = 0.03 +$
13 $W (R - 0.03)$.

14 (d) Notwithstanding par. (c) 1., if the calendar year valuation interest rate
15 determined under par. (c) 1. differs from the corresponding actual rate for similar
16 policies issued in the immediately preceding calendar year by less than 0.5 percent,
17 the calendar year valuation interest rate for those policies is the corresponding
18 actual rate for the immediately preceding calendar year. For purposes of this
19 paragraph, the calendar year valuation interest rate for policies issued in 1980 shall
20 be determined using the reference interest rate for 1979 and shall be determined
21 under this paragraph for subsequent calendar years notwithstanding s. 632.43 (6m).

22 (e) 1. For life insurance having a guarantee duration of:

23 a. Not more than 10 years, the weighting factor is 0.50.

24 b. More than 10 years and not more than 20 years, the weighting factor is 0.45.

25 c. More than 20 years, the weighting factor is 0.35.

1 2. For single premium immediate annuities and annuity benefits involving life
2 contingencies arising from other annuities with cash settlement options and
3 guaranteed interest contracts with cash settlement options, the weighting factor is
4 0.80.

5 3. Except as provided in subd. 2., for annuities and guaranteed interest
6 contracts valued on an issue year basis and having a guarantee duration of:

7 a. Not more than 5 years, the weighting factor is 0.80 for plan type A, 0.60 for
8 plan type B and 0.50 for plan type C.

9 b. More than 5 years and not more than 10 years, the weighting factor is 0.75
10 for plan type A, 0.60 for plan type B and 0.50 for plan type C.

11 c. More than 10 years and not more than 20 years, the weighting factor is 0.65
12 for plan type A, 0.50 for plan type B and 0.45 for plan type C.

13 d. More than 20 years, the weighting factor is 0.45 for plan type A and 0.35 for
14 plan types B and C.

15 4. Except as provided in subd. 2., for annuities and guaranteed interest
16 contracts valued on a change in fund basis, the weighting factor is that specified
17 under subd. 3. increased by 0.15 for plan type A, 0.25 for plan type B and 0.05 for plan
18 type C.

19 5. Except as provided under subd. 2., for annuities and guaranteed interest
20 contracts valued on an issue year basis, other than those with no cash settlement
21 options, which do not guarantee interest on considerations received more than one
22 year after issue or purchase and for annuities and guaranteed interest contracts
23 valued on a change in fund basis which do not guarantee interest rates on
24 considerations received more than 12 months beyond the valuation date, the

1 weighting factor is that specified under subd. 3. or 4. increased by 0.05 for plan types
2 A, B and C.

3 (f) 1. For life insurance, the reference interest rate is the lesser of the average
4 over a period of 36 months and the average over a period of 12 months, ending on
5 June 30 of the calendar year next preceding the year of issue, of Moody's monthly
6 average.

7 2. For single premium immediate annuities and for annuity benefits involving
8 life contingencies arising from other annuities with cash settlement options and
9 guaranteed interest contracts with cash settlement options, the reference interest
10 rate is the average over a period of 12 months, ending on June 30 of the calendar year
11 of issue or year of purchase, of Moody's monthly average.

12 3. Except as provided under subd. 2., for annuities with cash settlement options
13 and guaranteed interest contracts with cash settlement options, valued on an issue
14 year basis and having a guarantee duration in excess of 10 years, the reference
15 interest is the lesser of the average over a period of 36 months and the average over
16 a period of 12 months, ending on June 30 of the calendar year of issue or purchase,
17 of Moody's monthly average.

18 4. Except as provided under subd. 2., for annuities with cash settlement options
19 and guaranteed interest contracts with cash settlement options, valued on an issue
20 year basis and having a guarantee duration of 10 years or less, the reference interest
21 rate is the average over a period of 12 months, ending on June 30 of the calendar year
22 of issue or purchase, of Moody's monthly average.

23 5. For annuities with no cash settlement options and for guaranteed interest
24 contracts with no cash settlement options, the reference interest rate is the average

1 over a period of 12 months, ending on June 30 of the calendar year of issue or
2 purchase, of Moody's monthly average.

3 6. Except as provided under subd. 2., for annuities with cash settlement options
4 and guaranteed interest contracts with cash settlement options, valued on a change
5 in fund basis, the reference interest rate is the average over a period of 12 months,
6 ending on June 30 of the calendar year of the change in the fund, of Moody's monthly
7 average.

8 (g) If Moody's monthly average is no longer published, or if the national
9 association of insurance commissioners determines that Moody's monthly average
10 is no longer appropriate for the determination of the reference interest rate, an
11 alternative method for determination of the reference interest rate, which is adopted
12 by the National Association of Insurance Commissioners and approved by rule
13 adopted by the commissioner, may be substituted.

14 (h) A company may elect to value guaranteed interest contracts with cash
15 settlement options and annuities with cash settlement options on an issue year basis
16 or a change in fund basis. Guaranteed interest contracts with no cash settlement
17 options and other annuities with no cash settlement options must be valued on an
18 issue year basis.

****NOTE: Do pars. (e) to (h) above need to be limited in any way to issuance before
the operative date of the valuation manual?

19 (3) Except as provided in subs. (4m) and (7), reserves according to the
20 commissioners reserve valuation method, for the life insurance and endowment
21 benefits of policies providing for a uniform amount of insurance and requiring the
22 payment of uniform premiums shall be the excess, if any, of the present value, at the
23 date of valuation, of such future guaranteed benefits provided for by such policies,

1 over the then present value of any future modified net premiums therefor. The
2 modified net premiums for any such policy shall be such uniform percentage of the
3 respective contract premiums for such benefits that the present value, at the date of
4 issue of the policy, of all such modified net premiums shall be equal to the sum of the
5 then present value of such benefits provided for by the policy and the excess of par.

6 (a) over par. (b), as follows:

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

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

****NOTE: Does anything in the subsection above (such as issuance) need to be
limited to before the operative date of the valuation manual?

of policies or contracts

16 (3m) (a) In this subsection:

17 1. "Assumed ending date" means the first policy anniversary on which the sum
18 of any endowment benefit and any cash surrender value then available is greater
19 than the excess premium.

20 2. "Excess premium" means the amount by which a contract premium in the
21 first policy year exceeds the contract premium in the 2nd policy year.

22 (b) Except as provided under sub. (7), any life insurance policy issued on or after
23 January 1, 1984, but before the operative date of the valuation manual, for which no

1 comparable benefit is provided in the first year for an excess premium and which
2 provides an endowment benefit or a cash surrender value or a combination of both
3 in an amount greater than the excess premium, the reserve according to the
4 commissioners reserve valuation method as of any policy anniversary occurring on
5 or before the assumed ending date is the greater of the reserve on that policy
6 anniversary calculated under sub. (3) and the reserve on that policy anniversary
7 calculated under sub. (3) subject to the following computational assumptions:

****NOTE: Is the limitation to before the operative date of the valuation manual
correct?

8 1. The value defined in sub. (3) (a) is reduced by 15 percent of the amount of
9 the excess premium.

10 2. All present values of benefits and premiums are determined without
11 reference to premiums or benefits provided by the policy after the assumed ending
12 date.

13 3. The policy matures on the assumed ending date as an endowment.

14 4. The cash surrender value provided on the assumed ending date is an
15 endowment benefit.

16 (c) In making the comparison under par. (b) the mortality and interest bases
17 stated in subs. (2) and (2m) shall be used.

18 (4) Reserves according to the commissioners reserve valuation method for the
19 following shall be calculated by a method consistent with the principles of sub. (3),
20 except that any extra premiums charged because of impairments or special hazards
21 shall be disregarded in the determination of modified net premiums:

22 (a) Life insurance policies providing for a varying amount of insurance or
23 requiring the payment of varying premiums.

1 (b) Group annuity and pure endowment contracts purchased under a
2 retirement plan or plan of deferred compensation, established or maintained by an
3 employer, including a partnership or sole proprietorship, or by an employee
4 organization, or by both, other than a plan providing individual retirement accounts
5 or individual retirement annuities under section 408 of the internal revenue code,
6 as amended.

7 (c) Disability and accidental death benefits in all policies and contracts.

8 (d) All other benefits, except life insurance and endowment benefits in life
9 insurance policies and benefits provided by all other annuity and pure endowment
10 contracts.

****NOTE: Does anything in the subsection above (such as issuance) need to be
limited to before the operative date of the valuation manual?

of policies or contracts

11 (4m) This subsection applies to all annuity and pure endowment contracts
12 other than group annuity and pure endowment contracts purchased under a
13 retirement plan or plan of deferred compensation, established or maintained by an
14 employer, including a partnership or sole proprietorship, or by an employee
15 organization, or by both, other than a plan providing individual retirement accounts
16 or individual retirement annuities under section 408 of the Internal Revenue Code.
17 Reserves according to the commissioners annuity reserve method for benefits under
18 annuity or pure endowment contracts, excluding any disability and accidental death
19 benefits in such contracts, shall be the greatest of the respective excesses of the
20 present values, at the date of valuation, of the future guaranteed benefits, including
21 guaranteed nonforfeiture benefits, provided for by such contracts at the end of each
22 respective contract year, over the present value, at the date of valuation, of any
23 future valuation considerations derived from future gross considerations, required

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

****NOTE: Does anything in the subsection above (such as issuance) need to be limited to before the operative date of the valuation manual?

7 (5) (a) In no event may a company's aggregate reserves for all life insurance
8 policies, excluding disability and accidental death benefits, issued on or after the
9 effective date of this section but before the operative date of the valuation manual,
10 be less than the aggregate reserves calculated in accordance with the method set
11 forth in subs. (3) to (4m) and (7) and the mortality table or tables and rate or rates
12 of interest used in calculating nonforfeiture benefits for such policies.

****NOTE: Can the actual date be substituted for "the effective date of this section"?
Is the limitation to before the operative date of the valuation manual correct?

13 (b) In no event may a company's aggregate reserves for all policies, contracts
14 and benefits be less than the aggregate reserves determined by a qualified actuary
15 in an opinion under sub. (1m) (b) 1. to be necessary to make adequate provision for
16 the company's obligations under the policies and contracts.

****NOTE: Does anything in the paragraph above (such as issuance) need to be limited to before the operative date of the valuation manual?

17 (6) Reserves for all policies and contracts issued prior to the effective date of
18 this subsection but before the operative date of the valuation manual may be
19 calculated, at the option of the company, according to any standards that produce
20 greater aggregate reserves for all such policies and contracts than the minimum
21 reserves required by the laws in effect immediately prior to such date. Reserves for

1 any category of policies, contracts or benefits as established by the commissioner,
2 issued on or after the effective date of this subsection but before the operative date
3 of the valuation manual, may be calculated, at the option of the company, according
4 to any standards that produce greater aggregate reserves for such category than
5 those calculated according to the minimum standard herein provided, but the rate
6 or rates of interest used for policies and contracts, other than annuity and pure
7 endowment contracts, shall not be higher than the corresponding rate or rates of
8 interest used in calculating any nonforfeiture benefits provided for therein. Any
9 such company that at any time has adopted any standard of valuation producing
10 greater aggregate reserves than those calculated according to the minimum
11 standard herein provided may, with the approval of the commissioner, adopt any
12 lower standard of valuation, but not lower than the minimum herein provided. For
13 the purposes of this subsection, holding any additional reserves that a qualified
14 actuary, in an opinion under sub. (1m) (b) 1., determined to be necessary to make
15 adequate provision for the company's obligations under the policies and contracts
16 shall not be considered the adoption of a higher standard of valuation.

****NOTE: Can the actual date be substituted for "the effective date of this ^(sub)section"?
Is the limitation to before the operative date of the valuation manual correct?

17 (7) (a) If in any contract year the gross premium charged by any life insurance
18 company on any policy or contract is less than the valuation net premium for the
19 policy or contract calculated by the method used in calculating its reserve but using
20 the minimum valuation standards of mortality and rate of interest under subs. (2)
21 and (2m), the minimum reserve required for the policy or contract shall be the
22 greater of either the reserve calculated according to the mortality table, rate of
23 interest, and method actually used for the policy or contract, or the reserve calculated

1 by the method actually used for the policy or contract but using the minimum
2 valuation standards of mortality and rate of interest under subs. (2) and (2m) and
3 replacing the valuation net premium by the actual gross premium in each contract
4 year for which the valuation net premium exceeds the actual gross premium.

****NOTE: Does anything in the paragraph above (such as issuance) need to be
limited to before the operative date of the valuation manual?

of policies or contracts

5 (b) 1. In this paragraph, “excess premium” means the amount by which a gross
6 premium in the first policy year exceeds the gross premium in the 2nd policy year.

7 2. If a life insurance policy issued on or after January 1, 1984, but before the
8 operative date of the valuation manual provides no comparable benefit in the first
9 year for an excess premium and provides an endowment benefit, cash surrender
10 value or both in an amount greater than the excess premium, the minimum reserve
11 at each policy anniversary is the greater of the minimum reserve under subs. (3) to
12 (4) and the minimum reserve under par. (a).

****NOTE: Is the limitation to before the operative date of the valuation manual
correct?

13 3. For purposes of par. (a), the method used in calculating the reserve of a policy
14 under subd. 2. is specified under subs. (3) to (4).

15 (c) If a plan of life insurance provides for future determination of premiums
16 based on recent estimates of future experience available at the time of the
17 determination, or if the minimum reserves for a plan of life insurance or an annuity
18 cannot be determined under subs. (3) to (4m) and this subsection, the commissioner
19 shall by rule adopt a method for determining the minimum reserves for the plan or
20 annuity. A rule adopted under this paragraph shall specify a method consistent with
21 the principles of this section and appropriate in relation to the benefits and pattern
22 of premiums for the plan or annuity.

of policies or contracts

****NOTE: Does anything in the paragraph above (such as issuance) need to be limited to before the operative date of the valuation manual?

1 **SECTION 7.** 623.06 (8) of the statutes is renumbered 623.06 (13) and amended
2 to read:

3 623.06 (13) ~~This section shall become effective on the same date as does s.~~
4 ~~632.43.~~ The provisions of this section shall supersede all provisions of law
5 inconsistent or in conflict therewith.

History: 1973 c. 303; 1977 c. 153 ss. 2, 4, 6; 1977 c. 273; 1977 c. 339 ss. 17, 44; Stats. 1977 s. 623.06; 1979 c. 110 s. 60 (13); 1981 c. 307 ss. 1x to 6, 13; 1989 a. 56; 1993 a. 490; 1995 a. 396; 1999 a. 85; 2001 a. 103; 2011 a. 257.

6 **SECTION 8.** 623.06 (8m) of the statutes is created to read:

7 623.06 (8m) For accident and health insurance contracts issued on or after the
8 effective date of this subsection [LRB inserts date], but before the operative date
9 of the valuation manual, the minimum standard of valuation is the standard adopted
10 by the commissioner by rule. For accident and health insurance contracts issued on
11 or after the operative date of the valuation manual, the standard prescribed in the
12 valuation manual shall be the minimum standard of valuation required under sub.
13 (1f)(b).

14 **SECTION 9.** 623.06 (9) of the statutes is created to read:

15 623.06 (9) (a) For policies and contracts issued on or after the operative date
16 of the valuation manual, the standard prescribed in the valuation manual is the
17 minimum standard of valuation required under sub. (1f)(b), except as provided in
18 pars. (e) and (g).

19 (b) The operative date of the valuation manual is January 1 of the first calendar
20 year beginning after the first July 1 as of which all of the following have occurred:

21 1. The valuation manual has been adopted by the National Association of
22 Insurance Commissioners by an affirmative vote of at least 42 members or
23 three-fourths of the members voting, whichever is greater.

1 2. The standard valuation law, as amended by the National Association of
2 Insurance Commissioners in 2009, or legislation including substantially similar
3 terms and provisions, has been enacted by states representing more than 75 percent
4 of the direct premiums written as reported in all of the following annual statements
5 submitted for 2008:

6 a. Life, accident, and health annual statements.

7 b. Health annual statements.

8 c. Fraternal annual statements.

9 3. The standard valuation law, as amended by the National Association of
10 Insurance Commissioners in 2009, or legislation including substantially similar
11 terms and provisions, has been enacted by at least 42 of the following 55
12 jurisdictions:

13 a. The 50 states of the United States.

14 b. American Samoa.

15 c. The American Virgin Islands

16 d. The District of Columbia.

17 e. Guam.

18 f. Puerto Rico.

19 (c) Unless a change in the valuation manual specifies a later effective date,
20 changes to the valuation manual shall be effective on the first January 1 after the
21 date when such changes have been adopted by the National Association of Insurance
22 Commissioners by an affirmative vote representing all of the following:

23 1. At least three-fourths of the members of the National Association of
24 Insurance Commissioners voting, but not less than a majority of the total
25 membership.

1 2. Members of the National Association of Insurance Commissioners
2 representing jurisdictions with more than 75 percent of the direct premiums written
3 as reported in all of the following annual statements most recently available before
4 the vote under subd. 1.:

5 a. Life, accident, and health annual statements.

6 b. Health annual statements.

7 c. Fraternal annual statements.

 ****NOTE: Does "jurisdictions" refer to the 55 listed in par. (b) 3.? Would it be useful
to clarify that?

jurisdictions

8 (d) The valuation manual must specify all of the following:

9 1. Minimum valuation standards for and definitions of the policies and
10 contracts subject to sub. (1f)(b). The minimum valuation standards shall be all of
11 the following:

12 a. The commissioners reserve valuation method for life insurance contracts,
13 other than annuity contracts, subject to sub. (1f)(b).

14 b. The commissioners annuity reserve valuation method for annuity contracts
15 subject to sub. (1f)(b).

16 c. Minimum reserves for all other policies and contracts subject to sub. (1f)(b).

17 2. Which policies or contracts, or types of policies or contracts, are subject to the
18 requirements of a principle-based valuation in sub. (10)(a) and the minimum
19 valuation standards consistent with those requirements.

20 3. For policies and contracts subject to a principle-based valuation under sub.
21 (10), all of the following:

1 a. Requirements for the format of reports to the commissioner under sub. (10)
2 (b) 3., which reports shall include information necessary to determine if the
3 valuation is appropriate and in compliance with this section.

4 b. Requirements regarding the treatment of risks over which the insurance
5 company does not have significant control or influence.

6 c. Procedures for corporate governance and oversight of the actuarial function
7 and a process for appropriate waiver or modification of such procedures.

8 4. The minimum valuation standard for policies not subject to a
9 principle-based valuation under sub. (10), which minimum valuation standard shall
10 be the greater of the following:

11 a. Reserves that are consistent with the minimum standard of valuation before
12 the operative date of the valuation manual.

13 b. Reserves that quantify the benefits, guarantees, and funding associated with
14 the contracts and their risks at a level of conservatism that reflects conditions that
15 include unfavorable events that have a reasonable probability of occurring. This
16 does not preclude, for policies with significant tail risk, reflecting in the reserve
17 conditions appropriately adverse to quantify that tail risk.

18 5. Other requirements, including those relating to reserve methods, models for
19 measuring risk, generation of economic scenarios, assumptions, margins, use of
20 insurance company experience, risk measurement, disclosure, certifications,
21 reports, actuarial opinions and memoranda, transition rules, and internal controls.

22 6. The data and form of the data required under sub. (11) and to whom the data
23 must be submitted. The valuation manual may specify other related requirements,
24 including data analyses and reporting of analyses.

1 (e) In the absence of a specific valuation requirement, or if a specific valuation
2 requirement in the valuation manual is not, in the opinion of the commissioner, in
3 compliance with this section, the insurance company shall, with respect to such
4 requirements, comply with minimum valuation standards prescribed by the
5 commissioner by rule.

6 (f) The commissioner may engage a qualified actuary, at the expense of the
7 insurance company, to perform an actuarial examination of the company and opine
8 on the appropriateness of any reserve assumption or method used by the company,
9 or to review and opine on a company's compliance with any requirement in this
10 section. The commissioner may rely on the opinion, regarding provisions in this
11 section, of a qualified actuary engaged by the commissioner of another state or
12 district or territory of the United States. As used in this paragraph, the term
13 "engage" includes both "employ" and "contract with."

14 (g) The commissioner may require an insurance company to make any change
15 to an assumption or method that, in the opinion of the commissioner, is necessary to
16 comply with the requirements of the valuation manual or this section. An insurance
17 company shall adjust the reserves as required by the commissioner. The
18 commissioner may take any disciplinary action permitted under ss. 601.41 (4) and
19 601.64.

20 (h) 1. The commissioner may exempt specific product forms or product lines of
21 a domestic company that is licensed and doing business only in Wisconsin from the
22 requirements of this subsection if all of the following are satisfied:

23 a. The commissioner has issued an exemption in writing to the company and
24 has not subsequently revoked the exemption in writing.

1 b. The company computes reserves using assumptions and methods used
2 before the operative date of the valuation manual in addition to any requirements
3 established by the commissioner and promulgated by rule.

4 2. For policy forms and product lines for which a company is granted an
5 exemption under subd. 1., subs. (1f)(a), (1m), and (2) to (7) apply, and any reference
6 to the valuation manual does not apply.

7 **SECTION 10.** 623.06 (10) of the statutes is created to read:

8 623.06 (10) (a) An insurer must establish reserves for policies and contracts as
9 specified in the valuation manual using a principle-based valuation that does all of
10 the following:

 ***NOTE: Since this will be effective immediately, do we need to say "Beginning on
the operative date of the valuation manual"? Also, does this apply to policies and
contracts existing on that date or only those issued on or after the operative date of the
valuation manual?

11 1. Quantifies the benefits, guarantees, and funding associated with the
12 contracts and their risks at a level of conservatism that reflects conditions that
13 include unfavorable events that have a reasonable probability of occurring during
14 the lifetime of the contracts. For policies or contracts with significant tail risk, the
15 principle-based valuation should reflect conditions appropriately adverse to
16 quantify the tail risk.

17 2. Incorporates assumptions, risk analysis methods and financial models, and
18 management techniques that are consistent with, but not necessarily identical with,
19 those used within the company's overall risk assessment process, while recognizing
20 potential differences in financial reporting structures and any prescribed
21 assumptions or methods.

22 3. Incorporates assumptions that are derived in one of the following ways:

23 a. The assumption is prescribed in the valuation manual.

1 b. For an assumption that is not prescribed in the valuation manual, the
2 assumption is established using the company's available experience to the extent it
3 is relevant and statistically credible. To the extent that company data is not
4 available, relevant, or statistically credible, the assumption is established using
5 other relevant, statistically credible experience.

6 4. Provides margins for uncertainty, including adverse deviation and
7 estimation error, such that the greater the uncertainty the larger the margin and
8 resulting reserve.

9 (b) A company using a principle-based valuation for one or more policies or
10 contracts subject to this section as specified in the valuation manual shall do all of
11 the following:

12 1. Establish procedures for corporate governance and oversight of the actuarial
13 valuation function consistent with those described in the valuation manual.

14 2. Provide to the commissioner and the board of directors an annual
15 certification of the effectiveness of the internal controls with respect to the
16 principle-based valuation. The internal controls shall be designed to ensure that all
17 material risks inherent in the liabilities and associated assets subject to the
18 valuation are included in the valuation and that valuations are made in accordance
19 with the valuation manual. The certification shall be based on the controls in place
20 as of the end of the preceding calendar year.

21 3. Develop, and file with the commissioner upon request, a principle-based
22 valuation report that complies with standards prescribed in the valuation manual.

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

25 **SECTION 11.** 623.06 (11) of the statutes is created to read:

1 623.06 (11) A company shall submit mortality, morbidity, policyholder
2 behavior, or expense experience and other data as prescribed in the valuation
3 manual.

 ****NOTE: Should this also say “Beginning on the operative date of the valuation
manual”?

4 **SECTION 12.** 623.06 (12) of the statutes is created to read:

5 623.06 (12) (a) For purposes of pars. (b) and (c), all of the following are
6 confidential information:

7 1. A memorandum in support of an opinion submitted under sub. (1m) or (1r)
8 and any other documents, materials, or other information, including all working
9 papers and copies of working papers, created, produced, or obtained by or disclosed
10 to the commissioner or any other person in connection with the memorandum.

11 2. All documents, materials, and other information, including all working
12 papers and copies of working papers, created, produced, or obtained by or disclosed
13 to the commissioner or any other person in the course of an examination made under
14 sub. (9)(f), except that if an examination report or other material prepared in
15 connection with an examination made under ss. 601.43 and 601.44 is not held as
16 private and confidential information under s. 601.465 (1m) (b), an examination
17 report or other material prepared in connection with an examination made under
18 sub. (9)(f) is not confidential information to the same extent as if the examination
19 report or other material had been prepared under ss. 601.43 and 601.44.

20 3. Any reports, documents, materials, or other information developed by a
21 company in support of, or in connection with, an annual certification by the company
22 under sub. (10)(b) 2. evaluating the effectiveness of the company’s internal controls
23 with respect to a principle-based valuation and any other documents, materials, or

1 other information, including all working papers and copies of working papers,
2 created, produced, or obtained by or disclosed to the commissioner or any other
3 person in connection with the reports, documents, materials, and other information.

4 4. Any principle-based valuation report developed under sub. (10) (b) 3. and
5 any other documents, materials, or other information, including all working papers
6 and copies of working papers, created, produced, or obtained by or disclosed to the
7 commissioner or any other person in connection with the report.

8 5. Any documents, materials, data, or other information submitted by a
9 company under sub. (11), and any supporting information related to such a
10 submission that is provided to or obtained by the commissioner, to the extent that
11 such documents, materials, data, other information, or supporting information
12 include potentially company-identifying or personally identifiable information.

****NOTE: Doesn't adding the word "potentially" make just about any written materials confidential? It seems a little overbroad.

13 (b) 1. Information described as confidential under par. (a) is confidential and
14 privileged; is not subject to receipt, inspection, or copying under s. 19.35 (1); is not
15 subject to subpoena; and is not subject to discovery or admissible in evidence in any
16 private civil action. The commissioner is authorized to use the confidential
17 information in the furtherance of any regulatory or legal action brought against the
18 company as a part of the commissioner's official duties.

19 2. Neither the commissioner nor any person who received confidential
20 information while acting under the authority of the commissioner may testify in any
21 private civil action concerning any confidential information.

22 3. a. In furtherance of the performance of the commissioner's regulatory duties,
23 the commissioner may share confidential information with other state, federal, and

1 international regulatory agencies; the National Association of Insurance
2 Commissioners and its affiliates and subsidiaries; and state, federal, and
3 international law enforcement agencies.

4 b. Confidential information may be shared under subd. 3. a. only if the recipient
5 agrees, and has the legal authority to agree, to maintain the confidentiality and
6 privileged status of such documents, materials, data, and other information in the
7 same manner and to the same extent as required for the commissioner.

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

17 d. The commissioner may enter into agreements governing sharing and use of
18 information consistent with this subsection.

19 e. No waiver of any applicable privilege or claim of confidentiality in the
20 confidential information shall occur as a result of disclosure of such information or
21 documents to the commissioner under this subsection or as a result of the
22 commissioner sharing such information or documents as authorized in this
23 subsection.

SECTION 12

1 f. A privilege established under the law of any state or jurisdiction that is
2 substantially similar to the privilege established under this subsection shall be
3 available and enforced in any proceeding in, and in any court of, this state.

4 (c) Notwithstanding par. (b), any confidential information specified in par. (a)
5 1. and 4. is subject to all of the following:

6 1. The confidential information may be subject to subpoena for the purpose of
7 defending an action seeking damages from the appointed actuary submitting the
8 related memorandum in support of an opinion submitted under sub. (1m) or (1r) or
9 the principle-based valuation report developed under sub. (10)(b) 3. by reason of an
10 action required by this section or rules promulgated under this section.

***NOTE: Is "subject to subpoena for the purpose of defending an action seeking
damages" too limited? Would it be better to say "subject to subpoena in an action seeking
damages" and leave out the limitation to defending the action?

***NOTE: Does the appointed actuary submit both the memorandum in support of
an opinion and the principle-based valuation report?

11 2. The confidential information may otherwise be released by the commissioner
12 with the written consent of the company.

13 3. If any portion of a memorandum in support of an opinion submitted under
14 sub. (1m) or (1r) or any portion of the principle-based valuation report developed
15 under sub. (10)(b) 3. is cited by the company in its marketing or is publicly
16 volunteered to or before a government agency other than a state insurance
17 department or is released by the company to the news media, all portions of such
18 memorandum or report shall no longer be confidential.

19 **SECTION 13. Nonstatutory provisions.**

20 (1) OPERATIVE DATE OF THE VALUATION MANUAL. As soon as possible after the
21 requirements under section 623.06 (9)(b) of the statutes, as created by this act, are
22 met, the office of the commissioner of insurance shall submit to the legislative

1 reference bureau for publication in the Wisconsin administrative register a notice
2 specifying the date that is the operative date of the valuation manual, as provided
3 in section 623.06 (9)(b) of the statutes, as created by this act.

4 **SECTION 14. Effective dates.** This act takes effect on the day after publication,
5 except as follows:

6 (1) OPERATIVE DATE OF VALUATION MANUAL. The repeal and recreation of section
7 623.06 (1c) (f) of the statutes takes effect on the date specified in the notice published
8 in the Wisconsin administrative register under SECTION 13 (1) of this act.

9

(END)

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D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2912/P1dn
PJK:klm

August 17, 2015

This draft shows s. 623.06 with all of the provisions of current law and the proposed new provisions. The new, created provisions from LRB-2365 are not underscored, but they are prefaced by an action phrase such as "623.06 (1r) of the statutes is created to read." All of the provisions that were included in LRB-2365 (whether created, amended, repealed and recreated, etc.) are shown with the action phrase from that draft. Some provisions of current law that were not included in LRB-2365 have proposed changes that are stricken or underscored, but I have not added an action phrase.

All (except one) of the provisions take effect immediately. Those that are not effective until the operative date of the valuation manual have that in-text phrase. Thus, they become law now but will not be implemented until the operative date of the valuation manual. The one provision that has a delayed effective date is the second treatment of the definition of "operative date of the valuation manual." I have double-drafted this definition. The first treatment takes effect immediately. It is then repealed and recreated, with a delayed effective date of the operative date of the valuation manual. That way, the actual date that is the operative date of the valuation manual can be inserted into the definition by the revisor when you provide the notice to the LRB of that date, so that wherever that phrase appears in s. 623.06, the actual date is incorporated through the definition. (See the nonstatutory provision that requires you to provide to the LRB a notice of the date, which is then published in the Wisconsin Administrative Register.) I am hoping that you will be able to give me the actual dates for the other references in current law to "effective date" and "operative date" so that I can amend them in and make the statute much more user-friendly and drafter-friendly.

I have assumed that the valuation manual will supersede all of the subsections in current law that were not treated in LRB-2365 (subs. (2) to (7)); however, that may not be the case. I have added "but before the operative date of the valuation manual" where appropriate, but that may not be enough to capture all of the provisions. For that reason a different treatment may be better. There are two alternative options. One option is to create a single provision that provides something to the effect that subs. (2) to (7) do not apply to policies or contracts issued on or after the operative date of the valuation manual (if that is true). The other option is to "notwithstanding" the subsections that will be superseded. For example, it might be appropriate to add "Notwithstanding subs. (2) to (7)," at the beginning of newly created sub. (9) (a).

Finally, you will notice that I removed any reference to effective dates in sub. (8), which is renumbered to sub. (13). That is because all of current law is in effect now and the new provisions will be in effect on the day after publication, so there is no need to have an effective date in the text of the statutes.

Please let me know if you have any questions. When s. 623.06 is finalized, the changes you approve will be incorporated into LRB-2365, so this draft is just for working purposes.

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Kahler, Pam

From: Connie O'Connell <coconnell@parrettoconnell.com>
Sent: Tuesday, August 25, 2015 9:45 AM
To: Kahler, Pam
Subject: Language for actuarial board

Permitted disclosure: The Actuarial Board for Counseling and Discipline or its successor, in the case of confidential information under sub. (12)(a)1. and (12)(a)4. of this section only, upon request stating that the confidential information is required for the purposes of professional disciplinary proceedings.

Connie O'Connell

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2912/P2dn

PJK: ~~lkm~~ *lkm*

— DATE —

I think we are getting very close. The two aspects that I have concerns about are the effective date statutory provision in sub. (8) (renumbered to sub. (13)) and the applicability provisions (sentences at the end of s. 623.06 (1f) (a) and (b)). Both applicability provisions state what policies and contracts the subsections apply to. Should those subsections apply to *only* those policies and contracts? Let me know what tweaks are needed. Thank you.

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