



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

☞ Appendix A ... segment II

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.



P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

1 AN ACT *to renumber and amend* 623.06 (1f) and 623.06 (8); *to repeal and*
2 *recreate* 623.06 (1c) and 623.06 (1c) (f); and *to create* 623.06 (1f) (b), 623.06
3 (1m) (intro.), 623.06 (1r), 623.06 (8m), 623.06 (9), 623.06 (10), 623.06 (11) and
4 623.06 (12) of the statutes; **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.

Insert A

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

5 **623.06 Standard valuation law.**

6 SECTION 1. 623.06 (1c) of the statutes is repealed and recreated to read:

7 623.06 (1c) In this section:

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

Insert 1-7

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

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

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

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

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

Insert 2-8

Insert 3-9

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16 (this act), is repealed and recreated to read: *created*

17 623.06 (1c) (f) "Operative date of the valuation manual" means the effective
18 date of this paragraph ... [LRB inserts date], as determined under sub. (9) (b).

****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.

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

22 (h) "Qualified actuary" means an individual who is qualified to sign the
23 applicable statement of actuarial opinion in accordance with the American academy

1 of actuaries qualification standards for actuaries signing such statements and who
2 meets the requirements specified in the valuation manual, if the valuation manual
3 is in effect, and any other requirements that the commissioner may by rule specify.

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

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

Insert 3-9
Insert 3-10

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

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

1 of such state or jurisdiction accepts as sufficient and valid for all legal purposes the
 2 certificate of valuation of the commissioner when such certificate states the
 3 valuation to have been made in a specified manner according to which the aggregate
 4 reserves would be at least as large as if they had been computed in the manner
 5 prescribed by the law of that state or jurisdiction. *Insert 4-5*

Insert 4-6

⑤

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

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

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

18
 19 623.06 (1m) (intro.) Before the operative date of the valuation manual, all of
 20 the following apply:

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

1 policies and contracts specified by the commissioner by rule satisfy all of the
2 following:

- 3 a. They are computed appropriately.
- 4 b. They are based on assumptions that satisfy contractual provisions.
- 5 c. They are consistent with prior reported amounts.
- 6 d. They comply with the applicable laws of this state.

7 2. The commissioner shall by rule specify in detail the nature of the information
8 required in the opinion under subd. 1. and may by rule require any additional
9 information that the commissioner determines is necessary to the scope of the
10 opinion.

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

24 2. An insurance company that is required to submit an opinion under subd. 1.
25 shall have prepared by the qualified actuary who renders the opinion a

1 memorandum in support of the opinion under subd. 1. The commissioner shall
2 specify by rule the form and content of the memorandum. The insurance company
3 shall provide the memorandum to the commissioner, at the commissioner's request,
4 for his or her examination. After examination, the commissioner shall return the
5 memorandum to the insurance company. The memorandum shall not be considered
6 a record of the commissioner's office.

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

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

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

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

22 3. In the case of an opinion required to be submitted by a foreign or alien
23 company, the commissioner may accept the opinion filed by that company with the
24 insurance supervisory official of another state if the commissioner determines that

1 the opinion reasonably meets the requirements applicable to a company domiciled
2 in this state.

3 (d) Except for fraud or willful misconduct, a qualified actuary may not be held
4 liable for damages to any person other than the insurance company or the
5 commissioner for any act, error, omission, decision or conduct with respect to an
6 opinion required under this subsection.

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

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

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

23 3. A memorandum loses its confidentiality if the insurance company cites any
24 portion of the memorandum for marketing purposes or before any governmental

1 agency other than a state insurance department or if the insurance company releases
2 any portion of the memorandum to the news media.

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

4 623.06 (1r) Beginning on the operative date of the valuation manual, all of the
5 following apply:

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

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

1 the policies and contracts. The opinion required under this paragraph shall be
2 governed by the following:

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

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

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

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

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

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

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

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

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

623.06 (intro.) (8) (13)

10 **SECTION 7.** 623.06-(2) (intro.) of the statutes is amended to read:

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

****NOTE: Where it says "the effective date of this section," 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.

1 (a) For all ordinary policies of life insurance issued on the standard basis,
2 excluding any disability and accidental death benefits in those policies, the
3 commissioners 1941 standard ordinary mortality table for those policies issued
4 before the operative date of s. 632.43 (6) (b), and the commissioners 1958 standard
5 ordinary mortality table for those policies issued on or after the operative date of s.
6 632.43 (6) (b) and before the operative date of s. 632.43 (6m). For any category of
7 those policies issued on female risks all modified net premiums and present values
8 referred to in this section may be calculated according to an age not more than 6 years
9 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)?

10 (am) For policies under par. (a) issued on or after the operative date of s. 632.43
11 (6m):

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

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

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

1 632.43 (6) (c) the commissioners 1961 standard industrial mortality table or any
2 industrial mortality table adopted after 1980 by the National Association of
3 Insurance Commissioners, that is approved by rule adopted by the commissioner for
4 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)?

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

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

14 (e) For total and permanent disability benefits in or supplementary to ordinary
15 policies or contracts issued on or after January 1, 1966, the tables of Period 2
16 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study
17 of the society of actuaries, with regard to the type of benefit, or any tables of
18 disablement rates and termination rates adopted after 1980 by the National
19 Association of Insurance Commissioners, that are approved by rule adopted by the
20 commissioner for use in determining the minimum standard of valuation for those
21 policies; for policies or contracts issued on or after January 1, 1961 and before
22 January 1, 1966, either those tables or, at the option of the company, the Class (3)
23 disability table (1926); and for policies issued before January 1, 1961, the Class (3)

1 disability table (1926). Any such table shall, for active lives, be combined with a
2 mortality table permitted for calculating the reserves for life insurance policies.

3 (f) For accidental death benefits in or supplementary to policies issued on or
4 after January 1, 1966, the 1959 accidental death benefits table or any accidental
5 death benefits table adopted after 1980 by the National Association of Insurance
6 Commissioners, that is approved by rule adopted by the commissioner for use in
7 determining the minimum standard of valuation for those policies; for policies issued
8 on or after January 1, 1961 and before January 1, 1966, either that table or, at the
9 option of the company, the intercompany double indemnity mortality table; and for
10 policies issued before January 1, 1961, the intercompany double indemnity mortality
11 table. Either table shall be combined with a mortality table permitted for calculating
12 the reserves for life insurance policies.

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

15 (2a) Except as provided in sub. (2m), the minimum standard for the valuation
16 of all individual annuity and pure endowment contracts issued on or after the
17 operative date of this subsection, as defined in sub. (2b), but before the operative date
18 of the valuation manual, and for all annuities and pure endowments purchased on
19 or after that operative date but before the operative date of the valuation manual
20 under group annuity and pure endowment contracts, shall be the commissioners
21 reserve valuation methods defined in subs. (3) to (4m) and the following tables and
22 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.

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

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

23 (c) For all annuities and pure endowments purchased prior to November 8,
24 1977, under group annuity and pure endowment contracts, excluding any disability
25 and accidental death benefits purchased under such contracts — the 1971 group

1 annuity mortality table, or any modification of this table approved by the
2 commissioner, and 6 percent interest.

3 (d) For all annuities and pure endowments purchased on or after November 8,
4 1977, under group annuity and pure endowment contracts, excluding any disability
5 and accidental death benefits in those contracts, the 1971 group annuity mortality
6 table or any group annuity mortality table adopted after 1980 by the National
7 Association of Insurance Commissioners, that is approved by rule adopted by the
8 commissioner for use in determining the minimum standard of valuation for those
9 annuities and pure endowments, or any modification of either table approved by the
10 commissioner, and 7.5 percent interest.

11 (2b) After June 19, 1974, but before January 1, 1979, any company may file
12 with the commissioner a written notice of its election to comply with sub. (2a) after
13 a specified date before January 1, 1979, which shall be the operative date of sub. (2a)
14 for such company, but a company may elect a different operative date for individual
15 annuity and pure endowment contracts from that elected for group annuity and pure
16 endowment contracts. If a company makes no such election, the operative date of
17 sub. (2a) for such company shall be January 1, 1979.

18 (2m) (a) In this subsection:

19 1. "Change in fund basis" means a valuation basis under which the interest rate
20 used to determine the minimum valuation standard applicable to each change in the
21 fund held under an annuity or guaranteed interest contract is the calendar year
22 valuation interest rate for the year of the change in the fund.

23 2. "Guarantee duration" means:

24 a. For life insurance, the maximum number of years the life insurance can
25 remain in force on a basis guaranteed in the policy or under options to convert to

1 plans of life insurance with premium rates, nonforfeiture values or both which are
2 guaranteed in the original policy.

3 b. For annuities and guaranteed interest contracts with cash settlement
4 options, the number of years for which the contract guarantees interest rates in
5 excess of the calendar year valuation interest rate for life insurance policies with a
6 guarantee duration of more than 20 years.

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

10 3. "I" means the applicable calendar year valuation interest rate determined
11 under par. (c), rounded to the nearest 0.25 percent.

12 4. "Issue year basis" means a valuation basis under which the interest rate used
13 to determine the minimum valuation standard for the full duration of the annuity
14 or guaranteed interest contract is the calendar year valuation interest rate for the
15 year of issue or year of purchase of the annuity or guaranteed interest contract.

16 5. "Moody's monthly average" means the corporate bond yield monthly average,
17 as published by Moody's Investors Service, Inc.

18 6. "Plan type A" means a policyholder may:

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

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

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

23 d. Not withdraw funds.

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

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

8 9. "R" means the applicable reference interest rate determined under par. (f).

9 10. "R1" means the lesser of R and 0.09.

10 11. "R2" means the greater of R and 0.09.

11 12. "W" means the applicable weighting factor determined under par. (e).

12 (b) Except as provided in par. (d), the formulas under par. (c) shall be used in
13 determining the minimum standard for the valuation of all of the following:

14 1. Life insurance policies issued in a calendar year on or after the operative date
15 of s. 632.43 (6m) but before the operative date of the valuation manual.

****NOTE: Can the actual date be substituted for the reference to the operative date
of s. 632.43 (6m)? Is the limitation to before the operative date of the valuation manual
correct?

16 2. Individual annuity and pure endowment contracts issued in a calendar year
17 after 1982 but before the operative date of the valuation manual.

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

18 3. Annuities and pure endowments purchased in a calendar year after 1982 but
19 before the operative date of the valuation manual under group annuity and pure
20 endowment contracts.

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

1 4. The net increase in a calendar year after 1982 but before the operative date
2 of the valuation manual, in amounts held under guaranteed interest contracts.

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

3 (c) 1. For life insurance, $I = 0.03 + W (R1 - 0.03) + W/2 (R2 - 0.09)$.

4 2. For single premium immediate annuities and for annuity benefits involving
5 life contingencies arising from other annuities with cash settlement options and from
6 guaranteed interest contracts with cash settlement options, $I = 0.03 + W (R - 0.03)$.

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

11 4. Except as provided under subd. 2., for annuities with cash settlement options
12 and guaranteed interest contracts with cash settlement options, valued on an issue
13 year basis and having guarantee durations not exceeding 10 years, $I = 0.03 + W (R$
14 $- 0.03)$.

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

17 6. For annuities with cash settlement options and guaranteed interest
18 contracts with cash settlement options, valued on a change in fund basis, $I = 0.03 +$
19 $W (R - 0.03)$.

20 (d) Notwithstanding par. (c) 1., if the calendar year valuation interest rate
21 determined under par. (c) 1. differs from the corresponding actual rate for similar
22 policies issued in the immediately preceding calendar year by less than 0.5 percent,
23 the calendar year valuation interest rate for those policies is the corresponding

1 actual rate for the immediately preceding calendar year. For purposes of this
2 paragraph, the calendar year valuation interest rate for policies issued in 1980 shall
3 be determined using the reference interest rate for 1979 and shall be determined
4 under this paragraph for subsequent calendar years notwithstanding s. 632.43 (6m).

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

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

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

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

9 2. For single premium immediate annuities and annuity benefits involving life
10 contingencies arising from other annuities with cash settlement options and
11 guaranteed interest contracts with cash settlement options, the weighting factor is
12 0.80.

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

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

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

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

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

23 4. Except as provided in subd. 2., for annuities and guaranteed interest
24 contracts valued on a change in fund basis, the weighting factor is that specified

1 under subd. 3. increased by 0.15 for plan type A, 0.25 for plan type B and 0.05 for plan
2 type C.

3 5. Except as provided under subd. 2., for annuities and guaranteed interest
4 contracts valued on an issue year basis, other than those with no cash settlement
5 options, which do not guarantee interest on considerations received more than one
6 year after issue or purchase and for annuities and guaranteed interest contracts
7 valued on a change in fund basis which do not guarantee interest rates on
8 considerations received more than 12 months beyond the valuation date, the
9 weighting factor is that specified under subd. 3. or 4. increased by 0.05 for plan types
10 A, B and C.

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

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

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

1 4. 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 a guarantee duration of 10 years or less, the reference interest
4 rate is the average over a period of 12 months, ending on June 30 of the calendar year
5 of issue or purchase, of Moody's monthly average.

6 5. For annuities with no cash settlement options and for guaranteed interest
7 contracts with no cash settlement options, the reference interest rate is the average
8 over a period of 12 months, ending on June 30 of the calendar year of issue or
9 purchase, of Moody's monthly average.

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

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

21 (h) A company may elect to value guaranteed interest contracts with cash
22 settlement options and annuities with cash settlement options on an issue year basis
23 or a change in fund basis. Guaranteed interest contracts with no cash settlement
24 options and other annuities with no cash settlement options must be valued on an
25 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?

1 **(3)** Except as provided in subs. (4m) and (7), reserves according to the
2 commissioners reserve valuation method, for the life insurance and endowment
3 benefits of policies providing for a uniform amount of insurance and requiring the
4 payment of uniform premiums shall be the excess, if any, of the present value, at the
5 date of valuation, of such future guaranteed benefits provided for by such policies,
6 over the then present value of any future modified net premiums therefor. The
7 modified net premiums for any such policy shall be such uniform percentage of the
8 respective contract premiums for such benefits that the present value, at the date of
9 issue of the policy, of all such modified net premiums shall be equal to the sum of the
10 then present value of such benefits provided for by the policy and the excess of par.

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

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

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

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

21 **(3m)** (a) In this subsection:

1 1. “Assumed ending date” means the first policy anniversary on which the sum
2 of any endowment benefit and any cash surrender value then available is greater
3 than the excess premium.

4 2. “Excess premium” means the amount by which a contract premium in the
5 first policy year exceeds the contract premium in the 2nd policy year.

6 (b) Except as provided under sub. (7), any life insurance policy issued on or after
7 January 1, 1984, but before the operative date of the valuation manual, for which no
8 comparable benefit is provided in the first year for an excess premium and which
9 provides an endowment benefit or a cash surrender value or a combination of both
10 in an amount greater than the excess premium, the reserve according to the
11 commissioners reserve valuation method as of any policy anniversary occurring on
12 or before the assumed ending date is the greater of the reserve on that policy
13 anniversary calculated under sub. (3) and the reserve on that policy anniversary
14 calculated under sub. (3) subject to the following computational assumptions:

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

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

17 2. All present values of benefits and premiums are determined without
18 reference to premiums or benefits provided by the policy after the assumed ending
19 date.

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

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

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

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

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

9 (b) Group annuity and pure endowment contracts purchased under a
10 retirement plan or plan of deferred compensation, established or maintained by an
11 employer, including a partnership or sole proprietorship, or by an employee
12 organization, or by both, other than a plan providing individual retirement accounts
13 or individual retirement annuities under section 408 of the internal revenue code,
14 as amended.

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

16 (d) All other benefits, except life insurance and endowment benefits in life
17 insurance policies and benefits provided by all other annuity and pure endowment
18 contracts.

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

19 (4m) This subsection applies to all annuity and pure endowment contracts
20 other than group annuity and pure endowment contracts purchased under a
21 retirement plan or plan of deferred compensation, established or maintained by an
22 employer, including a partnership or sole proprietorship, or by an employee
23 organization, or by both, other than a plan providing individual retirement accounts

1 or individual retirement annuities under section 408 of the Internal Revenue Code.
2 Reserves according to the commissioners annuity reserve method for benefits under
3 annuity or pure endowment contracts, excluding any disability and accidental death
4 benefits in such contracts, shall be the greatest of the respective excesses of the
5 present values, at the date of valuation, of the future guaranteed benefits, including
6 guaranteed nonforfeiture benefits, provided for by such contracts at the end of each
7 respective contract year, over the present value, at the date of valuation, of any
8 future valuation considerations derived from future gross considerations, required
9 by the terms of such contract, that become payable prior to the end of such respective
10 contract year. The future guaranteed benefits shall be determined by using the
11 mortality table, if any, and the interest rate specified in such contracts for
12 determining guaranteed benefits. The valuation considerations are the portions of
13 the respective gross considerations applied under the terms of such contracts to
14 determine nonforfeiture values.

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

15 (5) (a) In no event may a company's aggregate reserves for all life insurance
16 policies, excluding disability and accidental death benefits, issued on or after the
17 effective date of this section but before the operative date of the valuation manual,
18 be less than the aggregate reserves calculated in accordance with the method set
19 forth in subs. (3) to (4m) and (7) and the mortality table or tables and rate or rates
20 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?

21 (b) In no event may a company's aggregate reserves for all policies, contracts
22 and benefits be less than the aggregate reserves determined by a qualified actuary

1 in an opinion under sub. (1m) (b) 1. to be necessary to make adequate provision for
2 the company's obligations under the policies and contracts.

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

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

1 (7) (a) If in any contract year the gross premium charged by any life insurance
2 company on any policy or contract is less than the valuation net premium for the
3 policy or contract calculated by the method used in calculating its reserve but using
4 the minimum valuation standards of mortality and rate of interest under subs. (2)
5 and (2m), the minimum reserve required for the policy or contract shall be the
6 greater of either the reserve calculated according to the mortality table, rate of
7 interest, and method actually used for the policy or contract, or the reserve calculated
8 by the method actually used for the policy or contract but using the minimum
9 valuation standards of mortality and rate of interest under subs. (2) and (2m) and
10 replacing the valuation net premium by the actual gross premium in each contract
11 year for which the valuation net premium exceeds the actual gross premium.

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

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

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

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

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

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

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

9 **SECTION 8.** 623.06 (8) of the statutes is renumbered 623.06 (13) and amended
 10 to read:

11 623.06 (13) ~~This section shall become effective on the same date as does s.~~
 12 ~~632.43.~~ The provisions of this section shall supersede all provisions of law
 13 inconsistent or in conflict therewith.

14 **SECTION 9.** 623.06 (8m) of the statutes is created to read:

15 623.06 (8m) For accident and health insurance contracts issued on or after the
 16 effective date of this subsection [LRB inserts date], but before the operative date
 17 of the valuation manual, the minimum standard of valuation is the standard adopted
 18 by the commissioner by rule. For accident and health insurance contracts issued on
 19 or after the operative date of the valuation manual, the standard prescribed in the
 20 valuation manual shall be the minimum standard of valuation required under sub.
 21 (1f) (b).

22 **SECTION 10.** 623.06 (9) of the statutes is created to read:

Insert 28-15

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

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

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

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

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

16 b. Health annual statements.

17 c. Fraternal annual statements.

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

22 a. The 50 states of the United States.

23 b. American Samoa.

24 c. The American Virgin Islands.

25 d. The District of Columbia.

1 e. Guam.

2 f. Puerto Rico.

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

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

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

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

15 b. Health annual statements.

16 c. Fraternal annual statements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (e) In the absence of a specific valuation requirement, or if a specific valuation
9 requirement in the valuation manual is not, in the opinion of the commissioner, in
10 compliance with this section, the insurance company shall, with respect to such
11 requirements, comply with minimum valuation standards prescribed by the
12 commissioner by rule.

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

21 (g) The commissioner may require an insurance company to make any change
22 to an assumption or method that, in the opinion of the commissioner, is necessary to
23 comply with the requirements of the valuation manual or this section. An insurance
24 company shall adjust the reserves as required by the commissioner. The

1 commissioner may take any disciplinary action permitted under ss. 601.41 (4) and
2 601.64.

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

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

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

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

14 **SECTION 11.** 623.06 (10) of the statutes is created to read:

15 623.06 (10) (a) An insurer must establish reserves for policies and contracts as
16 specified in the valuation manual using a principle-based valuation that does all of
17 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?

in force

18 1. Quantifies the benefits, guarantees, and funding associated with the
19 contracts and their risks at a level of conservatism that reflects conditions that
20 include unfavorable events that have a reasonable probability of occurring during
21 the lifetime of the contracts. For policies or contracts with significant tail risk, the
22 principle-based valuation should reflect conditions appropriately adverse to
23 quantify the tail risk.

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

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

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

8 b. For an assumption that is not prescribed in the valuation manual, the
9 assumption is established using the company's available experience to the extent it
10 is relevant and statistically credible. To the extent that company data is not
11 available, relevant, or statistically credible, the assumption is established using
12 other relevant, statistically credible experience.

13 4. Provides margins for uncertainty, including adverse deviation and
14 estimation error, such that the greater the uncertainty, the larger the margin and
15 resulting reserve.

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

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

21 2. Provide to the commissioner and the board of directors an annual
22 certification of the effectiveness of the internal controls with respect to the
23 principle-based valuation. The internal controls shall be designed to ensure that all
24 material risks inherent in the liabilities and associated assets subject to the
25 valuation are included in the valuation and that valuations are made in accordance

1 with the valuation manual. The certification shall be based on the controls in place
2 as of the end of the preceding calendar year.

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

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

Beginning on the operative date of the valuation manual,

7 **SECTION 12.** 623.06 (11) of the statutes is created to read:

8

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

for all policies and contracts in force

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

11 **SECTION 13.** 623.06 (12) of the statutes is created to read:

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

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

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

1 report or other material prepared in connection with an examination made under
2 sub. (9) (f) is not confidential information to the same extent as if the examination
3 report or other material had been prepared under ss. 601.43 and 601.44.

4 3. Any reports, documents, materials, or other information developed by a
5 company in support of, or in connection with, an annual certification by the company
6 under sub. (10) (b) 2. evaluating the effectiveness of the company's internal controls
7 with respect to a principle-based valuation and any other documents, materials, or
8 other information, including all working papers and copies of working papers,
9 created, produced, or obtained by or disclosed to the commissioner or any other
10 person in connection with the reports, documents, materials, and other information.

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

15 5. Any documents, materials, data, or other information submitted by a
16 company under sub. (11), and any supporting information related to such a
17 submission, that ^{→ insert 36-17} is provided to or obtained by the commissioner, to the extent that
18 such documents, materials, data, other information, or supporting information
19 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.

20 (b) 1. Information described as confidential under par. (a) is confidential and
21 privileged; is not subject to receipt, inspection, or copying under s. 19.35 (1); is not
22 subject to subpoena; and is not subject to discovery or admissible in evidence in any
23 private civil action. The commissioner is authorized to use the confidential

1 information in the furtherance of any regulatory or legal action brought against the
2 company as a part of the commissioner's official duties.

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

6 3. a. In furtherance of the performance of the commissioner's regulatory duties,
7 the commissioner may share confidential information with other state, federal, and
8 international regulatory agencies; the National Association of Insurance
9 Commissioners and its affiliates and subsidiaries; ^{insert 37-9} and state, federal, and
10 international law enforcement agencies.

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

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

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

1 e. No waiver of any applicable privilege or claim of confidentiality in the
2 confidential information shall occur as a result of disclosure of such information or
3 documents to the commissioner under this subsection or as a result of the
4 commissioner sharing such information or documents as authorized in this
5 subsection.

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

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

11 1. The confidential information may be subject to subpoena for the purpose of
12 defending an action seeking damages from the appointed actuary submitting the
13 related memorandum in support of an opinion submitted under sub. (1m) or (1r) or
14 the principle-based valuation report developed under sub. (10) (b) 3. by reason of an
15 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?

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

18 3. If any portion of a memorandum in support of an opinion submitted under
19 sub. (1m) or (1r) or any portion of the principle-based valuation report developed
20 under sub. (10) (b) 3. is cited by the company in its marketing, is publicly volunteered
21 to or before a government agency other than a state insurance department, or is

Insert 39-2

1 released by the company to the news media, all portions of such memorandum or
2 report shall no longer be confidential.

3 **SECTION 14. Nonstatutory provisions.**

4 (1) OPERATIVE DATE OF THE VALUATION MANUAL. As soon as possible after the
5 requirements under section 623.06 (9) (b) of the statutes, as created by this act, are
6 met, the office of the commissioner of insurance shall submit to the legislative
7 reference bureau for publication in the Wisconsin administrative register a notice
8 specifying the date that is the operative date of the valuation manual, as provided
9 in section 623.06 (9) (b) of the statutes, as created by this act.

10 **SECTION 15. Effective dates.** This act takes effect on the day after publication,
11 except as follows:

12 (1) OPERATIVE DATE OF VALUATION MANUAL. The repeal and recreation of section
13 623.06 (1c) (f) of the statutes takes effect on the date specified in the notice published
14 in the Wisconsin administrative register under SECTION 14 (1) of this act.

15 (END)

(1)

D-note

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2912/P2ins
PJK:klm

INSERT A

This draft is much shorter than the last because it shows only the new and changed provisions in s. 623.06, as well as the provisions outside of s. 623.06 that are affected by the changes in s. 623.06.

(END OF INSERT A)

INSERT 1-7

1 **SECTION 1.** 601.465 (3) (d) of the statutes is created to read:
2 601.465 (3) (d) Any information defined as confidential information under s.
3 623.06 (12) (a), which is subject only to the confidentiality provisions in s. 623.06 (12).

4 **SECTION 2.** 623.06 (1) of the statutes is created to read:
5 623.06 (1) In this section:

(END OF INSERT 1-7)

INSERT 2-8

****NOTE: This is the missing definition for "regulatory agency." When there is more than one term in a definition, we put the terms in alphabetical order. Thus, "law enforcement agency" comes first.

(END OF INSERT 2-8)

INSERT 3-10

****NOTE: The placement in the bill of the repeal and recreation of this definition is actually after all of sub. (1) is created.

6 **SECTION 3.** 623.06 (1c) of the statutes is repealed.

****NOTE: I created sub. (1) for all the new definitions and repealed sub. (1c) in current law. Okay?

(END OF INSERT 3-10)

INSERT 4-5

7 ~~Subsections (2) to (7) apply to all policies and contracts issued before the~~
8 ~~operative date of the valuation manual.~~ *scale*

(END OF INSERT 4-5)

INSERT 4-6



Ins 4-6

****NOTE: I was going to create a separate provision that specified which subsections applied to which policies, but I see that we already have part of that language at the end of sub. (1f) (b) below (which I think you realized but which I had forgotten about). Therefore, I added a parallel sentence at the end of this provision. Do the sentences at the end of these two provisions work for your purposes? See my ****Note after sub. (10) (a) (intro.).

CS

(END OF INSERT 4-6)

INSERT 28-13

1 SECTION 4. 623.06 (8) of the statutes is renumbered 623.06 (13) and amended
2 to read:

3 623.06 (13) ~~This~~ Except for subs. (1), (1f) (b), (1r), and (8m) to (12), this section
4 shall become effective on the same date as does s. 632.43. The provisions of this
5 section shall supersede all provisions of law 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.

****NOTE: If you think it is necessary, we could specify that the excepted provisions become effective on the effective date of the act, which date would then be inserted into the statutes. We normally don't do this, however.

(END OF INSERT 28-13)

INSERT 36-17

6 *wdf* includes any potentially company-identifying or personally identifiable
7 information and that is provided to or obtained by the commissioner and any other
8 documents, materials, data, or other information, including all working papers and
9 copies of working papers, created, produced, ~~or~~ *or* (obtained by) or (disclosed to) the
10 commissioner or any other person in connection with the experience materials.

****NOTE: I've reworked this subdivision so that it combines language from both versions. The first part is from the second version and the second part, which Connie O'Connell was concerned about leaving out, is from the first version. I'm assuming that, in the first part, "documents, materials, data, or other information submitted by a company under sub. (11)" is more or less referring to "experience data" and "any supporting information related to such a submission" is more or less referring to "all working papers and copies of working papers, created or produced in connection with

experience data." Let me know if you think I've left anything out that should be explicitly included.

(END OF INSERT 36-17)

INSERT 37-9

1 rd the Actuarial Board for Counseling and Discipline or its successor, in the case
2 of confidential information under par. (a) 1. and 4. only, upon request stating that the
3 confidential information is required for the purposes of professional disciplinary
4 proceedings;

(END OF INSERT 37-9)

INSERT 39-2

5 **SECTION 5.** 631.95 (3) (a) of the statutes is amended to read:

6 631.95 (3) (a) *Disability insurance.* In establishing premiums for an individual
7 or group disability insurance policy or a certificate of group disability insurance, an
8 insurer may inquire about a person's existing medical condition and, based on the
9 opinion of a qualified actuary, as defined in s. 623.06 (1e) (1) (h), use information
10 related to a person's existing medical condition, regardless of whether that condition
11 is or may have been caused by abuse or domestic abuse.

History: 1999 a. 95.

12 **SECTION 6.** 632.89 (3c) (b) of the statutes is amended to read:

13 632.89 (3c) (b) A cost increase specified under par. (a) may not be determined
14 until the employer's group health benefit plan or self-insured health plan has
15 complied with the requirements under sub. (3) for at least the first 6 months of the
16 plan year for which the increase is to be determined. The cost increase shall be
17 determined, and certified, by a qualified actuary, as defined in s. 623.06 (1e) (1) (h).
18 A copy of the actuary's determination, and all underlying documentation that the

1 actuary relied on in making the determination, shall be filed with and, in accordance
2 with rules promulgated by the commissioner, retained by the insurer issuing the
3 group health benefit plan or by the self-insured health plan.

History: 1975 c. 223, 224, 375; 1977 c. 203 s. 106; 1979 c. 175, 221; 1981 c. 20 s. 2202 (20) (q); 1981 c. 39 ss. 14, 15, 22; 1981 c. 314; 1983 a. 27; 1983 a. 189 s. 329 (5); 1985 a. 29, 176; 1987 a. 195, 403; 1991 a. 39, 250; 1993 a. 27, 270; 1995 a. 27 ss. 7047, 9126 (19); 1997 a. 27; 1999 a. 9; 2003 a. 178; 2007 a. 20 s. 9121 (6) (a); 2009 a. 28, 218.

****NOTE: These amendments incorporate the new definition for “qualified actuary.” Let me know if you want to use the old definition for “qualified actuary” instead.

(END OF INSERT 39-2)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2912/P2dn
PJK:klm

August 27, 2015

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.

Pamela J. Kahler
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(608) 266-2682
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Kahler, Pam

From: Wieske, JP - OCI <JP.Wieske@wisconsin.gov>
Sent: Wednesday, September 02, 2015 12:59 PM
To: Kahler, Pam
Subject: RE: Draft review: LRB -2912/P2 Topic: Mark-up of changes to s. 623.06

Perfect.

J.P. Wieske, FLMI
Legislative Liaison & Public Information Officer
Office of the Commissioner of Insurance
jp.wieske@wisconsin.gov
(608) 266-2493

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Wednesday, September 02, 2015 12:58 PM
To: Wieske, JP - OCI
Subject: RE: Draft review: LRB -2912/P2 Topic: Mark-up of changes to s. 623.06

Unless you have anything else to add, I will make these changes and incorporate the resulting version of s. 623.06 into LRB-2365.

Pam

From: Wieske, JP - OCI [mailto:JP.Wieske@wisconsin.gov]
Sent: Wednesday, September 02, 2015 12:05 PM
To: Kahler, Pam <Pam.Kahler@legis.wisconsin.gov>
Subject: FW: Draft review: LRB -2912/P2 Topic: Mark-up of changes to s. 623.06

Pam,

Note on p. 3: Change is ok, only thing to note is that by changing the cite from (1c) to (1) it will mess up a cite in our admin code.

Note on p.4: The change works for OCI.

Note on p.8: The change works for OCI.

Note on p. 10: Jurisdiction does refer to the 55 jurisdictions listed previously. OCI doesn't think clarification is needed but not opposed to it.

Note on p.13: "For policies and contracts issued on or after the operative date of the valuation manual," should be added to beginning of 623.06(10)(a).

Note on p. 16: Change is ok with OCI, we can't speak for the industry.

Note on p. 19: Reference to the new definition of "qualified actuary" is fine.

JP

J.P. Wieske, FLMI
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From: LRB.Legal [<mailto:lrblegal@legis.wisconsin.gov>]

Sent: Thursday, August 27, 2015 12:14 PM

To: Wieske, JP - OCI

Subject: Draft review: LRB -2912/P2 Topic: Mark-up of changes to s. 623.06

Draft Requester: Legislative Reference Bureau

Following is the PDF version of draft LRB -2912/P2 and drafter's note.