



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

☞ Appendix A ... segment III

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.



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2912/P2
PJK:klm

P3

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Thurs.

Regenerate catalog

1 AN ACT *to repeal* 623.06 (1c); *to renumber and amend* 623.06 (1f) and 623.06
2 (8); *to amend* 623.06 (2) (intro.), 631.95 (3) (a) and 632.89 (3c) (b); *to repeal*
3 *and recreate* 623.06 (1) (f); and *to create* 601.465 (3) (d), 623.06 (1), 623.06 (1f)
4 (b), 623.06 (1m) (intro.), 623.06 (1r), 623.06 (8m), 623.06 (9), 623.06 (10), 623.06
5 (11) and 623.06 (12) of the statutes; **relating to:** standard valuation law.

Analysis by the Legislative Reference Bureau

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.

Insert A

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

6 SECTION 1. 601.465 (3) (d) of the statutes is created to read:
7 601.465 (3) (d) Any information defined as confidential information under s.
8 623.06 (12) (a), which is subject only to the confidentiality provisions in s. 623.06 (12).
9 SECTION 2. 623.06 (1) of the statutes is created to read:

1 623.06 (1) In this section:

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

6 (b) “Appointed actuary” means a qualified actuary who is appointed in
7 accordance with the valuation manual to prepare the actuarial opinion required in
8 sub. (1r).

9 (c) “Deposit-type contract” means a contract that does not incorporate
10 mortality or morbidity risks and as may be specified in the valuation manual.

11 (d) “Law enforcement agency,” “National Association of Insurance
12 Commissioners,” or “regulatory agency” includes the employees, agents,
13 consultants, and contractors of each such entity.

****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.

14 (e) “Life insurance,” “life insurance contract,” “life insurance policy,” or “plan
15 of life insurance” means a contract that incorporates mortality risk, including
16 annuity and pure endowment contracts, and as may be specified in the valuation
17 manual.

18 (f) “Operative date of the valuation manual” means the date determined under
19 sub. (9) (b).

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

1 (h) “Qualified actuary” means an individual who is qualified to sign the
2 applicable statement of actuarial opinion in accordance with the American academy
3 of actuaries qualification standards for actuaries signing such statements and who
4 meets the requirements specified in the valuation manual, if the valuation manual
5 is in effect, and any other requirements that the commissioner may by rule specify.

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

9 (j) “Valuation manual” means the manual of valuation instructions as adopted
10 by the National Association of Insurance Commissioners under sub. (9) or as
11 subsequently amended.

12 **SECTION 3.** 623.06 (1) (f) of the statutes, as created by 2015 Wisconsin Act
13 (this act), is repealed and recreated to read:

14 623.06 (1) (f) “Operative date of the valuation manual” means the effective date
15 of this paragraph [LRB inserts date], as determined under sub. (9) (b).

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

16 **SECTION 4.** 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?

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

19 623.06 (1f) (a) The For policies and contracts issued before the operative date
20 of the valuation manual, the commissioner shall annually value, or cause to be
21 valued, the reserve liabilities (hereinafter called reserves) for all outstanding life
22 insurance policies and annuity and pure endowment contracts of every life insurance

1 company doing business in this state, ~~except that in the case of an alien company,~~
2 ~~such valuation shall be limited to its United States business,~~ and may certify the
3 amount of any such reserves, specifying the mortality table or tables, rate or rates
4 of interest and methods (net level premium method or other) used in the calculation
5 of such reserves. In calculating such reserves, the commissioner may use group
6 methods and approximate averages for fractions of a year or otherwise. In lieu of the
7 valuation of the reserves herein required of any foreign or alien company, the
8 commissioner may accept any valuation made, or caused to be made, by the
9 insurance supervisory official of any state or other jurisdiction ~~when~~ if such
10 valuation complies with the minimum standard herein provided and if the official
11 of such state or jurisdiction accepts as sufficient and valid for all legal purposes the
12 certificate of valuation of the commissioner when such certificate states the
13 valuation to have been made in a specified manner according to which the aggregate
14 reserves would be at least as large as if they had been computed in the manner
15 prescribed by the law of that state or jurisdiction. Subsections (2) to (7) apply to all
16 policies and contracts issued before the operative date of the valuation manual.

****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.).

17 **SECTION 6.** 623.06 (1f) (b) of the statutes is created to read:

18 623.06 (1f) (b) For policies and contracts issued on or after the operative date
19 of the valuation manual, the commissioner shall annually value, or cause to be
20 valued, the reserve liabilities (hereinafter called reserves) for all outstanding life
21 insurance contracts, annuity and pure endowment contracts, accident and health
22 insurance contracts, and deposit-type contracts of every insurer doing business in

1 this state. In lieu of the valuation of the reserves required of a foreign or alien
2 company, the commissioner may accept a valuation made, or caused to be made, by
3 the insurance supervisory official of any state or other jurisdiction if the valuation
4 complies with the minimum standard provided in this section. Subsections (9) and
5 (10) apply to all policies and contracts issued on or after the operative date of the
6 valuation manual.

7 **SECTION 7.** 623.06 (1m) (intro.) of the statutes is created to read:

8 623.06 (1m) (intro.) Before the operative date of the valuation manual, all of
9 the following apply:

10 **SECTION 8.** 623.06 (1r) of the statutes is created to read:

11 623.06 (1r) Beginning on the operative date of the valuation manual, all of the
12 following apply:

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

22 (b) Every insurance company that has outstanding life insurance contracts,
23 accident and health insurance contracts, or deposit-type contracts in this state and
24 that is subject to regulation by the commissioner, except as exempted in the
25 valuation manual, shall also annually include in the opinion required under par. (a)

1 an opinion of the same appointed actuary as to whether the reserves and related
2 actuarial items held in support of the policies and contracts specified in the valuation
3 manual, when considered in light of the assets held by the company with respect to
4 the reserves and related actuarial items, including the investment earnings on the
5 assets and the considerations anticipated to be received and retained under the
6 policies and contracts, make adequate provision for the company's obligations under
7 the policies and contracts, including the benefits under and expenses associated with
8 the policies and contracts. The opinion required under this paragraph shall be
9 governed by the following:

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

13 2. If the insurance company fails to provide a supporting memorandum at the
14 request of the commissioner within a period specified in the valuation manual, or the
15 commissioner determines that the supporting memorandum provided by the
16 insurance company fails to meet the standards prescribed by the valuation manual
17 or is otherwise unacceptable to the commissioner, the commissioner may engage a
18 qualified actuary at the expense of the company to review the opinion and the basis
19 for the opinion and prepare the supporting memorandum required by the
20 commissioner.

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

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

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

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

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

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

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

18 **SECTION 9.** 623.06 (2) (intro.) of the statutes is amended to read:

19 623.06 (2) (intro.) Except as provided in subs. (2a) and (2m), the minimum
20 standard for the valuation of all ~~such~~ policies and contracts specified by the
21 commissioner under sub. (1m) (a) 1. issued prior to the effective date of this section
22 [see sub. (8) (13) and s. 632.43 (9)] shall be that provided by the laws in effect
23 immediately prior to such date. Except as provided in subs. (2a) and (2m), the
24 minimum standard for the valuation of all such policies and contracts issued on or
25 after the effective date of this section shall be the commissioners reserve valuation

1 methods defined in subs. (3) to (4m) and (7), with 3.5 percent interest, or in the case
 2 of policies and contracts, other than annuity and pure endowment contracts, issued
 3 on or after June 19, 1974, and prior to November 8, 1977, 4 percent interest, and for
 4 policies issued on or after November 8, 1977, 4.5 percent interest and the following
 5 tables:

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

8 623.06 (13) This Except for subs. (1), (1f) (b), (1r), and (8m) to (12), this section
 9 shall become effective on the same date as does s. 632.43. The provisions of this
 10 section shall supersede all provisions of law inconsistent or in conflict therewith.

***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.

Insert 8-10

11 **SECTION 11.** 623.06 (8m) of the statutes is created to read:

12 623.06 (8m) For accident and health insurance contracts issued on or after the
 13 effective date of this subsection [LRB inserts date], but before the operative date
 14 of the valuation manual, the minimum standard of valuation is the standard adopted
 15 by the commissioner by rule. For accident and health insurance contracts issued on
 16 or after the operative date of the valuation manual, the standard prescribed in the
 17 valuation manual shall be the minimum standard of valuation required under sub.
 18 (1f) (b).

19 **SECTION 12.** 623.06 (9) of the statutes is created to read:

20 623.06 (9) (a) For policies and contracts issued on or after the operative date
 21 of the valuation manual, the standard prescribed in the valuation manual is the
 22 minimum standard of valuation required under sub. (1f) (b), except as provided in
 23 pars. (e) and (g).

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

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

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

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

12 b. Health annual statements.

13 c. Fraternal annual statements.

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

18 a. The 50 states of the United States.

19 b. American Samoa.

20 c. The American Virgin Islands.

21 d. The District of Columbia.

22 e. Guam.

23 f. Puerto Rico.

24 (c) Unless a change in the valuation manual specifies a later effective date,
25 changes to the valuation manual shall be effective on the first January 1 after the

1 date when such changes have been adopted by the National Association of Insurance
2 Commissioners by an affirmative vote representing all of the following:

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

6 2. Members of the National Association of Insurance Commissioners
7 representing ^{the} jurisdictions ^{→ specified in par. (b) 3. ✓} with more than 75 percent of the direct premiums written
8 as reported in all of the following annual statements most recently available before
9 the vote under subd. 1.:

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

11 b. Health annual statements.

12 c. Fraternal annual statements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 5. Other requirements, including those relating to reserve methods, models for
24 measuring risk, generation of economic scenarios, assumptions, margins, use of

1 insurance company experience, risk measurement, disclosure, certifications,
2 reports, actuarial opinions and memoranda, transition rules, and internal controls.

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

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

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

19 (g) The commissioner may require an insurance company to make any change
20 to an assumption or method that, in the opinion of the commissioner, is necessary to
21 comply with the requirements of the valuation manual or this section. An insurance
22 company shall adjust the reserves as required by the commissioner. The
23 commissioner may take any disciplinary action permitted under ss. 601.41 (4) and
24 601.64.

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

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

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

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

12 **SECTION 13.** 623.06 (10) of the statutes is created to read:

13 623.06 (10) (a) ^{Insert 13-13} An insurer must establish reserves for policies and contracts as
14 specified in the valuation manual using a principle-based valuation that does all of
15 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 in force on that date or only those issued on or after the operative date of the valuation manual?

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

22 2. Incorporates assumptions, risk analysis methods and financial models, and
23 management techniques that are consistent with, but not necessarily identical with,

1 those used within the company's overall risk assessment process, while recognizing
2 potential differences in financial reporting structures and any prescribed
3 assumptions or methods.

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

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

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

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

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

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

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

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

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

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

6 623.06 (11) Beginning on the operative date of the valuation manual, a
7 company shall submit mortality, morbidity, policyholder behavior, or expense
8 experience and other data for all policies and contracts in force as prescribed in the
9 valuation manual.

10 **SECTION 15.** 623.06 (12) of the statutes is created to read:

11 623.06 (12) (a) For purposes of pars. (b) and (c), all of the following are
12 confidential information:

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

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

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

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

12 5. Any documents, materials, data, or other information submitted by a
13 company under sub. (11), and any supporting information related to such a
14 submission, that includes any potentially company-identifying or personally
15 identifiable information and that is provided to or obtained by the commissioner and
16 any other documents, materials, data, or other information, including all working
17 papers and copies of working papers, created, produced, obtained by, or disclosed to
18 the 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.

19 (b) 1. Information described as confidential under par. (a) is confidential and
20 privileged; is not subject to receipt, inspection, or copying under s. 19.35 (1); is not

1 subject to subpoena; and is not subject to discovery or admissible in evidence in any
2 private civil action. The commissioner is authorized to use the confidential
3 information in the furtherance of any regulatory or legal action brought against the
4 company as a part of the commissioner's official duties.

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

8 3. a. In furtherance of the performance of the commissioner's regulatory duties,
9 the commissioner may share confidential information with other state, federal, and
10 international regulatory agencies; the National Association of Insurance
11 Commissioners and its affiliates and subsidiaries; the Actuarial Board for
12 Counseling and Discipline or its successor, in the case of confidential information
13 under par. (a) 1. and 4. only, upon request stating that the confidential information
14 is required for the purposes of professional disciplinary proceedings; and state,
15 federal, and international law enforcement agencies.

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

20 c. The commissioner may receive documents, materials, or other information,
21 including otherwise confidential and privileged documents, materials, data, or
22 information from the National Association of Insurance Commissioners and its
23 affiliates and subsidiaries, from regulatory or law enforcement agencies of other
24 foreign or domestic jurisdictions, and from the Actuarial Board for Counseling and
25 Discipline or its successor, and shall maintain as confidential or privileged any

1 document, material, or other information received with notice or the understanding
2 that it is confidential or privileged under the laws of the jurisdiction that is the source
3 of the document, material, or information.

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

6 e. No waiver of any applicable privilege or claim of confidentiality in the
7 confidential information shall occur as a result of disclosure of such information or
8 documents to the commissioner under this subsection or as a result of the
9 commissioner sharing such information or documents as authorized in this
10 subsection.

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

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

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

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

23 3. If any portion of a memorandum in support of an opinion submitted under
24 sub. (1m) or (1r) or any portion of the principle-based valuation report developed
25 under sub. (10) (b) 3. is cited by the company in its marketing, is publicly volunteered

Insert 17-3

1 to or before a government agency other than a state insurance department, or is
2 released by the company to the news media, all portions of such memorandum or
3 report shall no longer be confidential.

4 **SECTION 16.** 631.95 (3) (a) of the statutes is amended to read:

5 631.95 (3) (a) *Disability insurance.* In establishing premiums for an individual
6 or group disability insurance policy or a certificate of group disability insurance, an
7 insurer may inquire about a person's existing medical condition and, based on the
8 opinion of a qualified actuary, as defined in s. 623.06 (1e) (1) (h), use information
9 related to a person's existing medical condition, regardless of whether that condition
10 is or may have been caused by abuse or domestic abuse.

11 **SECTION 17.** 632.89 (3c) (b) of the statutes is amended to read:

12 632.89 (3c) (b) A cost increase specified under par. (a) may not be determined
13 until the employer's group health benefit plan or self-insured health plan has
14 complied with the requirements under sub. (3) for at least the first 6 months of the
15 plan year for which the increase is to be determined. The cost increase shall be
16 determined, and certified, by a qualified actuary, as defined in s. 623.06 (1e) (1) (h).
17 A copy of the actuary's determination, and all underlying documentation that the
18 actuary relied on in making the determination, shall be filed with and, in accordance
19 with rules promulgated by the commissioner, retained by the insurer issuing the
20 group health benefit plan or by the self-insured health plan.

****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.

21 **SECTION 18. Nonstatutory provisions.**

22 (1) OPERATIVE DATE OF THE VALUATION MANUAL. As soon as possible after the
23 requirements under section 623.06 (9) (b) of the statutes, as created by this act, are

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

5 **SECTION 19. Effective dates.** This act takes effect on the day after publication,
6 except as follows:

7 (1) OPERATIVE DATE OF VALUATION MANUAL. The repeal and recreation of section
8 623.06 (1) (f) of the statutes takes effect on the date specified in the notice published
9 in the Wisconsin administrative register under SECTION 18 (1) of this act.

10

(END)

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2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2912/P3ins
PJK...

INSERT A

I will incorporate this version of s. 623.06 into LRB-2365.
(END OF INSERT A)

INSERT 8-10

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

3 623.06 (13) (a) This Except for subs. (1), (1f) (b), (1r), and (8m) to (12), this
4 section shall become effective on the same date as does s. 632.43.

5 (c) The provisions of this section shall supersede all provisions of law
6 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.

(END OF INSERT 8-10)

INSERT 13-13

7 For policies and contracts issued on or after the operative date of the valuation
8 manual,

(END OF INSERT 13-13)

INSERT 19-3

9 SECTION 2. 632.06 (13) (c) of the statutes is created to read:
10 632.06 (13) (c) Subsections (1), (1f) (b), (1r), and (8m) to (12) shall become
11 effective on the effective date of this paragraph [LRB inserts date].

(END OF INSERT 19-3)



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2912/P3
PJK:klm

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 623.06 (1c); *to renumber and amend* 623.06 (1f) and 623.06
2 (8); *to amend* 623.06 (2) (intro.), 631.95 (3) (a) and 632.89 (3c) (b); *to repeal*
3 *and recreate* 623.06 (1) (f); and *to create* 601.465 (3) (d), 623.06 (1), 623.06 (1f)
4 (b), 623.06 (1m) (intro.), 623.06 (1r), 623.06 (8m), 623.06 (9), 623.06 (10), 623.06
5 (11), 623.06 (12) and 623.06 (13) (b) of the statutes; **relating to:** standard
6 valuation law.

Analysis by the Legislative Reference Bureau

I will incorporate this version of s. 623.06 into LRB-2365.

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

7 **SECTION 1.** 601.465 (3) (d) of the statutes is created to read:
8 601.465 (3) (d) Any information defined as confidential information under s.
9 623.06 (12) (a), which is subject only to the confidentiality provisions in s. 623.06 (12).
10 **SECTION 2.** 623.06 (1) of the statutes is created to read:

1 623.06 (1) In this section:

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

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

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

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

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

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

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

23 (h) "Qualified actuary" means an individual who is qualified to sign the
24 applicable statement of actuarial opinion in accordance with the American academy
25 of actuaries qualification standards for actuaries signing such statements and who

1 meets the requirements specified in the valuation manual, if the valuation manual
2 is in effect, and any other requirements that the commissioner may by rule specify.

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

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

9 **SECTION 3.** 623.06 (1) (f) of the statutes, as created by 2015 Wisconsin Act
10 (this act), is repealed and recreated to read:

11 623.06 (1) (f). “Operative date of the valuation manual” means the effective date
12 of this paragraph [LRB inserts date], as determined under sub. (9) (b).

13 **SECTION 4.** 623.06 (1c) of the statutes is repealed.

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

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

1 valuation of the reserves herein required of any foreign or alien company, the
2 commissioner may accept any valuation made, or caused to be made, by the
3 insurance supervisory official of any state or other jurisdiction ~~when~~ if such
4 valuation complies with the minimum standard herein provided and if the official
5 of such state or jurisdiction accepts as sufficient and valid for all legal purposes the
6 certificate of valuation of the commissioner when such certificate states the
7 valuation to have been made in a specified manner according to which the aggregate
8 reserves would be at least as large as if they had been computed in the manner
9 prescribed by the law of that state or jurisdiction. Subsections (2) to (7) apply to all
10 policies and contracts issued before the operative date of the valuation manual.

11 **SECTION 6.** 623.06 (1f) (b) of the statutes is created to read:

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

23 **SECTION 7.** 623.06 (1m) (intro.) of the statutes is created to read:

24 623.06 (1m) (intro.) Before the operative date of the valuation manual, all of
25 the following apply:

1 **SECTION 8.** 623.06 (1r) of the statutes is created to read:

2 623.06 (1r) Beginning on the operative date of the valuation manual, all of the
3 following apply:

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

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

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

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

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

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

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

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

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

24 5. With respect to an opinion required to be submitted by a foreign or alien
25 company, the commissioner may accept the opinion filed by that company with the

1 insurance supervisory official of another state if the commissioner determines that
2 the opinion reasonably meets the requirements applicable to a company domiciled
3 in this state.

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

8 **SECTION 9.** 623.06 (2) (intro.) of the statutes is amended to read:

9 623.06 (2) (intro.) Except as provided in subs. (2a) and (2m), the minimum
10 standard for the valuation of all such policies and contracts specified by the
11 commissioner under sub. (1m) (a) 1. issued prior to the effective date of this section
12 [see sub. (8) (13) and s. 632.43 (9)] shall be that provided by the laws in effect
13 immediately prior to such date. Except as provided in subs. (2a) and (2m), the
14 minimum standard for the valuation of all such policies and contracts issued on or
15 after the effective date of this section shall be the commissioner's reserve valuation
16 methods defined in subs. (3) to (4m) and (7), with 3.5 percent interest, or in the case
17 of policies and contracts, other than annuity and pure endowment contracts, issued
18 on or after June 19, 1974, and prior to November 8, 1977, 4 percent interest, and for
19 policies issued on or after November 8, 1977, 4.5 percent interest and the following
20 tables:

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

23 623.06 (13) (a) This Except for subs. (1), (1f) (b), (1r), and (8m) to (12), this
24 section shall become effective on the same date as does s. 632.43.

1 (c) The provisions of this section shall supersede all provisions of law
2 inconsistent or in conflict therewith.

3 **SECTION 11.** 623.06 (8m) of the statutes is created to read:

4 623.06 (8m) For accident and health insurance contracts issued on or after the
5 effective date of this subsection ... [LRB inserts date], but before the operative date
6 of the valuation manual, the minimum standard of valuation is the standard adopted
7 by the commissioner by rule. For accident and health insurance contracts issued on
8 or after the operative date of the valuation manual, the standard prescribed in the
9 valuation manual shall be the minimum standard of valuation required under sub.
10 (1f) (b).

11 **SECTION 12.** 623.06 (9) of the statutes is created to read:

12 623.06 (9) (a) For policies and contracts issued on or after the operative date
13 of the valuation manual, the standard prescribed in the valuation manual is the
14 minimum standard of valuation required under sub. (1f) (b), except as provided in
15 pars. (e) and (g).

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

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

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

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

2 b. Health annual statements.

3 c. Fraternal annual statements.

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

8 a. The 50 states of the United States.

9 b. American Samoa.

10 c. The American Virgin Islands.

11 d. The District of Columbia.

12 e. Guam.

13 f. Puerto Rico.

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

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

21 2. Members of the National Association of Insurance Commissioners
22 representing the jurisdictions specified in par. (b) 3. with more than 75 percent of the
23 direct premiums written as reported in all of the following annual statements most
24 recently available before the vote under subd. 1.:

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

1 b. Health annual statements.

2 c. Fraternal annual statements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (e) In the absence of a specific valuation requirement, or if a specific valuation
19 requirement in the valuation manual is not, in the opinion of the commissioner, in
20 compliance with this section, the insurance company shall, with respect to such
21 requirements, comply with minimum valuation standards prescribed by the
22 commissioner by rule.

23 (f) The commissioner may engage a qualified actuary, at the expense of the
24 insurance company, to perform an actuarial examination of the company and opine
25 on the appropriateness of any reserve assumption or method used by the company,

1 or to review and opine on a company's compliance with any requirement in this
2 section. The commissioner may rely on the opinion, regarding provisions in this
3 section, of a qualified actuary engaged by the commissioner of another state or
4 district or territory of the United States. As used in this paragraph, the term
5 "engage" includes both "employ" and "contract with."

6 (g) The commissioner may require an insurance company to make any change
7 to an assumption or method that, in the opinion of the commissioner, is necessary to
8 comply with the requirements of the valuation manual or this section. An insurance
9 company shall adjust the reserves as required by the commissioner. The
10 commissioner may take any disciplinary action permitted under ss. 601.41 (4) and
11 601.64.

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

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

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

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

23 **SECTION 13.** 623.06 (10) of the statutes is created to read:

24 623.06 (10) (a) For policies and contracts issued on or after the operative date
25 of the valuation manual, an insurer must establish reserves for policies and

1 contracts as specified in the valuation manual using a principle-based valuation
2 that does all of the following:

3 1. Quantifies the benefits, guarantees, and funding associated with the
4 contracts and their risks at a level of conservatism that reflects conditions that
5 include unfavorable events that have a reasonable probability of occurring during
6 the lifetime of the contracts. For policies or contracts with significant tail risk, the
7 principle-based valuation should reflect conditions appropriately adverse to
8 quantify the tail risk.

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

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

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

16 b. For an assumption that is not prescribed in the valuation manual, the
17 assumption is established using the company's available experience to the extent it
18 is relevant and statistically credible. To the extent that company data is not
19 available, relevant, or statistically credible, the assumption is established using
20 other relevant, statistically credible experience.

21 4. Provides margins for uncertainty, including adverse deviation and
22 estimation error, such that the greater the uncertainty, the larger the margin and
23 resulting reserve.

SECTION 13

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

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

6 2. Provide to the commissioner and the board of directors an annual
7 certification of the effectiveness of the internal controls with respect to the
8 principle-based valuation. The internal controls shall be designed to ensure that all
9 material risks inherent in the liabilities and associated assets subject to the
10 valuation are included in the valuation and that valuations are made in accordance
11 with the valuation manual. The certification shall be based on the controls in place
12 as of the end of the preceding calendar year.

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

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

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

18 623.06 (11) Beginning on the operative date of the valuation manual, a
19 company shall submit mortality, morbidity, policyholder behavior, or expense
20 experience and other data for all policies and contracts in force as prescribed in the
21 valuation manual.

22 **SECTION 15.** 623.06 (12) of the statutes is created to read:

23 623.06 (12) (a) For purposes of pars. (b) and (c), all of the following are
24 confidential information:

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

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

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

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

1 5. Any documents, materials, data, or other information submitted by a
2 company under sub. (11), and any supporting information related to such a
3 submission, that includes any potentially company-identifying or personally
4 identifiable information and that is provided to or obtained by the commissioner and
5 any other documents, materials, data, or other information, including all working
6 papers and copies of working papers, created, produced, obtained by, or disclosed to
7 the commissioner or any other person in connection with the experience materials.

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

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

17 3. a. In furtherance of the performance of the commissioner's regulatory duties,
18 the commissioner may share confidential information with other state, federal, and
19 international regulatory agencies; the National Association of Insurance
20 Commissioners and its affiliates and subsidiaries; the Actuarial Board for
21 Counseling and Discipline or its successor, in the case of confidential information
22 under par. (a) 1. and 4. only, upon request stating that the confidential information
23 is required for the purposes of professional disciplinary proceedings; and state,
24 federal, and international law enforcement agencies.

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

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

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

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

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

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

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

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

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

14 **SECTION 16.** 623.06 (13) (b) of the statutes is created to read:

15 623.06 (13) (b) Subsections (1), (1f) (b), (1r), and (8m) to (12) shall become
16 effective on the effective date of this paragraph [LRB inserts date].

17 **SECTION 17.** 631.95 (3) (a) of the statutes is amended to read:

18 631.95 (3) (a) *Disability insurance.* In establishing premiums for an individual
19 or group disability insurance policy or a certificate of group disability insurance, an
20 insurer may inquire about a person's existing medical condition and, based on the
21 opinion of a qualified actuary, as defined in s. 623.06 (1e) (1) (h), use information
22 related to a person's existing medical condition, regardless of whether that condition
23 is or may have been caused by abuse or domestic abuse.

24 **SECTION 18.** 632.89 (3c) (b) of the statutes is amended to read:

